



Tweed Shire Council

# BUSINESS PAPER AGENDA

Date

Dear Minute Book

**NOTICE IS GIVEN** that a Meeting of Council will be held at the Council Chamber, Murwillumbah Civic and Cultural Centre on Wednesday 1 December 2004, commencing at **3.00pm**.

Submitted,

A handwritten signature in black ink, appearing to read 'J Griffin'.

**Dr J Griffin**  
General Manager

## AGENDA

1. Prayer
2. Confirmation of Minutes
3. Apologies
4. Disclosure of Interest
5. Items to be Moved from Ordinary to Confidential - Confidential to Ordinary
6. Schedule of Outstanding Resolutions
7. Mayoral Minute
8. Items Deferred
9. Reports through General Manager
  - Reports from Director Planning & Environment
  - Reports from Executive Manager-Office of the General Manager
  - Reports from Director Engineering and Operations
  - Reports from Director Environment & Community
10. Reports from Sub-Committees/Working Groups
11. Delegates Reports
12. Outstanding Inspections
13. Items of Information and Interest
14. Orders of the Day
15. Workshops
16. Question Time

17. Confidential Matters - (exclude Press and Public)

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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.

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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.

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4 August 2004

2 [NOM] Section 149 Certificates

NOTICE OF MOTION:

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:** Meeting held. Data cleansing to be completed.

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3 [NOM] Grey Water Reuse

NOTICE OF MOTION:

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 being 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.

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**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**

**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:** Most footpaths and cycleways already receive lighting from adjacent streetlights which are generally adequate. In some areas of the coastal cycleway no street lighting is available as these areas have no adjoining developments. If street lighting was provided in some of these locations, such street lighting would only encourage night time use in areas that are not necessarily made safer by street lighting.

It is estimated that to upgrade lighting along cycleways to a higher pedestrian standard (where no existing power poles existing would cost at least \$1,500 per light or \$15,000 per kilometre. Given that the coastal cycleway between Kingscliff (Wommin Bay Road) and Pottsville is 11.4km long the cost is considered prohibitive.

It should be noted that this is only an estimate based on recent quotations but to provide lighting in accordance with Australian Standards.

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15 September 2004

2 [NOM] Public Toilet at Tumbulgum

NOTICE OF MOTION:

Cr G J Lawrie

Cr L F Beck

**RESOLVED** that a report be prepared as to the feasibility of making available the funds 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.

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

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6 October 2004

7 [PE] Northern Rivers Farmland Protection Project

Cr R D Brinsmead

Cr J F Murray

**RESOLVED** that a report be prepared as to how the implementation of the Farmland Protection Project will affect the Tweed Shire.

**Current Status:** Report being prepared.

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4 [NOM] Entry Statements to the Tweed

NOTICE OF MOTION:

Cr J F Murray

Cr G B Bell

**RESOLVED** that Tweed Shire Council officers prepare a report on improving the Entry Statements to the Tweed.

**Current Status:** Report being prepared.

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**5 [NOM] Kingscliff Walk of Fame**

**NOTICE OF MOTION:**

**Cr J F Murray**  
**Cr G J Lawrie**

**RESOLVED** that Tweed Shire Council officers prepare a report on how best the "Kingscliff Walk of Fame" can proceed.

**Current Status:** Report being prepared.

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**10 [EO] Chinderah Bay Drive - Sale of Land**

***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*

That this item be deferred to allow Council Officers to report to Council on the current status of the contract.

**Current Status:** Information being collated.

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**20 October 2004**

**2 [PE] Development Application DA03/1578 for a Shopping Centre at Lot 123 DP 1049552 Botanical Circuit, Banora Point**

**Cr L F Beck**  
**Cr J F Murray**

**RESOLVED** that this matter be deferred pending an amended report and a further application.

**Current Status:** Meeting held - awaiting response from applicants.

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**ORDERS OF THE DAY**

**1 [NOM] Traffic Study - 2(b) Zoning, Flagstaff Hill**

**Cr M R Boyd**  
**Cr B J Carroll**

**RESOLVED** that a comprehensive traffic study be undertaken to ascertain what impact can or will occur on those streets affected by Council's 2(b) zoning in the Flagstaff Hill area, should Council receive a number of Development Applications similar to that approved for No 40 Charles Street, Tweed Heads.

**Current Status:** Study to be completed.

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**QUESTION TIME**

**6 [QT] Cabarita Surf Life Saving Club**

**Cr M R Boyd**

Asked apart from the condition that it must use the \$500,000 of Section 94 funds on the construction of its clubhouse, what other conditions can Council legally apply to the transfer of these funds to the Cabarita Surf Life Saving Club.

The General Manager responded that a report would be brought forward on this matter.

**Current Status:** Report pending.

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**17 November 2004**

**4 [PE] Proposed Rezoning - Seabreeze Estate, Pottsville**

**Cr H James**  
**Cr S M Dale**

**RESOLVED** that this matter be deferred in order that Council staff can clarify the proposal and negotiate contributions that should be made for the public benefit as part of the rezoning.

**Current Status:** Report pending.

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**REPORTS FROM SUB-COMMITTEES/WORKING GROUPS**

**[SUB-TAC] 6. Tweed Valley Way, Murwillumbah South**

**Cr M R Boyd**  
**Cr B J Carroll**

**RESOLVED** that the matter be referred to the Director Engineering & Operations for investigation and advice back to Council and the Committee.

**Current Status:** To be completed.

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**QUESTION TIME**

**1 [QT] Modification requested by Salt**

**Cr M R Boyd**

Asked how can the modification requested by Salt which seeks to more than double the density of its development in the lots described in the advert in the Tweed Link issue of 9 November 2004 be classed as a Section 96 application.

The General Manager answered that this has been referred to the Director Planning & Environment to provide a response at the Council Meeting of 1 December 2004.

**Current Status:** Waiting on legal advice.

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## MAYORAL MINUTE

### Mayoral Minute

Councillors,

#### 1. Human Resources Conference

18 November – Official opening of the Local Government Human Resources Conference at Twin Towns

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#### 2. Tweed River Festival

18 November – Naming of Skinner Lowes Wharf at Murwillumbah

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#### 3. Lifeworx Church

18 November – Presentation of prizes to winners of Colouring In Competition

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#### 4. Family Centre Community Projects

18 November – Family Centre Community Projects AGM at South Tweed

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#### 5. Mayor's Charity Ball

19 November – Presentation of proceeds from Mayor's Charity Ball to the Rural Fire Service

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#### 6. Tourism

19 November – Tourism Forum at Tweed Civic Centre

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#### 7. Tweed River Festival

19 November – Launch Photo Exhibition at Murwillumbah

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**8. Mount St. Patrick College**

19 November Mt St Patrick College Year 12 Formal at Murwillumbah

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**9. Tweed River Festival**

21 November –Tweed River Festival at Jack Evans Boat Harbour incorporating Tweed Coast Outriggers Corporate Day

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**10. Tweed River Festival**

22 November – Presentation of prize of School Poster Competition at Tweed

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**11. Citizenship Ceremony**

23 November – Private citizenship ceremony at Murwillumbah (Kenyon family)

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**12. Department of Fair Trading**

25 November – Consumer Rights Information Session “Home Truths about Consumer Rights” at Tweed Civic Centre

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**13. CTC Pottsville**

25 November – Launch Visitor Information Centre

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**14. Casino/Murwillumbah Rail Line**

25 November – Received Casino/Murwillumbah Rail Enquiry Report

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**15. Tourism**

25 November – Met with Federal Minister for Small Business and Tourism, The Hon. Fran Bailey MP

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**16. TEDC**

26 November – TEDC Board Meeting at Gold Coast Airport

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## 17. Library

27 November – Naming Bruce Graham Library at Tweed Civic Centre

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### INVITATIONS ACCEPTED:

- 5 December Dragon Boat Races – Jack Evans Boat Harbour
- 6 December – Kingscliff/Murwillumbah TAFE Achievement Awards Presentation
- 7 December – Friendship Force Visitors from Russia
- 7 December – Stacks Seminar Local Government & Planning Issues – Murwillumbah
- 8 December – Blind & Vision Impaired Support Group Christmas Luncheon Banora
- 9 December – TACTIC AGM and Christmas Party – Duranbah
- 10 December – International Volunteers' Day at Tweed
- 10 December – Tweed River High Annual Presentation Day
- 10 December – Council staff Christmas Party – Murwillumbah
- 10 December – Bolster & Co. Christmas Party – Banora
- 11 December – Brian Donaghy Farewell Dinner – Murwillumbah
- 12 December – Opening Greg Norman Jnr Masters – Coolangatta/Tweed Golf Club
- 13 December – Twin Towns Friends Christmas Lunch Tweed Heads
- 13 December – Wollumbin High Awards Ceremony Murwillumbah
- 14 December – Tweed Heads Public School Presentation of Awards

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

- Water 05 'Implementing the National Water Initiative from catchment to tap' **16-18 February 2005** Melbourne Convention Centre
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**ITEMS DEFERRED**

**[ID] PE] Development Application DA04/0917 for a Two Storey Dwelling and Building Line Variation at Lot 4 DP 1054265 No. 48 Kintyre Crescent Banora Point**

**ITEM DEFERRED FROM MEETING HELD:**

**3 November 2004**

*RESOLVED that Development Application DA04/0917 for a two storey dwelling and building line variation at Lot 4 DP 1054265, No. 48 Kintyre Crescent Banora Point be deferred to enable to applicant to consider the following points, these being-*

- Lowering the building further into the site by a metre to achieve balanced cut and fill, removing the need to import fill from an external source, and reducing the height of the front retaining wall and the loads this may put on the existing rock wall;*
- Lowering the eastern portion of the dwelling house to natural ground level as opposed to artificially raising this part of the house on fill and piers;*
- Lowering the ceiling height of the ground floor by at least half a metre and the lowering the ceiling height of the top floor by a least a further metre.*
- Providing additional relieve in terms of articulation and windows to the southern elevation.*

**THIS REPORT IS THE SUBJECT OF A FURTHER REPORT OF ITEM 6 OF THIS AGENDA**

**ORIGIN:**

**Building Services**

**FILE NO: DA04/0917**

**SUMMARY OF REPORT:**

Application has been received to construct a two storey dwelling on the subject allotment.

The allotment forms part of a five lot subdivision and is of irregular shape. A building line variation has been requested and approved.

In response to Council's notification policy several objections to the proposal were received. The Applicant submitted amended plans showing minor changes and additional information which were referred to the objectors for comment. The objectors have reiterated their objection to the proposal.

Notwithstanding that the proposed dwelling will have a significant impact on neighbouring properties it is considered that any proposal for this allotment is likely to have a similar impact due to the shape and configuration of the lot.

The objections have been considered as part of the approval process however it is considered that on balance the application warrants conditional approval.

**RECOMMENDATION:**

That Development Application DA04/0917 for a two storey dwelling and building line variation at Lot 4 DP 1054265, No. 48 Kintyre Crescent Banora Point be approved subject to the following conditions: -

**GENERAL**

1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by these conditions of consent.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property. [GEN0020]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0030]
4. The erection of a building in accordance with a development consent must not be commenced until: [GEN0120]
  - (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 license 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**

5. The footings and floor slab are to be designed by a practicing Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0160]

6. Prior to the issue of a Construction Certificate provide two copies of wind bracing and tie down details for an anticipated maximum speed of N3.

[PCCNS01]

**PRIOR TO COMMENCEMENT OF WORK**

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

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

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

[PCW0050]

8. 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]

9. **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]
10. 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]
11. 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]
12. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. **Note** All roof water must be connected to an interallotment drainage system where available. A detailed storm water and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.
- [PCW0250]
13. 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]

Residential building work:

- (1) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (a) in the case of work for which a principal contractor is required to be appointed:
    - (i) in the name and license number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder:

- (i) the name of the owner-builder, and
  - (ii) if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (2) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0290]

#### DURING CONSTRUCTION

15. 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).
16. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.
17. 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.
18. 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.
19. 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.
20. **A Sewer manhole** is present on this site. This manhole is not to be covered with soil or other material or concealed below ground level.

Should additional fill be proposed in the area of the sewer manhole Council's Engineering Services Division must be consulted and suitable arrangements made for the raising of the manhole to the satisfaction of Council's Manager Public Utilities.

21. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
22. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.
23. The roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.

24. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass and zoning.
- [DUR1000]
25. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;
  - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - c. external drainage prior to backfilling.
  - d. completion of work and prior to occupation of the building.
- [DUR1020]
26. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
- [DUR1030]
27. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
- [DUR1130]
28. The finished floor level of the building should finish not less than 225mm above finished ground level.
- [DUR1150]
29. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<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]
30. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
  - ii. Required toilet facilities have been provided on the site.
  - iii. A sign has been erected on the site identifying:
    - Lot number
    - Builder
    - Phone number of builder or person responsible for site.

- iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
  - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.
31. 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.

[DUR1200]

[DUR1210]

**PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

32. 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.
33. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0020]

[POC0030]

**REPORT:**

**Applicant:** Mr PA Willis and Ms SM Cameron  
**Owner:** Mr PA Willis and Ms SM Cameron  
**Location:** Lot 4 DP 1054265, No. 48 Kintyre Crescent Banora Point  
**Zoning:** 2 ( c ) Urban expansion  
**Cost:** 250000.00\$

**Background**

Application has been received to construct a two storey dwelling on the subject allotment. The allotment is zoned 2 ( c ) Urban expansion which permits the construction of dwelling houses.

The dwelling is proposed to observe a building line of 4.39 metres to Kintyre Crescent and a building line variation has been recommended for approval due to the exceptional conditions of the site, to wit, its long narrow configuration which would make it difficult to design a reasonable size dwelling which maintains a six metre building line.

The allotment forms part of a five lot subdivision, encompasses an area of 673 m<sup>2</sup> and has access off Kildare Drive via a common driveway which also serves lots 2 & 3.

The north western property boundary, which faces Kildare Drive, is retained by a boulder retaining wall which has an approximate height of between 600mm and 1.60 metres.

The allotment has access to all services.

The adjoining allotments 1 & 3 have existing two storey dwellings, allotments 2 & 5 are vacant.

The local area is characterised by two storey dwellings however dwellings up to three storeys are permissible in this area.

The proposed dwelling will be two storey, the ground floor will be constructed of rendered masonry and the upper level will be timber framed with a mixture of external cladding materials such as colorbond metal, eco ply and rendered blueboard.

The roof will be metal clad skillion with a pitch of 7.5 degrees.

Ceiling heights will be approximately 2.70 metres

In accordance with Council's notification policy all adjoining property owners were notified.

In response to this process written objections were received from the owners of adjoining lots 1,2,3 & 5 and one other nearby resident who wasn't notified. A submission of objection from Planit Consulting, Town Planning Consultants, on behalf of the owners of lots 1,2,3 & 5 was also received.



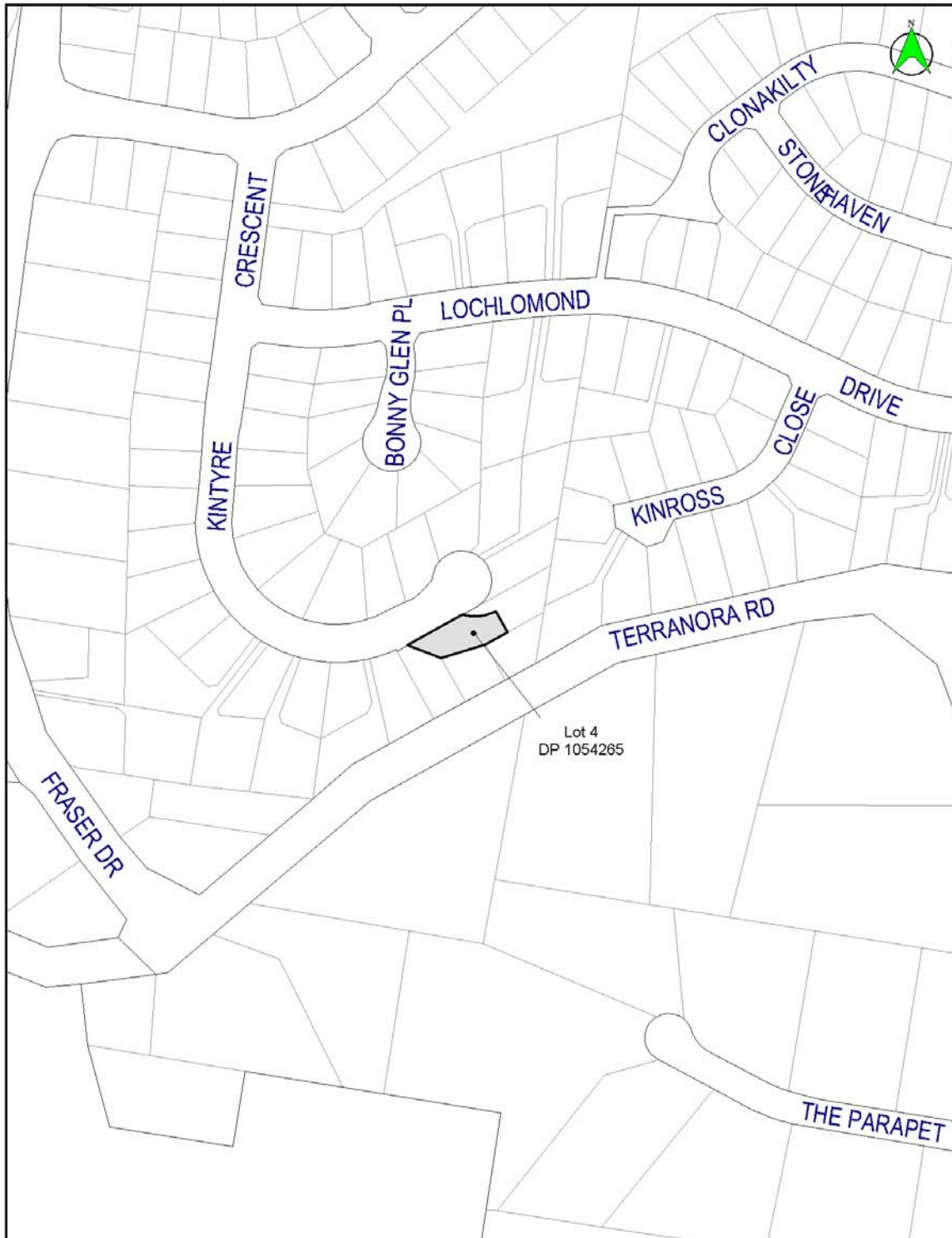
As a consequence of these objections the Applicant was advised of the nature of the objections and was invited to consider the objections and provide a formal response.


Amended plans were submitted showing minor alterations to the design and providing additional information that was deficient in the original plans.

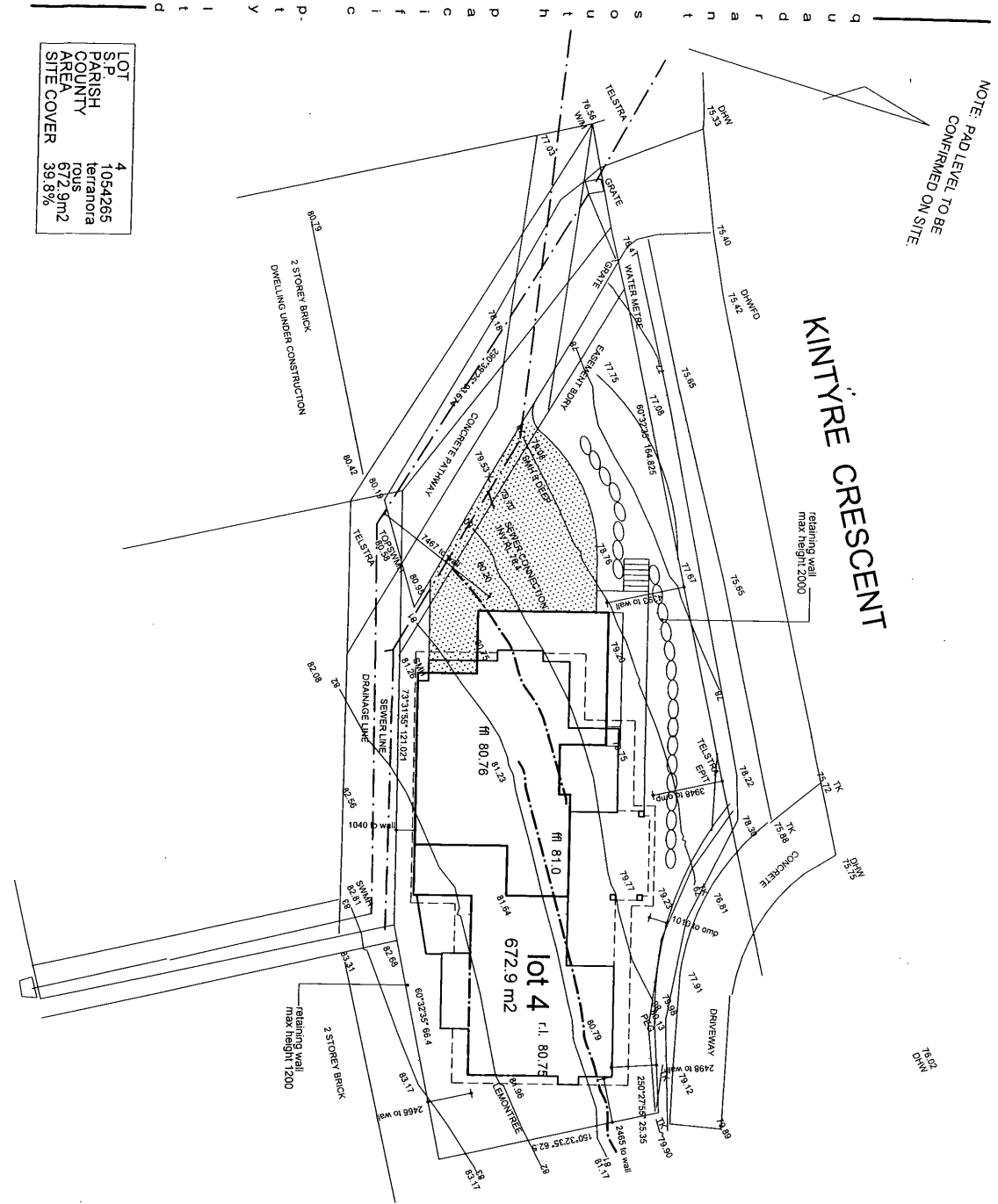
The objectors were provided with a copy of the Applicant's response however still maintain their opposition to the proposal.

Notwithstanding that the dwelling will have a significant impact on neighbouring properties it is considered that any dwelling which is proposed for this allotment would have a similar impact on neighbouring properties due to the shape, configuration and existing levels of the allotment.

Site Diagram



<p>© 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.  <b>DO NOT SCALE</b>  <b>COPY ONLY - NOT CERTIFIED</b>                  P.O. Box 916 Murwillumbah, NSW, 2484 Tel: (02) 6670 2499 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i>                  Lot 4 DP 1054265                  48 Kintyre Crescent, Banora Point</p>		<p>STRATEGIC PLANNING UNIT  <b>Site Plan</b>                  Sheet: 1 of 1</p>		
	File: N:\MapInfo 7...A4P Site Plan.Wor	Author: C.Davis	Date: 27/Oct/2004	Scale: 1:2,500	



LOT 4  
S.P. 1054265  
PARISH tetanora  
COUNTY DUS  
AREA 672.9m<sup>2</sup>  
SITE COVER 39.83%

Ph 07 45589871  
Fax 07 45588881  
Level 4, 100-102, 104-106  
Bundamba, Gold Coast  
PO Box 6004, GYMCA QLD 4226

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client  
**P. Willis & S. Cameron**

project  
**proposed residence  
lot 4  
kintyre pl  
baranora poi**

date  
**07/07/04**

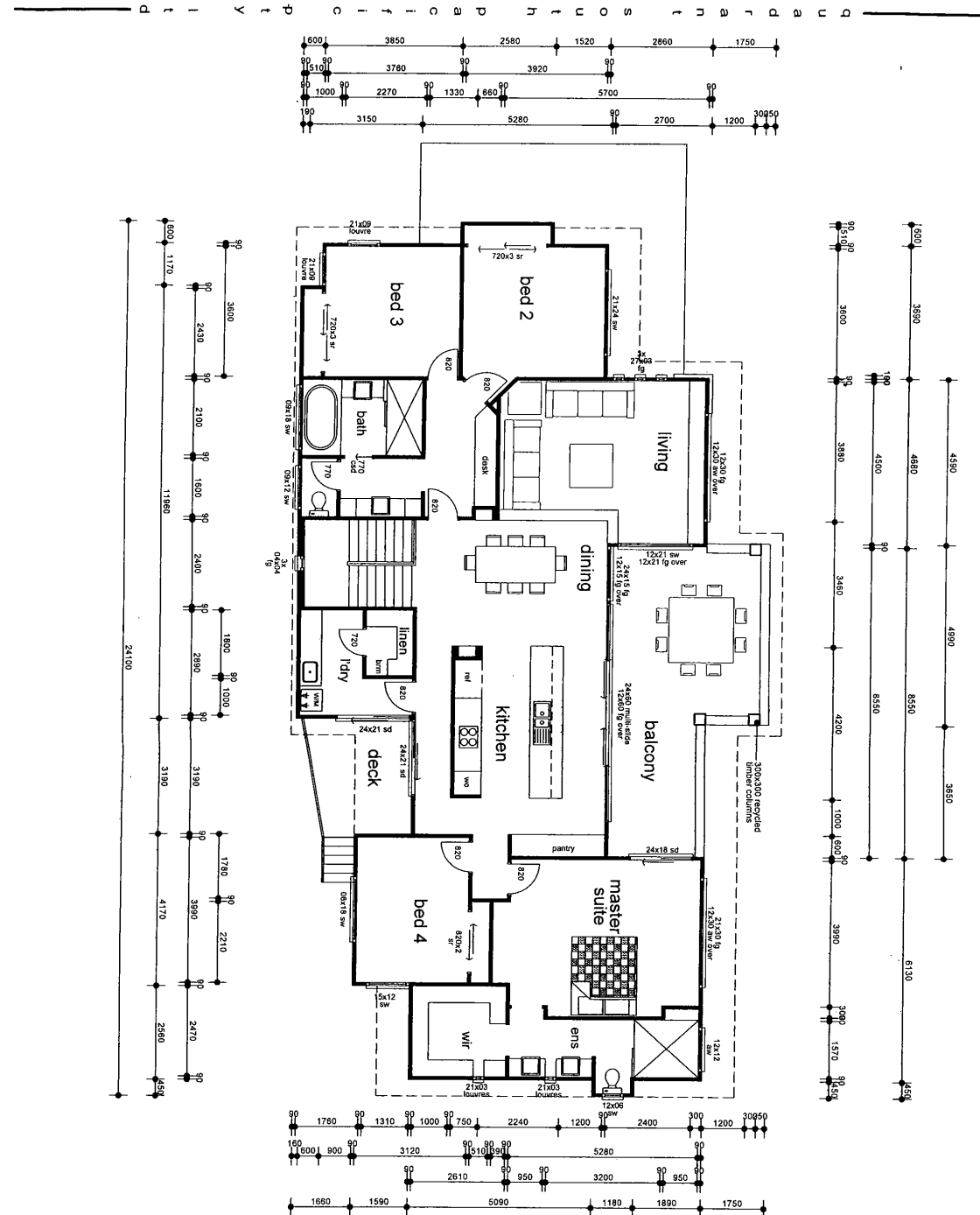
issue  
**d.a. - 01**

amendments

date

comments

title <b>site plan</b>	
scale 1:200 ON A3	drawn by d.c.
job no. <b>04-021</b>	sheet no. <b>01</b>



**qsp**

pn 07 55588881  
tel 07 55588881  
level 11/11111111  
sundral dld 4217  
po box 5024 sunc qld 9728

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**smoke detectors**

client: **p. willis & s. cameron**

project: **proposed residence lot 4 kinbrae pl banorra poi**

date: **07/07/04**

issue: **d.a. - 01**

amendments: **01/10**

comments: **amend drawing for council ds**

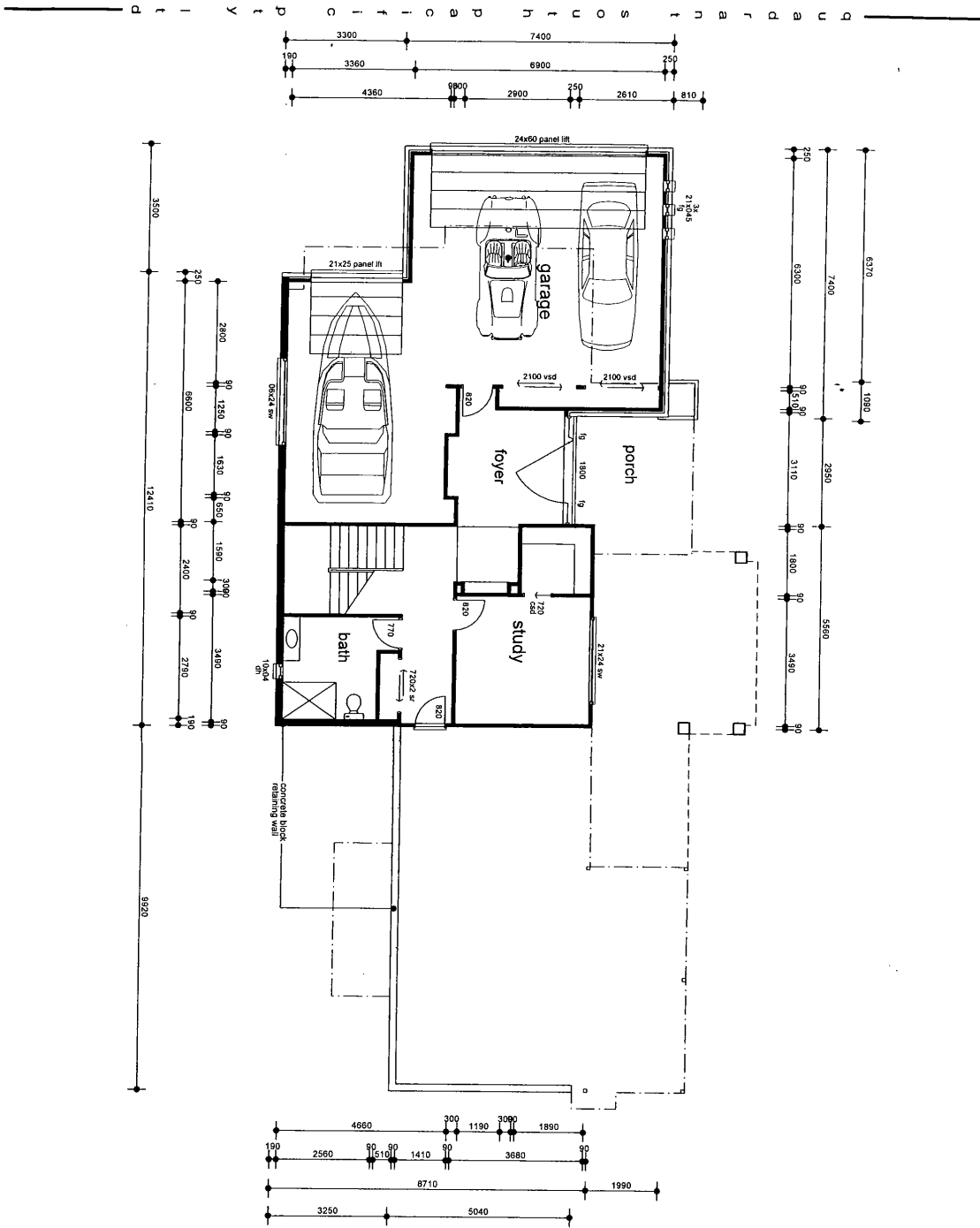
job no. **04-021**

sheet no. **02**

title: **upper floor plan**

scale: **1:100 ON A3**

drawn by: **d.c.**



**qsp**

ph: 07 55288881  
level 1 7 marston road  
sundrali qld 4217  
po box 994 sunnyvale qld 9728

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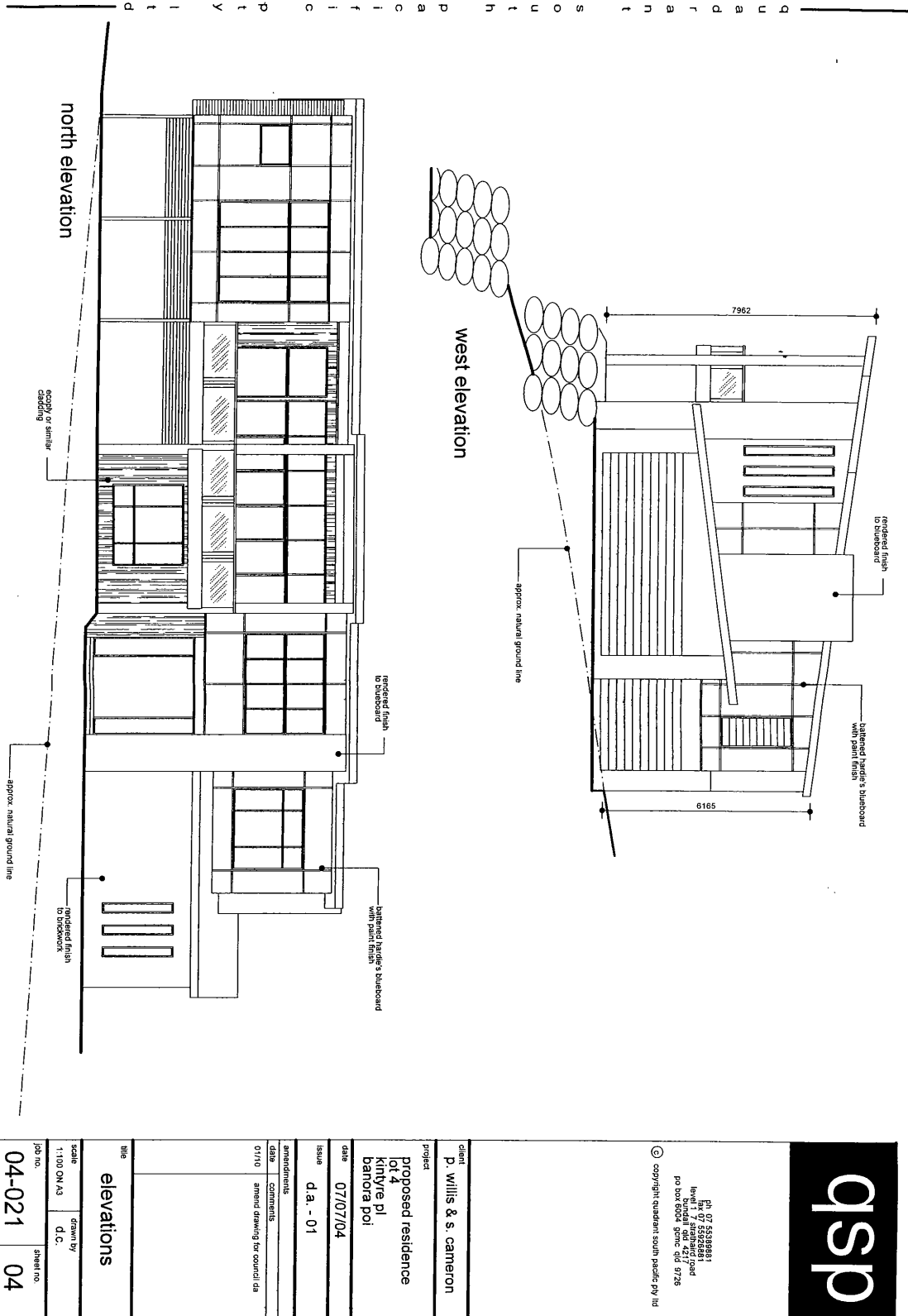
**floor areas**

lower floor: 140.0 m<sup>2</sup>  
upper floor: 207.0 m<sup>2</sup>  
porch: 207.3 m<sup>2</sup>  
bath: 33.8 m<sup>2</sup>  
balcony: 8.0 m<sup>2</sup>  
**total: 397.2 m<sup>2</sup>**

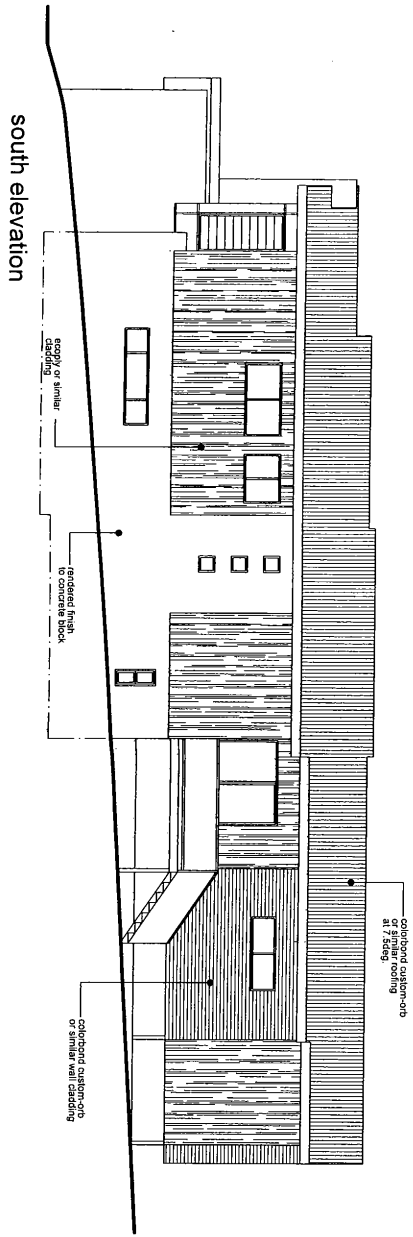
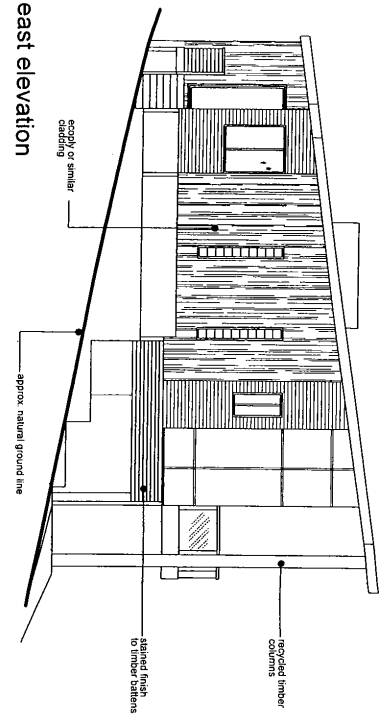
smoke detectors

client	P. Willis & S. Cameron		
project	proposed residence lot 4 kinbrae pl banora poi		
date	07/07/04	issue	d.a. - 01
amendments			
date	01/10	comments	amend drawing for council da

<b>lower floor plan</b>	
Scale	drawn by
1:100 ON A3	D.C.
job no.	sheet no.
04-021	03



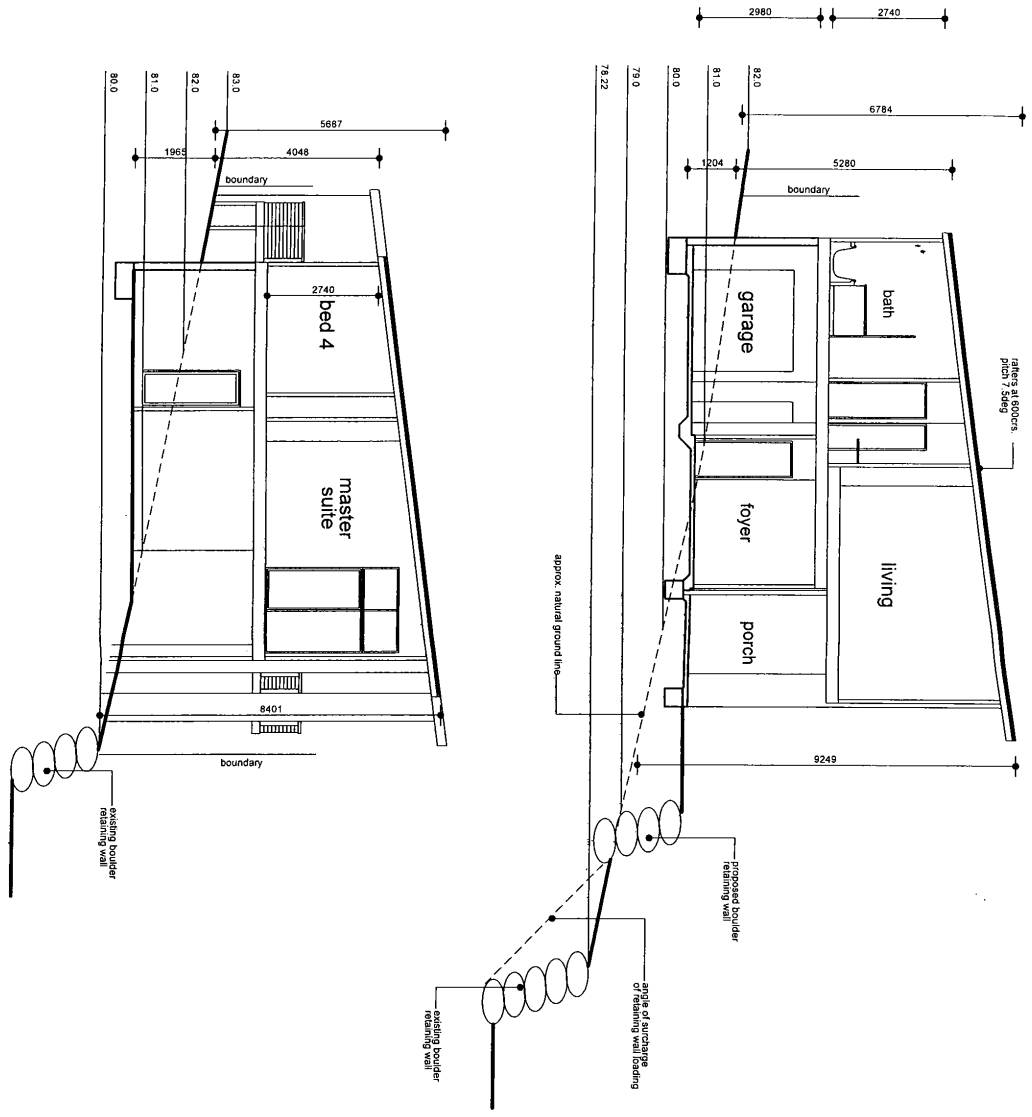
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Ph 07 55338881  
 Level 1 7 Arundel Road  
 Wollumban NSW 2447  
 PO Box 6004 GLEN 2447 8726  
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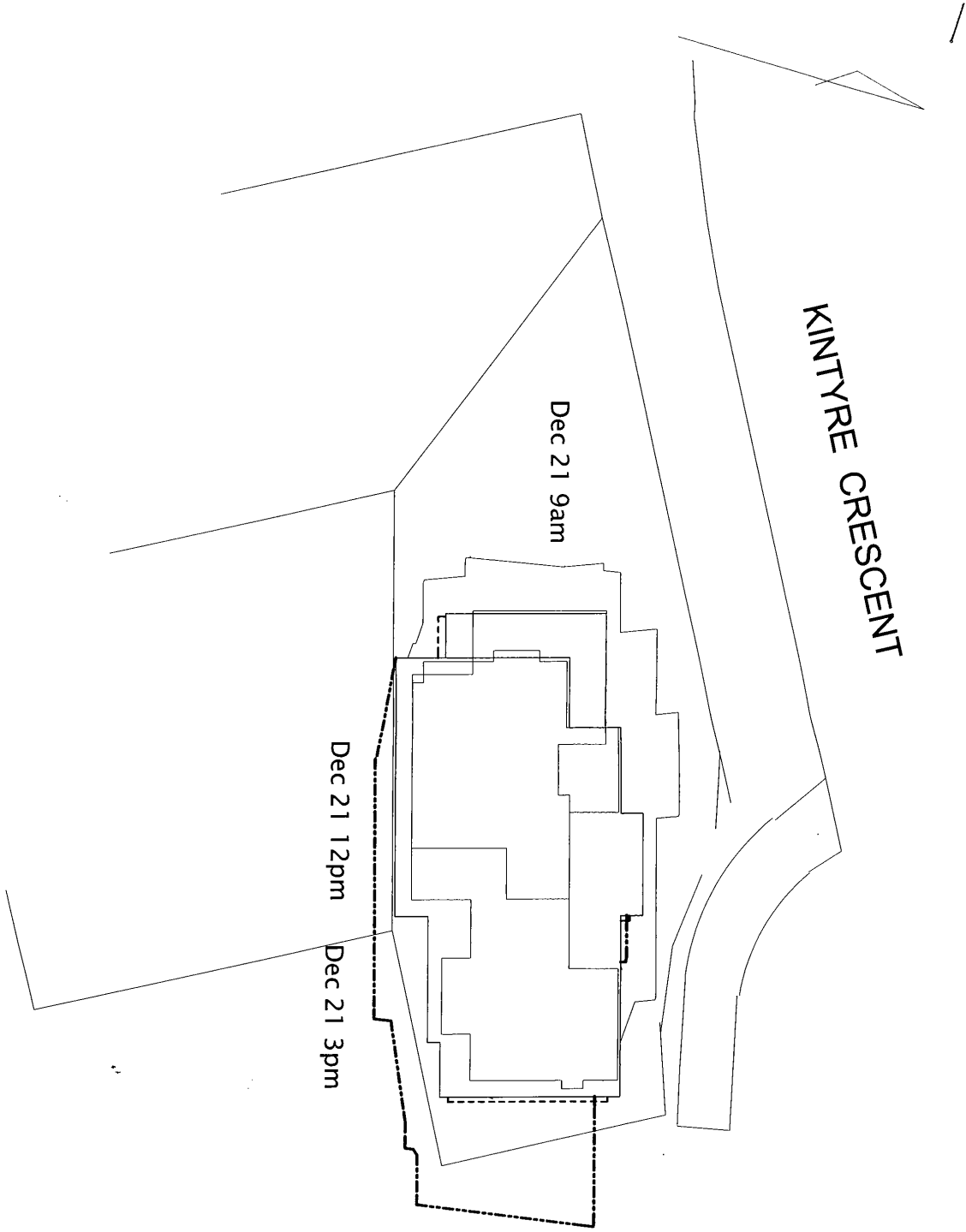
client	P. Willis & S. Cameron		
project	Proposed residence lot 4 Kinlyre pl Banorra poi		
date	07/07/04		
issue	d.a. - 01		
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q s p a r d a b u q



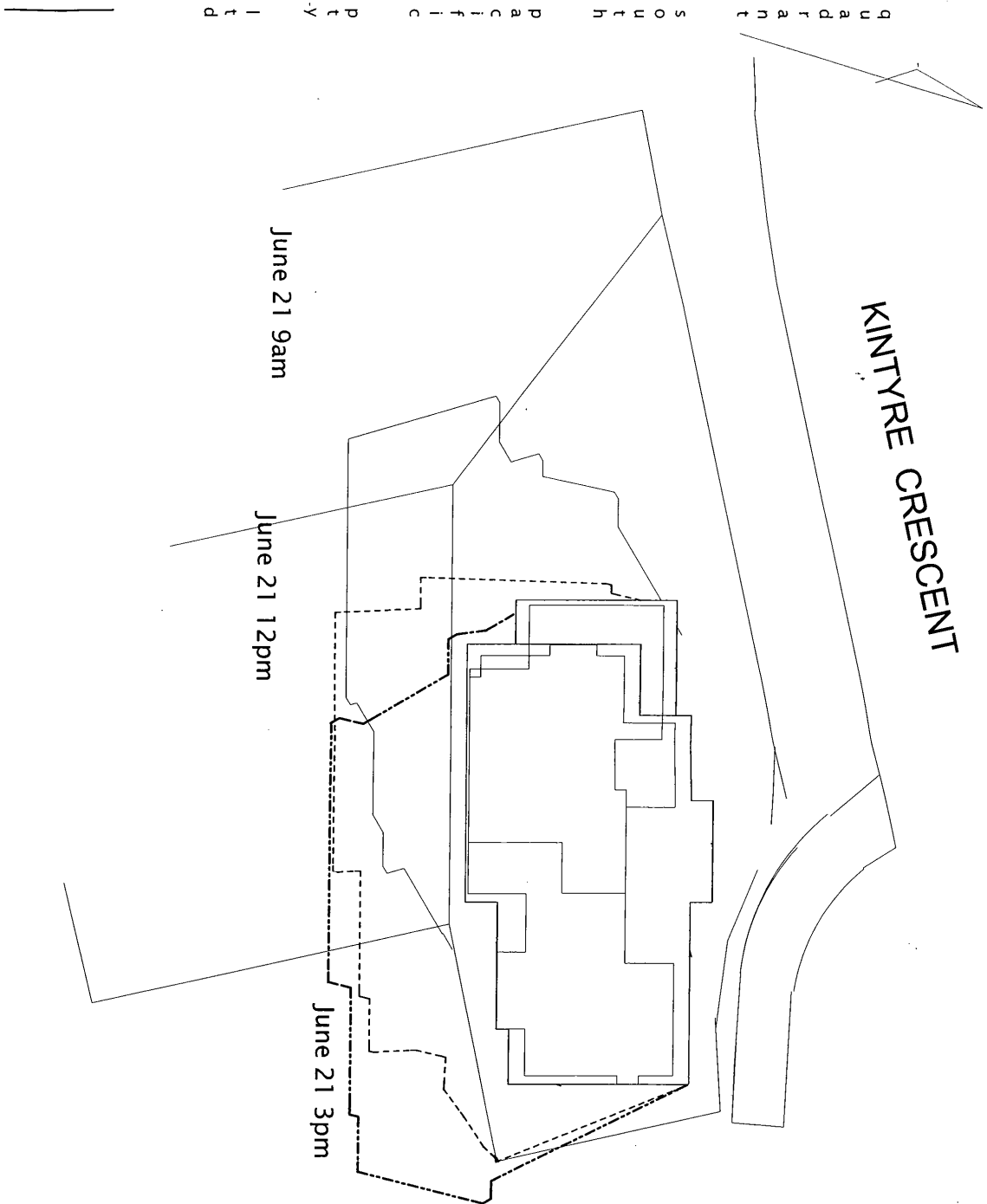
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client	p. willis & s. cameron
project	proposed residence lot 4 kintyre pl barrowa poi
date	07/07/04
issue	d.a. - 01
amendments	
date	
comments	amend drawing for council da
date	01/10
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drawn by	d.c.
job no.	04-021
sheet no.	06





**qsp**

P.O. BOX 333888 Tweed Shire Council Locked Mail Bag 9726 Byron Bay NSW 2484	
© copyright reserved under trade mark of the client	
client	P. Willis & S. Cameron
project	Lot 4 Kintyre Place Barotra Point
date	05/10/04
issue	WD01
representative	
date	
comments	
title	Shadow December
scale	1:200
drawn by	RSU
job no	04/0721
sheet no	02



**qsp**

Plot 02 55389881 100m x 100m road parcel 004, strata 048 9726 © copyright Queensland Survey Practice Pty Ltd	
Client: P. Willis & S. Cameron	
Project: Lot 4 Kintyre Place Banora Point	
Issue: 06/10/04 WPD1	
PREPARED BY: [blank] CHECKED BY: [blank] DATE: [blank]	
Title:	Shadow June 21
Scale:	1:200
Drawn by:	RSU
Job no:	04/021
Sheet no:	01

**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 property is zoned 2 ( c ) Urban expansion and the proposal is considered to be consistent with the zone objectives which is to provide for optimum utilisation of land for residential development.

The proposed dwelling will be a free standing single dwelling which is consistent with the standard of land use in the area.

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

No draft Planning Instrument affects this application.

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

This application is affected by DCP 39 " Energy Smart Homes Policy " and DCP 47 " Cut and Fill on Residential Land " and satisfies both these plans.

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

There are no matters prescribed by regulation.

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

The proposed dwelling will be located in an established residential area which is characterised by one and two storey dwellings of varying architectural styles. The proposal varies from what could be described as the typical style of dwelling for this area as it characterises a more contemporary architectural style comprising a skillion roof and a mixture of external wall cladding materials.

Due to the physical characteristics of the allotment it is conducive to the construction of a two storey dwelling and any reasonable size house which is constructed on the lot would have a significant impact on the adjoining properties and this fact should therefore not preclude the right of the property owner to design the dwelling of their choosing.

Positive social and economic impacts on the locality would result from the construction of the dwelling by providing residential accommodation, employment during construction of the dwelling and supporting local building supply companies.

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

The site has been created at subdivision stage for residential use and the proposal is considered to be consistent with the zoning of the area.

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

In response to Council's notification policy several objections to the proposal have been received. A report from Town Planning Consultants, Planit Consulting dated 20 August 2004 was submitted on behalf of the owners of lots 1,2,3 & 5 DP 1054265 as well as individual objections from these owners.

The Planit Consulting report appears to cover all of the concerns which were raised by the individual objections and is reproduced hereunder:-



CONSULTING

20 August 2004

The General Manager  
Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

W: 57580

TWEED SHIRE COUNCIL
FILE No. DP04/10917 PY1
DOCUMENT No. [ ]
RECD 24 AUG 2004
ASSIGNED TO Roworth M
HARD COPY <input checked="" type="checkbox"/> IMAGE <input type="checkbox"/>

Attn: Mark Roworth

Dear Sir,

**Re: Development Application 04/917 – Two Storey Dwelling and Building Line Variation, Lot 4 DP 1054265, 48 Kintyre Crescent, Banora Point**

In response to Council's letter dated 2 August 2004 Planit Consulting have been commissioned to prepare an objections to the abovementioned Development Application on behalf of the immediate neighbours to this property. We act on behalf of the following landowners:-

- Tavace Pty Ltd (Lot 2 DP 1054265)
- Corinne Archer and Thomas Martin Hynes (Lots 1 and 5 DP 1054265)
- John and Sharon Anderson (Lot 3 DP 1054265)

Planit Consulting has reviewed the proposed plans and undertaken an inspection of the subject site. Our clients are concerned about a number of aspect of the proposed development and having inspected the site and reviewed the proposed plans it is considered there grounds for objecting are not unfounded. In this regard it is our opinion that the proposal demonstrates poor neighbourly manners and does not warrant the support of Council.

The reasons for objecting to the proposed development are as follows:

- 1 Height.** The building is designed as two storeys, however from floor to ceiling it is deduced that the ground floor has a maximum height of 3 metres while the second storey has a maximum height of 4.5 metres. The height of these storeys is totally inappropriate for this area of Banora Point, and the design of the building has no regard to the existing streetscape or the amenity of surrounding residents.

The impacts of this proposal are further exacerbated by the siting of the building on up to 2 metres of fill and the raising of the eastern half of the building up to 4 metres above natural ground level. As Council is aware Draft Local Environmental Plan No. 46 has been prepared and exhibited. The provisions within that document state that a storey which exceeds 4.5 metres is counted as two storeys. Using these guidelines the proposal clearly pushes

Queensland  
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Level 2, 38 Cavill Avenue  
Surfers Paradise  
ABN 20 099 261 711

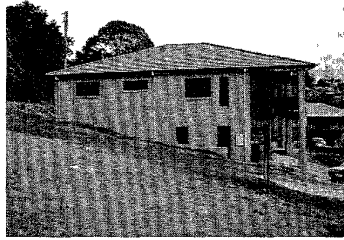
Telephone: (07) 5526 7725  
Fax: (07) 5526 7728  
E-mail: admin@planitconsulting.com.au

New South Wales  
PO Box 1823 Kingscliff NSW 2487  
Suite 1, 'Paradise'  
78-80 Marine Parade, Kingscliff  
ABN 28 109 278 686  
Telephone: (02) 6674 5001  
Fax: (02) 6674 5003  
E-mail: info@planitconsulting.com.au



the building envelope as a two storey dwelling with parts of the dwelling having a height equivalent to a three storey building.

Although there are two storey dwellings within the street and surrounding areas, those buildings have had regard to the topography of the land and undertaken a balanced cut and fill approach. It is obvious that many of these dwellings have been sunk into their respective sites, as demonstrated in the photos below.



Adjoining Dwellings to the North with rear portion of buildings sunk into the site

2. **DCP No. 3 Banora Point West – Tweed Heads South:** The DCP sets out guidelines for residential development under Section 8 of the Policy. A clear requirement is that "no building within the residential area shall exceed two storeys in height. Although Council is yet to adopt definition for the maximum height limit for a storey, it is clearly evident that the height of this dwelling is the equivalent of a three storey building with the design paying scant regard to the intent of the DCP
3. **Southern Elevation:** The southern elevation presents as an unattractive blank wall with a height of 6 metres and an area of approximately 120 m<sup>2</sup> to the property to the south with only two doors providing any relief to this façade. The plans fails to provide any detail on materials proposed and as such it is impossible to conclude whether the building will be in character with surrounding residential development or what the visual impact will be
4. **Roof:** The main part of the dwelling house has been designed with a single pitch skillion roof orientated to the south. Again no details are provided on materials (metal, colourbond, shingles or tiles) and as such it is impossible to ascertain the appropriateness of the roofing material proposed and what impact this may have on surrounding properties and residents from reflectivity. Accordingly it is submitted the applicant has failed to submit sufficient information as required under Schedule 1 – Part 1 of the Environmental Planning and Assessment Regulations 2000 for Council to approve this application with any confidence.
5. **Overshadowing:** No overshadowing plans have been submitted, however it is clearly evident that the height of the building will adversely overshadow the property to the south (Lot 2 DP 1054265) during the morning hours and the property to the east (Lot 5 DP 1054265) during the evening hours. A more sympathetic design would minimise the overshadowing impact. Again a lack

of detail has been submitted to enable Council to fully assess the proposal as required under Section 79C of the EPA Act 1979.

6. **Building Line Policy:** The applicant has sought a building line variation however no valid planning reasons for granting this variation are evident other than the applicant's simple desire to construct a large inappropriate dwelling house on the subject site. From a site inspection it is evident existing dwellings in Kintyre Crescent conform to Council's requirements and therefore no precedent has been set to justify the departure. The objectives of the Building Line Policy are as follows:

- i) To achieve an attractive and reasonably landscaped.
- ii) To provide for the safe and convenient circulation of pedestrians and parking of vehicles.
- iii) To control the extent to which buildings overlook, overshadow and affect adjoining properties.

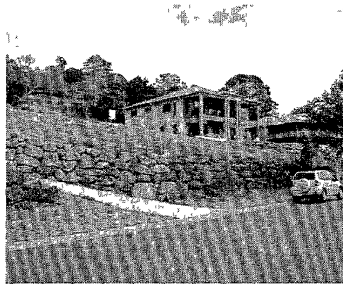
Council should carefully consider the height of this building in terms of these objectives. It is noted the ground floor will be set 6 metres above the road, the first floor 9 metres above the road and the top of the roof an outrageous 14 metres above the road Plus a further retaining wall 2 metres in height is proposed on top of the existing 3 metre high rock wall. Accordingly the dwelling as proposed will be domineering in terms of streetscape and impose dramatically on the public domain and adjoining properties It is submitted a Building Line Variation should not be granted in this instance. Council would be seen as negligent in its duties by failing to protect the public interest and not enforcing its planning controls for dwelling houses.

7. **Subdivision Layout:** A copy of the approved subdivision plan is attached for your information.(See Appendix A) It is noted the subdivision was approved on the correct understanding a building could be legally constructed on the site and comply with Council's Building Line Policy. This at the time of subdivision was a serious concern to Council and in particular the Building Unit. It now seems ludicrous considering Council's previous concerns, that a building line variation would now be supported
8. **Landscaping:** The proposal shows a distinct lack of regard to providing landscaped open space areas, with little room for a clothes drying court, children to play or for residents to potter in the garden, with the bulk of the front yard taken up by rock retaining walls and the driveway which have inadvertently been left of the plans.
9. **Fill:** From the proposed plans it is deduced that substantial filling will be required to create a level platform, and to artificially raise the land. Having regard to the properties height above Kintyre Crescent, the height of existing residential properties opposite, and the existing views available, filling of this site is not required for any valid planning reasons (ie DCP 5 – Flooding) Even the ground floor of the garage set at R.L 81.4 metres is raised more than 1.5 metres above the existing concrete driveway with survey details showing an RL of 79.53 metres. Accordingly the filling of this site is viewed as a waste of a limited and valuable resource, and will result in conflict with neighbouring properties
10. **DCP 47 Cut and Fill on Residential Land:** As earthworks result in the need to construct a two metre high retaining wall as proposed the applicant should be required to address the provisions of this policy. In this regard the

applicant should have provided:

- a detailed sedimentation and erosion control plan;
- a detailed landscape plan;
- a stormwater management plan;
- Detailed engineering plans on the proposed retaining walls; and
- a geotechnical report as it would appear a retaining wall will be erected above an existing retaining wall

A balanced approach to the cutting and filling would result in a more compliant proposal in terms of DCP 47.



Subject Site – Note existing three metre high retaining wall



View to the North towards Tweed Heads and Southern Gold Coast

**Design Solutions:** It is submitted there are a number of design solutions available to the applicant, while maintaining floor area and to preserving the residential amenity of the surrounding properties. The proposal in its present form is an inappropriate response to the site and an overdevelopment in terms of height, bulk and scale. A variety of design solutions are available which should be fully explored prior to this application being determined. Such solutions include (but not limited to) the following:

- Lowering the building further into the site by a metre to achieved balanced cut and fill, removing the need to import fill from an external source, and reducing the height of the front retaining wall and the loads this may put on the existing rock wall;
- Lowering the eastern portion of the dwelling house to natural ground level as opposed to artificially raising this part of the house on fill and piers;
- Lowering the ceiling height of the ground floor by at least half a metre and the lowering the ceiling height of the top floor by at least a further metre.
- Providing additional relief in terms of articulation and windows to the southern elevation


Having regard to the sites access to views to the north and its inability to be built out by surrounding development due to the topography of the land and surrounding properties, it is not unreasonable for Council to request the applicant to redesign the dwelling to respect Council's Planning Controls and to exhibit good neighbourhood manners. A reduction in height of at least 2 metres can be achieved through a variety of the design solutions as discussed above without adversely impacting upon the applicants views or amenity. Should the applicant be unwilling to amend the plans



and a better outcome achieved the development application should be refused for the reasons outlined above. Furthermore should the application be approved based on the limited information submitted, it is our opinion Council leaves itself open to action under Section 123 of the Environmental Planning and Assessment Act 1979.

Should you require any further information, please do not hesitate to contact Planit Consulting on 02 66 745001.

Yours faithfully



Chris Larkin  
Senior Town Planner

A response to each of the points of objection follows hereunder :-

### **Height**

The dwelling will be two storey with a ceiling height to the ground floor of 2.7 metres and to the first floor of 2.70 metres. There is no statutory limitation on the height of a storey.

The ground floor will be excavated into the site by about 1.5 metres along the southern wall of the dwelling which will reduce its impact, especially on the allotments to the rear.

The local area is characterised by two storey dwellings.

### **DCP 3 Banora Point West – Tweed Heads South**

The proposed dwelling does not exceed two storeys in height by definition under the provisions of Tweed LEP 2000 and as there is no adopted definition for the maximum height limit for a storey the proposal is deemed to comply with the provisions of that part of DCP 3 quoted.

### **Southern Elevation**

An amended plan has been submitted showing detail to the southern elevation which was omitted from the original proposal. This detail comprises the provision of more windows and details of a mixture of external wall cladding which provides for more visual interest to this façade. In addition the building has been lowered into the site a further 400mm which has the effect of reducing the bulk of this elevation.

The design of the dwelling varies from the typical brick and tile dwelling design in the area however it is a reflection of a more contemporary architectural style which may provide variety in the streetscape.

### **Roof**

The roof will be a skillion design with a pitch of 7.5 degrees, amended plans have been lodged advising that the roofing material will be non reflective colorbond steel and that the colour will be in the beige range.

### **Overshadowing**

Shadow diagrams have been submitted which indicate that there will be some afternoon overshadowing of lots 1 and 2 in DP 1054265 during winter however these lots are located to the south of the subject lot and some overshadowing at this time of year would be expected. A two storey dwelling with a typical pitched roof would cast a similar shadow.

### **Building Line Policy**

The dwelling is proposed to observe a minimum building line of 4.39 metres to the front property boundary and requires a building line variation as the proposal will be within the six metre building line.

A building line variation report was prepared which recommended approval of the building line variation due to the exceptional conditions of the site, to wit, its long narrow configuration which would restrict compliance with a six metre building line for a reasonable size dwelling.

Whilst it was acknowledged that the proposal would have a significant impact on neighbouring properties it was considered that any proposal on this lot was likely to have a similar impact.

This recommendation of this report was concurred by the Area Team meeting.

### **Subdivision Layout**

A copy of a subdivision layout plan was provided by Planit Consulting which shows an approved building envelope.

The proposed dwelling will exceed this envelope however the building envelope is a diagrammatic indication at subdivision stage that it is possible to physically position a dwelling on the allotment and is used to support an application for subdivision only.

## Landscaping

It is not a requirement of Council to request details of landscaping, clothes drying area or children's play areas for a single dwelling however the Applicant advises that a low maintenance garden will be provided, that a clothes drying area is proposed on a deck at the rear of the dwelling and that undercover children's play area will be available beneath bedrooms 1 and 4.

## Fill

The Applicant advises that the dwelling will be excavated into the site a further 400 mm than was originally proposed with the result that importing fill from an external source will not now be required.

## DCP 47 Cut and Fill on Residential Land.

The originally proposed retaining walls along parts of the southern and eastern boundaries of the site have been deleted and the rear wall of the garage stairway and bathroom on the ground floor will now be constructed as retaining walls.

Due to the lowering of the dwelling further into the site the proposed retaining wall across the front of the site will be reduced in height to a minimum of 400mm at the eastern end of the property and to a maximum of 2.0m at the western end of the property.

Certification from Border Tech Geotechnical Engineering Services dated 9 September 2004 has been submitted stating that the proposed construction should not surcharge the existing retaining wall subject to accepted construction practises being utilised.

An approval under sec 68 of the Local Government Act 1993 has been issued for erosion and sedimentation control on this site.

## Design Solutions.

- *Lowering building further into site.* – dwelling has been lowered 400 mm into site thereby deleting need to import fill to site
- Front retaining wall will extend in height from 400mm to 2.0m Border tech Geotechnical Engineering have provided certification for existing retaining wall in relation to additional building loads.
- Lowering building further may restrict access to services.
- *Lowering eastern end of house* - to be utilised as play area for children and will be utilised for additional residential accommodation in the future.
- *Lowering ceiling heights* - lowering minimum ceiling heights as suggested would contravene the minimum ceiling height requirements of the Building Code of Australia and would not be acceptable to Council.

- *Southern elevation* – additional windows have been added to the southern elevation as well as additional detail provided on the mixture of external wall cladding material which is proposed to be used. The additional information has resulted in the this elevation having greater visual interest and in this regard is considered to be acceptable.

**(e) Public interest**

There are no public interest issues in relation to this application.

**OPTIONS**

1. Approve the application subject to conditions, or
2. Refuse the application

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS**

If the application is refused the Applicant would have a right of appeal which may have legal and financial implications for Council.

**POLICY IMPLICATIONS**

There are no policy implications in relation to this application as each application is considered on its merits.

**CONCLUSION**

The application before Council has been the subject of vigorous objection from adjoining property owners who appear to be mainly concerned at the height and design of the dwelling and at the impact that the dwelling may have on the amenity of their allotments. The allotment is considered to be a difficult lot on which to construct a conventional house because of the site peculiarities such as the dimensions and levels of the lot.

It would be difficult to provide a dwelling of reasonable size on this allotment which does not impact in some way on adjoining properties.

The proposed dwelling design has sought to provide a floor area that meets the needs of the property owners whilst also allowing them the chose the architectural style of dwelling that suits their taste.

The design of the dwelling may vary from the established housing stock in this area however that in itself is not a valid reason to refuse this application.

A contemporary house design in a streetscape that could be argued is devoid of any significant architectural diversity may in fact benefit the streetscape.

Notwithstanding the level of objection to this dwelling it is considered that after consideration and evaluation of all the circumstances of the application that conditional approval should be granted.

**UNDER SEPARATE COVER:**

Nil.

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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] Section 96 Application DA04/0261.01 for a Boundary Adjustment at Lot 1 DP 830564 & Lot A DP 343368, No. 34 Kyogle Road, Bray Park**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0261 Pt1**

**SUMMARY OF REPORT:**

Council is in receipt of an application to amend a development consent that was granted under delegated authority for a boundary adjustment of the subject land. The subject land supports the stonemason factory. The applicant is seeking to modify the development consent in relation to the condition relating to restriction as to user for proposed Lot 7 in the subject boundary adjustment.

The restriction as to user required a setback for proposed Lot 7 from the boundary of 60 metres for any future residence to ensure that acceptable noise levels are achieved in the future dwelling given its location adjacent to the stonemasons factory.

Council supported the proposed boundary adjustment with the imposition of the 60 metre restriction to ensure future occupants would not be exposed to unacceptable noise levels. The applicant is requesting that the submitted noise report and its recommendations for sound shell treatment should be imposed on the future dwelling design for structures within 60 metres of the boundary. Proposed Lot 7 is approximately 90 metres in length.

However Council's officers are not willing to support the imposition of this level of design on a residential premise as it may lead to false expectations as to the residential amenity in the area. Accordingly the following report addresses the issues and reasons for refusing the proposed amendment.

**RECOMMENDATION:**

That Development Application DA04/0261.01 for a boundary adjustment at Lot 1 DP 830564 & Lot A DP 343368, No. 34 Kyogle Road, Bray Park be refused for the following reasons: -

1. The lifting of the noise easement requirement will result in an unacceptable level of noise for future residential occupants; and
2. The proposed modification is not considered to be in the public interest, due to the development not achieving acceptable residential noise amenity standards.

**REPORT:**

**Applicant:** B & P Surveys  
**Owner:** Mr K R Dunn  
**Location:** Lot 1 DP 830564 & Lot A DP 343368, No. 34 Kyogle Road Bray Park  
**Zoning:** 2(a) Low Density Residential  
**Cost:** N/A

**BACKGROUND:**

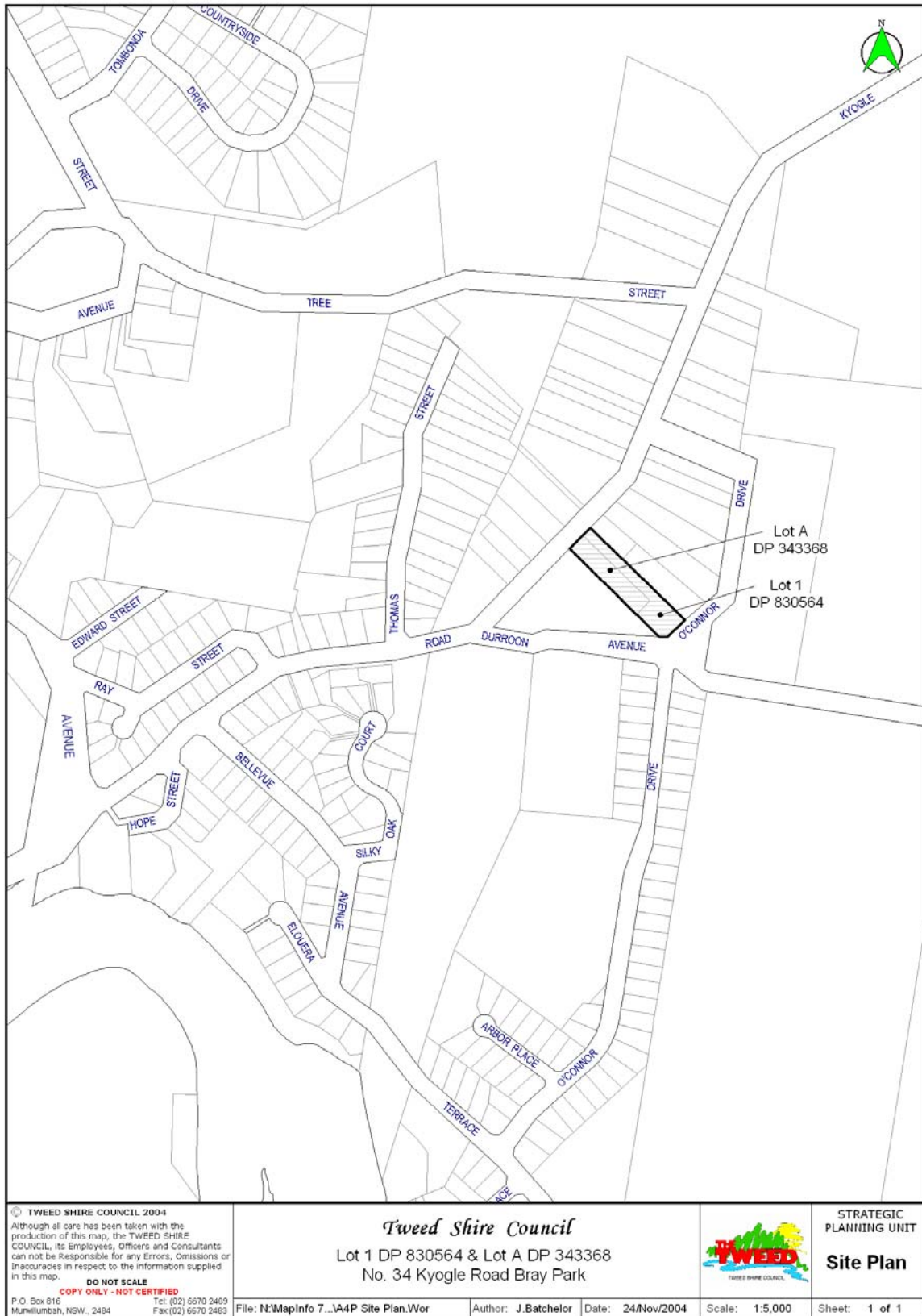
A development application was lodged in May 2004, seeking consent for a proposed boundary adjustment between two adjoining properties. The original boundary between the two allotments ran beneath an existing stonemason building. The boundary adjustment would rectify this situation and allow future residential development of the vacant second allotment.

Conditional development consent (Development Consent DA04/0261) was given for the proposed boundary adjustment. One of the conditions (Condition 11(ii)) relates to a restriction on use of Lot 7, whereby any future dwellings were restricted to being located more than 60m from the common boundary between Lot 6 and Lot 7. This was based on the noise report regarding potential noise impact emanating from the existing stonemason factory on Lot 6. This condition of consent was considered to be necessary to provide a reasonable level of amenity for any future resident.

The proposed modification to Development Consent DA04/0261 relates to the amendment of Condition 11(ii), whereby any future dwellings within the recommended 60m setback would require acoustic measures (sound shell treatment), or shielding by another building to reduce any noise impact from the adjoining stonemason factory to an acceptable level.

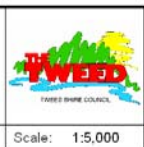
The proposed modification to the conditions of consent is not considered to be acceptable, as discussed in detail below.

**SITE DIAGRAM:**



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 Murwillumbah, NSW, 2484  
 Tel: (02) 6670 2409  
 Fax: (02) 6670 2463

*Tweed Shire Council*  
 Lot 1 DP 830564 & Lot A DP 343368  
 No. 34 Kyogle Road Bray Park



STRATEGIC  
 PLANNING UNIT  
**Site Plan**  
 Scale: 1:5,000  
 Sheet: 1 of 1

## **CONSIDERATIONS UNDER SECTION 96(1)(a) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**

### **Substantially the Same Development**

The proposed modification would not essentially be the same development as originally approved. The proposed modification would allow the future development of Lot 7 to include dwelling houses (with appropriate sound treatment) within the 60m restriction area. It should be noted that Council's Building Services Unit would not have recommended approval for the boundary adjustment without the noise restriction in place and development consent would not have been issued.

### **Likely Environmental Impact**

The site itself is considered to be suitable for future residential development, but only with the restriction of use as originally recommended in Development Consent DA04/0261. Whilst the stonemason's or similar business is in use on Lot 6, the recommended 60m restriction on use of Lot 7 is considered to be necessary, in order to provide an acceptable level of amenity for any future resident.

If the proposed modification was accepted, future dwellings located within 60m of the common boundary between Lot 6 and Lot 7 would be required to incorporate sound shell treatment to varying degrees, depending on the design and location of the buildings.

A future dwelling with no shielding between it and the existing factory would need to be designed as a closed system, requiring the inclusion of alternative ventilation i.e. air conditioning. It is considered to be inappropriate and unsustainable to prohibit the right of an occupant to open their windows and doors without a loss of amenity, particularly in a climate that accommodates an outdoor lifestyle such that is experienced in a sub-tropical zone.

In addition to the above, any primary outdoor living areas for future dwellings within the 60m setback would need to be shielded from potential factory noise by building layout and fencing barriers.

In the event that the applicant intends to change the use of the stonemasons activities to another factory use or other use of lower noise impact there may be the possibility for the applicant to demonstrate an acceptable solution by way of further noise impact assessment.

Alternatively if the applicant is prepared to undertake an adequate noise impact assessment on the stonemason activities, or alternative factory use, and to implement all of the noise abatement measures recommended in such an investigation it may be possible to reconsider a request to amend the consent providing the noise is mitigated at the source, this being the stonemason activity.

Should the applicant intend to proceed to investigate alternate uses or mitigation measures for the stone mason it may be acceptable to amend Condition 11(ii), however in the interim in order to ensure no offensive noise emanates from the business located on Lot 6 the restriction as to user should continue to be imposed.

### **Consideration of Submissions**

Neither the original boundary adjustment application nor the proposed modification required public notification. Therefore, no submissions were received.

### **Public interest**

The proposed modification to Development Consent DA04/0261 is not considered to be acceptable in terms of public interest. A future occupant of a dwelling within the recommended 60m restriction zone is entitled to expect an open living and reasonable amenity for domestic living. The proposed modification is considered to restrict this expectation to an unacceptable level.

### **OPTIONS:**

1. To refuse the application in accordance with the recommended reasons.
2. Modify Condition No. 11(ii) of Development Consent DA04/0261 as proposed by the applicant to state:

*'Whilst the stonemason factory or similar noise generating factory is in operation on proposed lot 6, the construction of a dwelling on lot 7 will provide for sound treatment in accordance with the Preliminary Noise Level Impact Assessment prepared by Craig Hill Acoustics, dated 13 June 2003 or in such other manner as may be approved in writing by Tweed Shire Council.'*

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

The applicant has a right of appeal if dissatisfied with the determination.

Council has a responsibility as a consent authority to ensure the development meets standard residential noise requirements. Approval of a substandard development may have ramifications for Council.

### **POLICY IMPLICATIONS:**

The proposed variation to Council's standards may lead to future policy implications.

### **CONCLUSION:**

The proposed modification to amend Development Consent DA04/0261 is not considered to be acceptable in terms of acceptable residential amenity standards, nor is

it considered to be in the public interest. Therefore, the proposed amendment to Condition 11(ii) should not be supported and is subsequently recommended for refusal.

**UNDER SEPARATE COVER:**

Nil.

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**2 [PE] Development Application DA04/0099 for a Childcare Facility at Lot 110 DP 728119, Carraboi Terrace, Tyalgum**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0099 Pt1**

**SUMMARY OF REPORT:**

An application for a preschool has been submitted on land owned, and intended for this purpose, by Council. The preschool is aimed at catering for 20 children and provides for car parking and drive through access. The preschool has attracted several submissions during the public notification period. The main area of contention is traffic based. The application has been assessed on merit as satisfactory. It is recommended for conditional approval.

**RECOMMENDATION:**

That Development Application DA04/0099 for a childcare facility at Lot 110 DP 728119, Carraboi Terrace, Tyalgum be approved subject to the following conditions: -

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Chillingham & Tyalgum Community Preschool Inc. and the approved development plans, as prepared by E. P. Hopkins (Architect) dated October 2003, except where varied by these conditions.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property. [GEN0010]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0030]
4. The erection of a building in accordance with a development consent must not be commenced until: [GEN0120]
  - (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**

5. 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.
6. 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

[PCC0190]

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]

7. Permanent Stormwater Quality Treatment
- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.



- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
  - (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.  
[PCC0230]
- 8. 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]
- 9. Stormwater Discharge
  - i. The legal point of discharge of stormwater for the site is the unformed road reserve to the north of the site.
  - ii. No stormwater discharge is permitted across the northern boundary of the site onto Lot 59 DP 755748, and measures such as earth banks shall be provided as necessary to prevent overland flows onto that property.  
[PCCNS01]
- 10. 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: \$20,105  
S94 Plan No. 4 (Version 4.0)  
**Sector9\_4**

[PCC0050/PSC0005]

**PRIOR TO COMMENCEMENT OF WORK**

11. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0010]

12. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
- (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
  - (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
  - (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
    - (A) the method of protection; and
    - (B) the date of installation of the system; and
    - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
    - (D) the need to maintain and inspect the system on a regular basis.

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

[PCW0050]

13. 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]
14. **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]
15. 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]
16. Prior to the commencement of work on the stormwater system a site inspection is to be arranged with the Principal Certifying Authority to discuss site drainage.
- [PCW0150]
17. 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]
18. In addition to these measures an appropriate sign is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

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

[PCW0280]

#### **DURING CONSTRUCTION**

19. 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]

20. 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]
21. 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]
22. 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]
23. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428. [DUR0260]
24. Where a building of part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428. [DUR0270]
25. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia. [DUR0280]
26. Car parking spaces for people with disabilities shall be provided and constructed in accordance with the provisions of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3.5 of the Building Code of Australia and it's requirement to comply with AS2890.1. [DUR0300]
27. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering Services. Twenty four (24) hours notice is to be given to Council's Engineering Services Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base. [DUR0470]
28. 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]
29. 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]
30. 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]
31. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.
- [DUR1110]
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]
33. 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]
34. Any premises used for the storage, preparation or sale of food are to comply with the relevant provisions of the Food Act, 2003. Details of fittings and equipment are to be submitted to the Principal Certifying Authority prior to installation.

[DUR0310]

35. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution. [DUR0870]
36. The northern boundary of the designated playground, located to the front and east of the building, shall be constructed of suitable solid materials to the satisfaction of Council's Director Environment and Community Services, so as to minimise nuisance noise transmission to adjoining residences.
37. Internal driveway and parking areas are to be sealed, in accordance with Tweed Shire Council specifications where necessary.
38. An adequate designated hand-wash basin shall be provided within the nominated 'kitchen' area. The basin shall be supplied with soap and single use towels at all times
39. Exterior windows and doorways in the building must be fitted with flyscreens.
40. Adequate landscaping shall be undertaken to the northern boundary of the land to the satisfaction of Council's Director Environment and Community Services so as to minimise the visual impact to the adjoining residence. [DURNS01]

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

41. 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]
42. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0030]
43. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards. [POC0050]
44. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works. [POC0170]
45. Prior to the issue of an Occupation Certificate all necessary road upgrading in Carraboi Terrace is to be finalised. [POCNS01]

#### **USE**

46. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like. [USE0160]
47. Food preparation shall be limited to the heating of prep-prepared foods only. No further food preparation shall be undertaken without the written consent of Council's Director Environment and Community Services.

48. Adequate refrigeration facilities for the storage of food shall be provided for all staff and children attending the Centre.
49. All sand pits shall be adequately covered when not in use to prevent access by animals.
50. An adequate supply of hot water shall be available at all times.
51. The development shall comply with the requirements of the Centre Based and Mobile Child Care Services Regulation (No.2) 1996
52. The centre premises, equipment and furnishing used in providing the service, must be maintained in a safe, clean and hygienic condition and in good repair at all times.
53. Hours of operation are from 7.30am to 5pm Monday to Friday.
54. A maximum 20 children is permitted.

[USENS01]

**REPORT:**

**Applicant:** Chillingham & Tyalgum Community Preschool  
**Owner:** Tweed Shire Council  
**Location:** Lot 110 DP 728119 Carraboi Terrace, Tyalgum  
**Zoning:** Unzoned  
**Cost:** \$300,000

**BACKGROUND:**

Council has received an application for a preschool, capable of catering for children aged 2 to 6 years old. The development site comprises Lot 110 Carraboi Terrace which is owned by Council and part of the Crown Road, Hobwee Street, which has been transferred to Council control under s.151 of Roads Act, 1993. The transfer was gazetted on 14 May 2004. The combined site area is 2406m<sup>2</sup>.

Council at its meeting of 4 June 2003 considered a report concerning a proposed site for the Tyalgum Preschool. Three site options were considered, at Carraboi Terrace, Coolamon Street and a Council owned parcel at Wollumbin Street. The Wollumbin Street site was prepared for the preschool but had the potential to be subdivided and sold to pay for the acquisition of one of the other two sites. The Coolamon Street site offered the largest site area however it is contaminated resulting from the storage of Tickacide and has no immediate formal access, instead requiring an extension of an unformed section of Cudrigan Street. The preschool identified their preference to the Carraboi Terrace site, this site would also include a section of Hobwee Street. At its meeting of 16 June 2003 Council resolved to proceed with the purchase of the Carraboi Terrace site and the subdivision of the Wollumbin Street site.

The existing preschool is located approximately 6klm from Tyalgum, at Brays Creek Hall. In June 2001 the Chillingham & Tyalgum Community Preschool Inc was granted \$150,000 from the Department of Community Services toward the erection of a new preschool to be located within the Tyalgum Village. The monetary grant and new preschool is dependant upon approval of this application.

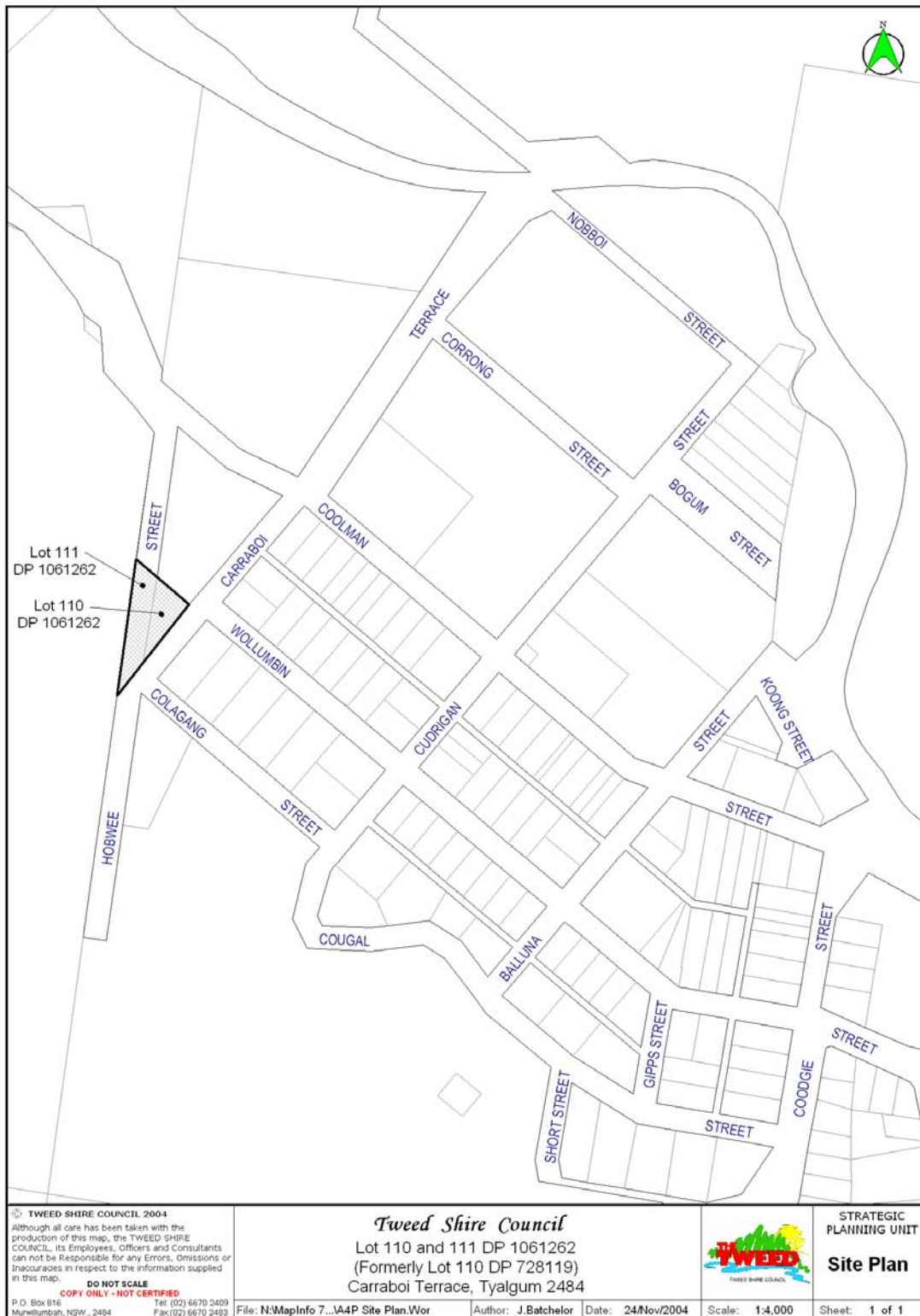
The new preschool will be licensed through the Department of Community Services to cater for a maximum 20 children. The school will employ two full time staff and one volunteer. The operating hours of the school is demand dependant. It is anticipated that initially the school will operate from 9am to 3pm Monday and Tuesday increasing to its design capacity of 7.30am to 5pm Monday to Friday, as demand increases.



Car parking for nine spaces is proposed at the front of the building. Access is provided via a one-way semi circular driveway off Carraboi Terrace, with the northern end, closest to the building, providing the ingress. The driveway, which is to be sealed, provides sufficient area for a 'Drop-off' zone. Carraboi Terrace has in-part a gravel surface, requiring road pavement upgrade works to provide a suitable standard for access. Council will be undertaking the necessary road improvement and upgrading works to achieve an appropriate operational service level for the preschool. The subject application is consistent with Council's specific objectives in purchasing and designating the land for a preschool.

The primary area of issue in this application is the level of public submission. The issues raised are addressed further in this report.

**SITE DIAGRAM:**



## The Site

The site is located at the southern most end of Carraboi Terrace, where it intersects with Hobwee and Colagang Streets. The land to the northeast supports a single residence that is estimated at over 20 metres from the proposed preschool building, land to the southeast, on the opposite side of Carraboi Terrace, supports a single residence, and to the west-southwest is vacant rural land. The site is vacant and has an elevation ranging from 63m AHD in the northern corner to 74m AHD in the south. Where necessary, small earthbanks will be erected along the northeastern boundary so as to minimise the potential for stormwater runoff, during large storm events, on to the neighbouring property.

## 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 land is identified as un-zoned land under the Tweed LEP. Clause 13(1) provides specific objectives for the management and development of such sites, they are:

- *To enable the control of development on unzoned land.*
- *To ensure that development of unzoned land is compatible with surrounding development and zones.*
- *To ensure that development of certain waters takes account of environmental impacts and other users of the waters.*

In deciding whether to grant consent clause 13(3)(a) provides a matter for consideration that Council must consider, it states:

- (a) *whether the proposed development is compatible with development permissible in the adjoining zone and the character and use of existing development in the vicinity, and ...*

The adjoining lands are zoned 'Residential' 2(d) Village and Rural 1(a). 'Preschools', defined in the Tweed LEP as a 'Childcare Centre', is a permissible land use in both zones. Residential land neighbouring the subject site is utilised for low-density development. Appropriate buffer zones and acoustic measures are proposed and will be required through conditions of consent to mitigate against potential adverse noise impacts emanating principally from the outdoor recreation areas of the preschool. The scale of the development is consistent with development in the locality. The building is approximately 150m<sup>2</sup> and the site provides adequate open space for landscaping and a child playground. The total site area is approximately

2400m<sup>2</sup>. The driveway access is approximately 40metres from the nearest dwelling to the north and 20metres from the nearest dwelling to the east. Restricting the operating hours of the preschool will further assist in minimising adverse impact.

The land to the west is identified as historically supporting cattle grazing. The proposed preschool will not adversely impact the ongoing agricultural use of the land.

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 Carraboi Terrace. All site runoff will instead be conveyed through the site via grassed swales to shallow surface depressions leading to the unformed road reserve, Hobwee Street. Council's Infrastructure Engineer has reviewed the proposal and raises no objection subject to conditions of approval.

North Coast Regional Environmental Plan 1988

The proposed development in seeking to increase the capacity of childcare services within the Tyalgum catchment is not inconsistent with Plan, in particular Division 4 as it relates to providing community services.

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

There are no draft EPI's that relate to or that have any significance in the assessment and determination of this application.

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

Development Control Plan No.2 - Access and Parking Code

Off street parking needs to be supplied in accordance with Table 4.9E of DCP No.2. The following table identifies the proposal's level of compliance.

**Table 1**

<b>Standard</b>	<b>Requirement</b>	<b>Complies/variation</b>
Preferably a drive through access with set down for 3 vehicles	Nil	Drive through access with sufficient area for potentially 3 vehicles to set down and pick-up
On site car parking	Max 1 per 10 children 0.5 per staff member Three staff and 20 children requires a minimum 4 spaces	9 fixed parking spaces are provided on-site in addition to the access driveway, which provides sufficient width for drop off and pick-up

Development Control Plan No.26 - Childcare Centres

DCP No.26 is a shire wide plan that provides guidelines for childcare centres in residential areas. Section 2 provides the location requirements, it is reproduced below:

**2.1 Residential Areas**

- (a) *In residential zones Council shall strongly favour the location of child care centres adjacent to non-residential uses such as retailing uses (neighbourhood shopping centres), schools, community facilities and the like.*
- (b) *The development of child care centres on "infill" sites within low density residential areas shall not be favoured unless:*
  - (i) *The lot has a minimum area of 800m<sup>2</sup>, a 3.0 metre perimeter landscape buffer with adjacent properties and a minimum 1.8 metre high intervening fence. If the proposed building and play areas comprising the Child Care Centre are 10 metres or more from any adjacent dwelling, then the 3.0 metre landscape buffer and 1.8 metre high fence is not required. Some landscaping and fencing will still be required, however, each application will be treated on its own merits;*
  - (ii) *The applicant can demonstrate that noise emanating from the use of the child care centre will not be detrimental to the amenity of adjacent residents;*
  - (iii) *Car parking is provided in such locations that will minimise disturbance to adjacent neighbours by the frequent arrival and departure of cars; and*
  - (iv) *The overall traffic impact to the immediate neighbourhood is not detrimental to the amenity.*
- (c) *For new urban release areas there should be planned provision within a development control plan for a particular release area to locate child care centres immediately adjacent to retailing, commercial and community uses and which are essentially located to provide convenient access to the population served.*

The subject development is categorised as 'infill' development. Section 2.1(b) is the applicable provision. The development site is approximately 2400m<sup>2</sup> and the preschool building and ancillary areas are located in excess of 20-metres from the neighbouring residential dwelling. The outdoor children's playground will be required to be visually and acoustically screened with a solid timber fence on the northern elevation. Landscaping of the site with native plant species is proposed in the development. The proposed development complies with the relevant provisions of DCP No.26.

Council's Environmental and Health Services Unit has assessed the proposal and raises no objection subject to conditions of consent.

Development Control Plan No. 42 Public Notification Policy

The application was publicly notified from 18 February to 3 March 2003. Five submissions were received during the notification period, with several addendums to one submission being received up to 6 July 2004. The issues raised in the submissions are addressed later in this report.

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 some site regrading, principally to facilitate the car park area. The preschool building relies on a pier footing system, which minimises the necessity for earthworks. Council's Environmental Health Officer, Council's Infrastructure Engineer and Council's Building Surveyor have all reviewed the plans, with no objection subject to the recommended conditions of consent.

**(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.

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

The proposed preschool is considered to be of scale that will not significantly impact on the built and natural environment, socially or economically in the locality. It is accepted that traffic in Carraboi Terrace will increase noticeably during peak AM and PM weekday periods. However, Council's Traffic and Transport Engineer advises that the traffic generation of the preschool and surrounding land-uses is significantly within the design carrying capacity of Carraboi Terrace. Council will be upgrading the existing gravel surface to a sealed surface. This will reduce potential road noise and dust.

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

The subject land provides a site area that can readily accommodate the preschool and ancillary service areas. The building curtilage is generous and it will assist in minimising disturbance to neighbouring residential land and assist in maintaining a good level of amenity. Vehicle ingress and egress has been reviewed by Council's Traffic and Transport Engineer as providing an appropriate level of service. The site is considered suitable for the proposed development.

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

As discussed earlier in this report five submissions were received during the public notification period. The primary issues raised in the submissions are addressed in the table below.

**Table 2**

<b>OBJECTION</b>	<b>IMPACT ASSESSMENT</b>	<b>COMMENT</b>
The subject land is privately owned by a W N Butler	Council's records show that Tweed Shire Council is the owner of the subject site, this includes the closed section of Hobwee Street that has recently been transferred from the Department of Lands to Council.	This issue does not warrant amendment or refusal of the application.
Water & sewer capacity is not sufficient for a childcare centre	Council's Engineering Services Unit has advised that water & sewer capacity is available in the existing infrastructure.	This issue does not warrant amendment or refusal of the application.
Increased traffic will reduce pedestrian safety	Council's Traffic Engineer advises that the necessary road upgrading will be to a construction standard appropriate for the service demands of the area. Pedestrian safety is not therefore perceived as being compromised by the proposed preschool.	This issue does not warrant amendment or refusal of the application.
Property devaluation	There is no documentary evidence supporting a contention that the proposed 'residential based' land-use will impact upon the capital value of residential land use of another kind.	This issue does not warrant amendment or refusal of the application.

**TWEED SHIRE COUNCIL MEETING HELD Wednesday 1 December 2004**

<b>OBJECTION</b>	<b>IMPACT ASSESSMENT</b>	<b>COMMENT</b>
Subdivision of the farm adjacent to the area of the proposed preschool site.	The adjoining farm land is zoned Rural 1(a) under the Tweed LEP. The prevailing site area requirements for subdivision in this zone is 40ha per allotment. The farm does not appear capable of nor may ever succumb to re-subdivision. It is considered that the proposed preschool will not have a significant impact on the operating environment and use of the neighbouring rural land.	This issue does not warrant amendment or refusal of the application.
Preschool will over capacitate the existing road network.	Council's Traffic and Transport Engineer has advised that the traffic generation of the preschool and surrounding development is significantly with the roads design capacity (based on the required road upgrade), this is based on the preschool operating at maximum capacity.	This issue does not warrant amendment or refusal of the application.
Loss of amenity and views: car park adjacent to dwelling (bedroom & home office)	The dwelling on the adjoining land is approximately 5metres from the boundary with the proposed preschool site. The preschool building is approximately 20 metres from the same common boundary, which is north of the building. The car park is located on the southern side of the building. The site area is approximately 2400m <sup>2</sup> and the preschool building is approximately 150m <sup>2</sup> . The level of open and landscaped area of the site is significant. The outdoor children's play area is to be fenced on the northern elevation to assist in reducing noise levels. The impact on the neighbouring residence from loss of amenity is considered minimal.	This issue does not warrant amendment or refusal of the application.
Air pollution on neighbouring residences.	Increasing vehicle traffic will increase the level of exhaust gas emission. The carpark is not located in close proximity to a residential dwelling. The potential for significant air pollution arising from the proposed car park and vehicles entering and leaving the site (upon a residence) is not considered likely. However it is	This issue does not warrant amendment or refusal of the application.



OBJECTION	IMPACT ASSESSMENT	COMMENT
	acknowledge that increasing urban development that is largely dependant on private modes of transport will contribute to air pollution in general. Vehicles producing excessive smoke gases would have the potential to exacerbate the situation. These vehicles are not permitted on public roads and residents suffering such impact may take action against offenders through reporting to the NSW Roads Traffic Authority.	
Poor water drainage	It is noted that the subject site has a poor drainage regime. The proposed development, which includes stormwater management practices, will improve the sites drainage.	This issue does not warrant amendment or refusal of the application.
Alternative site may exist	The subject development application does not include siting options. The application is assessed on the basis of the identified development site.	This issue does not warrant amendment or refusal of the application.
Will impact on the parking of a semi trailer	Commercial vehicles, in particular large heavy goods vehicles, should not be utilising the public road system for parking. Such vehicles should be appropriately stored in a safe location that provides suitable areas for manoeuvring and access. The Storage and/or manoeuvring of large commercial vehicles poses a risk to all local road users, this matter may require further investigation.	This issue does not warrant amendment or refusal of the application.

**(e) Public interest**

Having regard to the matters discussed in this report it is concluded that impact upon the public interest from traffic generation and amenity is minimal. The proposed preschool will provide a valuable community asset, benefiting many young local families.

**OPTIONS:**

1. Approve the application and impose the consent conditions as provided.
2. Refuse the application and provide grounds for refusal.

3. Defer the application pending further investigation into matters specified by the Council.

**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:**

Nil.

**CONCLUSION:**

Having considered the potential impacts and benefits of approving the proposed preschool it is concluded that the application has merit and can be satisfactorily facilitated through a conditional approval. The application should be supported.

In addition to the above it should be noted that the proposed preschool is a non profit organisation and that funding and assistance for the project is largely from the Department of Community Services and Tweed Shire Council. In this regard Council's attention is drawn to Condition No.10 that seeks a s.94 monetary roads contribution in the amount of \$20,150. Council may choose to consider the imposition of the condition in light of the limited resource available to the Chillingham & Tyalgum Community Preschool Inc for the project and the ongoing benefit to the local community in providing a preschool service.

**UNDER SEPARATE COVER:**

Nil.

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**3 [PE] Master Plan MP04/0001 for a Proposed Subdivision at Lot 1 DP 392245, Lot B DP 368706, Lot 13 DP 793985, Barnby Street, Murwillumbah**

**ORIGIN:**

**Development Assessment**

**FILE NO: MP04/0001 Pt2**

**SUMMARY OF REPORT:**

Council is in receipt of a master plan for assessment in accordance with Development Control Plan No. 16 Subdivision Manual for a proposed subdivision on land to the west of Barnby Street, Murwillumbah.

The master plan was publicly exhibited for a fortnight and referred to state government agencies for comment. During the public exhibition period a number of submissions were received and issues raised with the proposal. In response to the submissions the application submitted a revised Masterplan.

Council resolved on 19<sup>th</sup> May 2004 that a public meeting be undertaken in relation to the proposal. The public meeting was held on 16<sup>th</sup> September 2004 at Council's auditorium where the community had the opportunity to address their concerns to Council staff and review the revised Masterplan.

The opportunity was also provided for further submissions to be received on the matter up until 1<sup>st</sup> October 2004. A number of residents took this opportunity to raise their concerns or provided follow up on their original submissions.

The following report addresses the issues raised by the Masterplan and recommends that the Masterplan be revised to only include road accesses and land designated for residential development, and for construction access to come off Joshua Street. It is also recommended that a report be brought forward to amend the Tweed Road Contribution Plan to include the West End Street connection.

**RECOMMENDATION:**

That : -

1. Master Plan MP04/0001 for a proposed subdivision at Lot 1 DP 392245, Lot B DP 368706, Lot 13 DP 793985, Barnby Street, Murwillumbah as submitted not be supported, however, that the Master Plan be revised with construction access off Joshua Street, and to only include the road accesses and land

zoned for residential purposes. A revised Master Plan including these changes is supported.

2. Council pursues the feasibility of amending the Tweed Road Contribution Plan No. 4 to include West End Street connection, its access and construction to relieve traffic off Byangum Road.
3. Council advises the community of this resolution via the Tweed Link and highlights that any future development application over the land and for road connections to Joshua Street and West End Street will be publicly advertised at such time and that public submissions may be made as part of the future development application process.

**REPORT:**

**Applicant:** Jim Glazebrook and Associates Pty Ltd  
**Owner:** Barnby Developments Pty Ltd  
**Location:** Lot 1 DP 392245, Lot B DP 368706, Lot 13 DP 793985, Barnby Street, Murwillumbah  
**Zoning:** 2(c) Urban Expansion & 1(b2) Agricultural Protection  
**Cost:** Nil stated

**BACKGROUND:**

The Master Plan is for a proposed subdivision creating 68 lots and new roads in stages 1 and 2 that would be accessed from a temporary road off Barnby Street. A water quality control pond located in the 1(b2) Agricultural Protection land would service this stage of the development.

Stage 3 would create a further 29 lots in the residential zoned land and create roads including a link to West End Street via Council's Sewerage Treatment Works which the applicant has submitted would be designed and constructed by Council. The temporary road off Barnby Street would still be in use.

The applicant submitted an overall layout detailing intentions in relation to the adjoining 1(b2) Agricultural Protection zoned land that would as a completed development result in the Barnby Street connection being a park and creating one lot accessed from within the development. A further 69 lots approximately would be created with new roads and connection through to Joshua Street. Areas of open space adjacent to Rous River with drainage reserves would also be created. The submitted overall layout is not part of the Master Plan being considered for approval rather possible future intentions for the land.

The matter being considered by Council is the Masterplan over land zoned 2(c) Urban Expansion as the subdivision of land as foreshadowed in the Agricultural Protection zone is prohibited.

The public exhibition of the Masterplan generated a lot of interest in the local community and a total of 31 submissions were received (including three state government departments) and a petition with 123 signatures. The following report addresses the issues raised in the submissions.

At the Council Meeting of 19 May 2004 it was resolved by way of a Notice of Motion the following:

*"That:-*

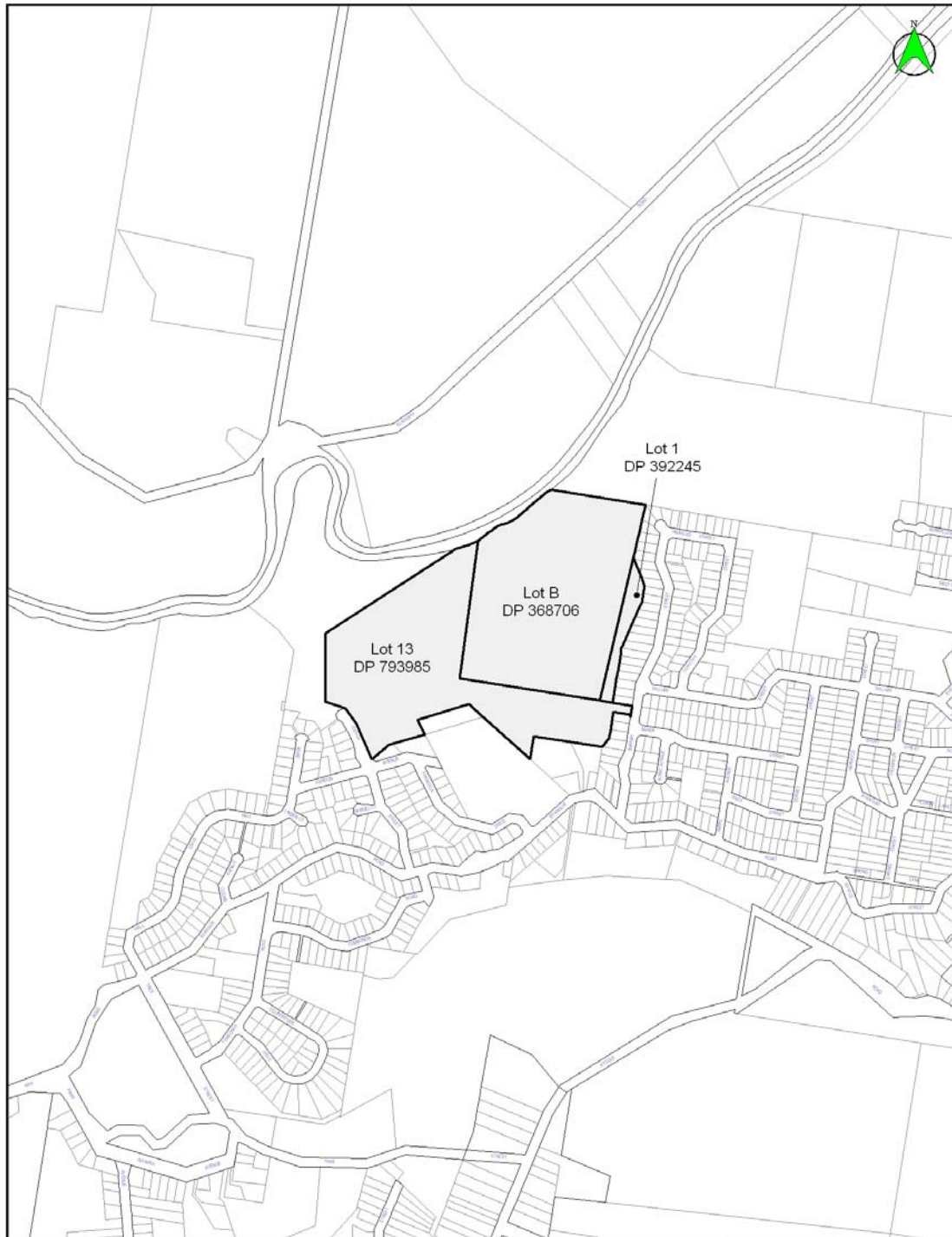
- 1. Council facilitates a public meeting in the Murwillumbah Civic Centre Auditorium at which the applicant for the development of the Stainlay land off Barnby Street be given the opportunity to make a presentation on all the relevant issues associated with the development.*


2. *A letter box drop advising people of this meeting be carried out in those areas most affected by this development.*
3. *Those people attending be given the opportunity to raise their concerns and opinions on this development."*

The public meeting was held on 16<sup>th</sup> September 2004 and the issues raised by the community were noted. Also the opportunity for further submissions was provided in the event that individuals wished to provide further submission to any original concerns raised.

The process of a Masterplan provides Council with the opportunity to adopt a Masterplan and require further development applications to be made in accordance with an adopted Masterplan, or alternatively to raise issues with the plan for the applicant to revise. The applicant receives advice from Council that the Master Plan is supported rather than a notice of determination as would arise when considering a development application.

**SITE DIAGRAM:**



<p>© 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.  <b>DO NOT SCALE</b>                  COPY ONLY - NOT CERTIFIED                  P.O. Box 816                  Murwillumbah, NSW, 2484                  Tel (02) 6670 2409                  Fax (02) 6670 2483</p>	<p><i>Tweed Shire Council</i></p> <p>Lot 13 DP 793985, Lot 1 DP 392245 and Lot B DP 368706                  Barnby Street, Murwillumbah</p>	 <p>TWEED SHIRE COUNCIL</p>	<p>STRATEGIC PLANNING UNIT</p> <p><b>Site Plan</b></p> <p>Scale: 1:7,500                  Sheet: 1 of 1</p>
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**CONSIDERATION OF THE MASTERPLAN UNDER DEVELOPMENT CONTROL PLAN NO.16-SUBDIVISION MANUAL AND ISSUES RAISED IN SUBMISSIONS AND INTERNAL REVIEW:**

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

DCP 16 states that a Master Plan is required for subdivisions of more than 25 lots where the urban pattern is not determined by an existing development pattern or existing development control plan. As the subject land does not have a site specific development control plan and the existing development pattern does not predetermine the subdivision of the land and its layout the proponent lodged a Master Plan.

The proposed Master Plan is accompanied with the required information under DCP 16 at the depth that is expected for Master Plans.

**Issues Raised in Submissions and Internal Review of Master Plan**

Zoning and Permissibility

The proposed Master Plan relates to land that is zoned 2(c) Urban Expansion. The applicant is seeking support for the Master Plan over the land zoned 2(c) Urban Expansion and to assist in the assessment of the Master Plan, has provided potential further subdivision layout, external road connections and total development concept over the 1(b2) Agricultural Protection zone.

The proposed residential subdivision requires the provision of a water quality pond and open space. The applicant has proposed that these be provided on land in the 1(b2) Agricultural Protection zone. As the use is ancillary to and a requirement for the subdivision of the residential zoned land and may be considered with the use of the variable zone boundary for development near zone boundaries this is considered to be an acceptable solution.

Urban stormwater water quality management facilities technically are permissible with consent in the 1(b2) zone providing the facility is considered to be consistent with the zone objectives. The zone primary objective aims at protecting prime agricultural land from fragmentation and the economic pressure of competing land uses.

There is an argument that the 1(b2) Agricultural Protection zone land is already fragmented and highly impacted on by the urban development in the area. With Rous River limiting the extent of the agricultural protection land there is minimal opportunity for the area to be fully utilised as part of a larger agricultural holding. It may be argued that an urban stormwater quality management facility is permissible with consent in the 1(b2) agricultural protection zone.



The provision of the drainage reserve and open space in the proposed location is considered to have merit when associated with other riparian open space and drainage reserve proposed over the entire future development. The potential to provide a significant buffer to Rous River and enhancement of this space is considered to be appropriate.

### Local Road Network

The main issue raised in the public submissions and internal review of the application was the road layout and connections and staging of different accesses. Council's Traffic and Transport Engineer raised a number of issues in relation to the first Master Plan submitted, including:

- Public transport /bus routes not addressed
- The western connection through to Joshua Street should be connected
- William St/Byangum Rd intersection not adequately addressed, it has a major crash history and is barely adequate now without the 22% increase in traffic expected from this development
- Barnby St/Byangum Rd intersection unsafe and unable to accept more traffic
- Insufficient attention to cycleway/pedestrian pathway connectivity
- Long cul de sac road No1 does not comply with maximum lengths for cul de sacs
- Arterial road issues not addressed in master plan

The following comments were also provided by Council's Traffic Engineer.

*"It is considered that the subdivision should have three road accesses being the proposed access onto Barnby Street (between William and Baker Street), another onto the Frances St/Barnby St corner at the north east of the site and a third onto Joshua Street at the west of the site.*

*Council has a long term plan, designated by a special use road zone in the Tweed LEP 2000 to provide a road link between Frances Street and West End Street. This combination of this link with the proposed internal subdivision roads and links to Joshua St and Frances St would in effect provide a northern collector road link (as an alternative to Byangum Road) between the golf course and West End Street. This northern collector road would enable both future subdivision traffic and existing traffic to be diverted from Byangum Road and improve traffic flow in the area. The diversion of existing traffic from Byangum Road would improve the safety of Byangum road and associated intersections.*

*At present there is no funding for the Frances St/West End St link. It is proposed that the Tweed Road Contribution Plan (TRCP) be amended to include this link in the works schedule and constructed from TRCP funds.*

*A future DA should address public transport links and pedestrian/cycleway connectivity with adjoining urban areas."*

In response to the road network issues raised by Council's Traffic Engineer and public submissions the applicant submitted a revised Master Plan. The revised Master Plan proposed the following external road connections:

- Stages 1 and 2 (68 lots) Barnby Street connection only
- Stage 3 (+29 lots) Barnby Street plus connection to West End Street
- Further Phase on land zoned Agricultural Protection (+ 69 lots) West End St and Joshua St connection, Close Barnby St connection

Council's Traffic Engineer reviewed the revised Master Plan and advised that the Stage 1 and 2 access from Barnby Street would be acceptable providing the following occurred:

- obtain owners consent and planning approval for connection to West End Street and Joshua Street connection and
- upgrade William Street/Byangum Road intersection to provide protected right hand turn and
- improve surface of steep section of William Street

Council's Traffic Engineer advised that the proposed external road connections for Stage 3 was acceptable and in relation to the further phase on the agricultural land the road connections were acceptable providing the connection to Barnby Street be retained.

The solutions to the external road connections are acceptable to Council's Traffic Engineer providing the above issues are addressed. Further meetings and discussions with the applicant resolved the issue of construction vehicles and the unsuitable nature of access from Barnby Street. The applicant has provided the solution of all construction traffic to use access via Joshua Street, Council's Traffic Engineer supports this solution.

Residents from Joshua Street and West End Street were not notified of the Master Plan original submission as the applicant was not proposing these access connections. Council's Traffic Engineer has supported the road connections to Joshua Street and West End Street as a solution to traffic issues and accordingly the applicant has adopted these road connections. Residents in these streets will be notified with future development applications.

One of the concerns raised by the public submissions was the timing of the various stages and the likelihood of the proponent completing Stages 1 and 2 and then deferring other stages and the rezoning of adjoining agricultural lands for an unreasonable length of time. The applicant has expressed their intention to proceed to the amending LEP process in the future.

#### Earthworks and Associated Impacts

The Master Plan proposes earthworks over the site with the elevated areas being cut to provide the fill in the lower sections of the site. Council's Planning and Infrastructure Engineer has assessed the two options contained in the Master Plan and provided the following comments.

*"Option A (preferred by the applicant) provides for balanced cut/fill of 240,000m<sup>2</sup> and provides allotments that are generally within acceptable slope limits (except on eastern side of the envelope abutting Barnby Street lots where some slopes of up to 1 in 4 are unavoidable). This option however exceeds the Specification D6 requirement that requires cut/fill not to exceed 5m over any more than 10% of the site.*

*Option B conforms with the numerical requirements of specification D6, but, requires the import of 270,000m<sup>3</sup> of material from off the site, the majority of lots would have excessive steep slope and lots in the western part of the site would drain to adjoining land (rather than to a public road). Option B would generally comply with the publicly exhibited version of Specification D6 which had the numerical requirement of cut/fill not exceeding 8m over any more than 20% of the site.*

*The draft master plan argues that the visual impact of either option will be similar as both would require the lowering of the isolated hill containing the existing residence. It is further argued that both options are similar when viewed from the east as they finish generally on the same level along the western boundary and that when viewed from the west, Option A would have less visual impact as future residences along the western boundary would generally not be as visible.*

*Given the advantages of better finished lot slope, better drainage, a significant reduction in imported off site fill and arguably no worsening of visual impact, it is considered that Option A is acceptable at this location."*

The revised Master Plan did not modify the proposed earthworks and accordingly Council's Planning and Infrastructure Engineer provides no further comment on this aspect of the Master Plan.

The public submissions raise objection to the proposed earthworks, their non compliance with the D6 requirements and the nuisance that earthworks of the scale proposed will have on the amenity of the area during construction.

#### Potential for Conflicting Land Uses and the Need for Buffers

A number of buffer issues are raised by the proposed Master Plan and subdivision of lands.

- **Buffers to Council's Sewerage Treatment Plant**

The Murwillumbah Sewerage Treatment Plant (STP) is located to the north of the Development and Council infrastructure is approximately 230 metres from the nearest residential allotment. Existing dwellings in Frances Street are located approximately 170 metres from the STP. The North Coast Regional Environmental Plan 1988 references the need for a 400 metre buffer between residential development and STP's when preparing Local Environmental Plans unless Council has assessed the extent of the hazard and included provisions in the plan to minimise adverse impacts from odour.

Council has undertaken augmentation work on the STP which resulted in the odour sources from the inlet works and extended aeration treatment units being covered and relocating the treatment units further to the north. These works were deemed to be satisfactory by the Public Works for the existing residents. As such it is considered the buffer of 230 metres to the nearest residential allotment as provided in the Master Plan is satisfactory.

- **Buffers to Agricultural Lands**

The potential for conflicts between the future residential area and the agricultural activities would need to be addressed and considered for development over the site. There may be an intention to no longer farm the remaining paddocks and thereby remove the conflicts or alternatively the activities and their management in relation to conflicts will need to be addressed.

It is noted that the agricultural land in this location is an isolated portion of agricultural land and with the Rous River and urban development limiting the potential for agricultural production and expansion of this site.

- **Buffers to Rous River**

The Visual Assessment prepared by EDAW Gillespies makes reference to the Riparian Flora and Fauna Assessment Prepared by James Warren and Associates. James Warren and associates highlight the need for a Soil and Water Management Plan due to the potential for hydrological and water quality impacts during constructional and operational phases of the development.

A vegetative buffer to Rous River is advised with formal walking trails established to prevent the formation of informal tracks and subsequent impacts to the river. Vegetative buffers should include plant species that will provide compensatory habitat for native fauna as well as within the water treatment area and landscaping plants. The plantings should be at the three to every one Tallowwood tree removed.

There may be the opportunity to provide for connections along the Rous River and then onto a more extensive cycleway/footpath system into town.

### Flooding

The land has been identified as being partly flood prone. The applicant has adopted a level of 6.0 metres AHD as the 1:100 year level flood event and has proposed to fill as a minimum to this level. A full flood impact statement in accordance with Development Control Plan No. 5 – Development of Flood Liable Land will be required with the development application to demonstrate filling of this area does not have an adverse impact upon the surrounding properties and the floodplain.

Stormwater Quality

The proposed subdivision would drain by gravity in a northerly direction to the north east of the site. Site runoff now discharges from the site in an artificial "cane" drain that exits in a northerly direction from the site onto the Murwillumbah Sewerage Treatment Works Site and then continues around the north of Murwillumbah to junction with Mayal Creek.

The "cane" drain that carries runoff from the site is not a natural watercourse and is not contained in a drainage easement. It appears therefore that the site does not have a "lawful point of discharge" as required by section 4.2.3 of DCP16. A requirement of master plan approval would be that a future subdivision provide a "lawful point of discharge". This may require the acquisition of a drainage easement over downstream flow paths from the subject site and details to be provided with future subdivision.

Internal drainage is a matter of detailed design for the Development Application and Construction Certificate stages and is adequately regulated by DCP16 and associated specifications.

The master plan proposes treatment of subdivision stormwater runoff in wetlands at the north east of the site. Provided they are designed and sized in accordance with Council's specifications and the Tweed Urban Stormwater Quality Management Plan, this would be satisfactory. The area proposed for wetlands could be used as part of an interconnected open space network and also connected into the riparian zone and pedestrian network.

The public submissions raised concern with the water quality ponds and refer to Knox Park pond as an example of what is envisaged will occur on the site.

The proposed stormwater quality treatment ponds are to treat stormwater runoff from the subdivision, prior to discharge off the site. This is a mandatory requirement for subdivisions over 50 lots since Council adopted the Tweed Urban Stormwater Quality Management Plan in April 2000. Council's Design Specification D7 requires designs for ponds that eliminate mosquito and health hazards. The Knox Park pond was never designed for this purpose and its configuration is not in accordance with current best practice and design criteria for water quality wetlands contained in Council's Design Specification D7.

It is also noted that some of the public submissions requested that the urban stormwater quality management facility be located away from existing residents to reduce amenity impact. The revised Master Plan relocated this facility further away from existing residents.

## Essential Services

### **Water**

Submissions have raised concern about the impacts of the development on water pressure for existing dwellings in the area. Council's Water Supply and Sewerage Design Engineer advises this can more appropriately be addressed at the DA stage when modelling of the impacts of the subdivision on the water supply network would be required. If this exposes problems then the developer will be required to carry out appropriate augmentation works which could involve interconnecting the area to existing mains in West End Street and in Joshua Street.

### **Sewer**

Capacity exists in the Council's infrastructure to cater for this development with the sewerage treatment plant located to the north of the development.

## Flora and Fauna

The site has been substantially altered from its natural state from past grazing and cane farming activities. Areas surrounding the existing dwelling contain remnant eucalypt species identified by the applicant as tall open Woodland, while a swampy low lying area is identified as a Low Lying Ephemeral Wetland. The applicant has provided Council with a Copy of the Flora and Fauna Assessment which has been prepared for a future development application. The report found that no threatened flora or fauna species were identified on the site, however the old – growth tallowwood trees found in the tall open woodland may provide hollows suitable for a range of fauna species. No evidence of Koalas were found on the site.

As these trees are likely to be removed during earthworks on the site, it is considered appropriate a more detailed survey of these trees be carried out to ensure any hollows found do not provide habitat for threatened fauna such as the Black Cockatoo, and if so an appropriate measures be put in place to protect any threatened species.

## Acid Sulphate Soils

The land is identified under Clause 35 of Tweed Local Environmental Plan 2000 as containing Class 3 Acid Sulphate Soils in the low lying area to be filled and Class 4 Acid Sulphate Soils in the area adjacent to the Rous River. The proposal is unlikely to intercept these soils and the applicant will be required to fully address the provisions of Clause 35 at the time of lodgement of the Development Application, and provide an Acid Sulphate Soils Management Plan prepared in accordance with the ASSMAC guidelines if required.

## Bushfire

The subject land is in part identified as bushfire prone and accordingly a development application to subdivide the land would require a Bushfire Safety Authority from the NSW Rural Fire Services. The development application would need to address the integrated development provisions of the Environmental Planning and Assessment Act 1979 and the Planning for Bushfire requirements for the development application to subdivide.

## Submissions by the Public

In addition to the 31 submissions and petition containing 123 signatures from the original public exhibition of the Master Plan, a further 24 written submissions were received. These were provided following the public meeting as follow up submissions and in addition to submissions already received. The community representation at the public meeting was significant with approximately 125 people in attendance.

In addition to the issues identified above the public submissions raised concern to the general change in residential amenity through the provision of further residential housing in an area currently open agricultural land. The changes in amenity are generated by the outlook from property, more vehicles in the local area and associated noise, changes to privacy and the local area generally. Also it is noted that the residents of West End Street have raised objection in relation to the potential connection to their street and additional vehicles in the area. Other issues raised include:

- Inappropriate residential densities
- Lack of Buffers to Agricultural land
- Poor public access to the Rouse River
- Impacts from Dust and noise during construction
- Unknown hazards from the proposed water quality control ponds
- Lack of information in relation to flora and fauna
- No Environmental Impact Study
- No Socio Economic Assessment
- Poor water pressure
- Inadequate Open Space Areas.

## Submissions by State Government Agencies

Council received written advice from Department of Infrastructure Planning and Natural Resources, Environment Protection Authority and Department of Agriculture. The state government agencies raised many of the issues identified in this report in their comments.

## **OPTIONS:**

1. Advise the applicant in accordance with the recommendation.
2. Adopt the Master Plan as submitted.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

As the Master Plan is not a development application the applicant does not have any rights of Appeal under the Environmental Planning and Assessment Act 1979.

This report does not support the Master Plan as submitted, however details necessary changes to enable the Master Plan to be adopted. Upon receipt of a revised Master Plan detailing the changes contained in the recommendation final endorsement of the Master Plan may occur and subsequent development application may be lodged with all the information required for assessment.

**POLICY IMPLICATIONS:**

The proposed Master Plan raises a policy implication for the Tweed Local Environmental Plan 2000 in that it highlights the need for the adjoining land and submission in relation to the suitability of its zoning. The proposed Master Plan includes uses in the Agricultural Protection zone that are an ancillary requirement from the residential subdivision and may be supported using the variable zone boundary clause.

Consequently the need to have the adjoining land considered and assessed in relation to rezoning is raised by the Master Plan. The applicant has submitted their intention to proceed in the future to rezoning investigations over the Agricultural Protection zoned land.

Council will need to proceed to amend the Tweed Road Contribution Plan to include the West End Street connection and accordingly it is recommended that a report be brought forward addressing this.

**CONCLUSION:**

It is considered from the assessment of the Master Plan that it should not be supported in its current layout and that a revised Master Plan providing construction access off Joshua Street and to only detail the subdivision layout over the land zoned for residential purposes would be supported. Upon receipt of a Master Plan detailing the recommended changes the applicant may be advised that such is supported and commence towards the lodgement of a development application.

**UNDER SEPARATE COVER:**

Nil.

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#### **4 [PE] Population Data and Projections for the Tweed Shire**

##### **ORIGIN:**

**Strategic Town Planning**

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

Tweed Shire has had one of the highest growth rates in NSW over the past ten years. With this growth has come the need to provide public facilities, services and infrastructure for the residents at the appropriate time. It is therefore necessary for Council to have a reasonable idea of what the future population growth is likely to be, so that appropriate planning can be put in place. The attached review provides some historical population data as well as future population predictions.

This information paper examines the population projections in the Shire over the next twenty years from 2004 to 2024. A number of scenarios are used, with Tables 2A, B and C being population increases of 1,500, 1,700 and 2,000 people per year respectively. In addition Table 3A outlines the release areas that are being and will be developed over the next twenty years in the Shire and which will provide the bulk of the future population. Table 4 looks at the age/sex growth predictions by growth rate of 1,700 per year over the next twenty years. Tables 5A, B, and C provide an estimate of the current and future population in central Tweed Heads.

This review was referred to Council's Executive Management Team which resolved to adopt the use of the population figure of 2,000 net population increase per annum for future planning.

##### **RECOMMENDATION:**

That Council notes the information in the attached Population Data and Projections for Tweed Shire.

**REPORT:**

Tweed Shire has had one of the highest growth rates in NSW over the past ten years. With this growth has come the need to provide public facilities, services and infrastructure for the residents at the appropriate time.

Projections to date have been based on a simplistic combination of the capacity of urban release areas, and an overall growth of 2000 people a year. However, as the population has grown and the structure become more complex, a more robust model is required. Population projections are dependent upon a whole range of variables, particularly for small area projections. Nevertheless, to provide a more comprehensive assessment, work has been undertaken to provide a more comprehensive population basis for planning in the Shire. The attached report "Population Data and Projections; Tweed Shire" is the outcome.

The attached review provides some historical population data as well as future population predictions.

The report examines population projections in the Shire over the next twenty years from 2004 to 2024 based on a number of scenarios:

1. The current status of release areas that are being and will be developed over the next twenty years in the Shire and which will provide the bulk of the future population.
2. Population increases of 1,500, 1,700 and 2,000 people per year respectively.
3. The age/sex growth predictions by growth rate of 1,700 per year over the next twenty years.

The report does not provide a detailed review of the consequences of the projections. That will be for other reports. Nevertheless, it does look at the ageing population over the next twenty years. An ageing population will have social and economic implications for the Shire. The Shire receives less rate income from pensioners which has a flow on effect across the whole community as the provision of standard facilities, infrastructure and services becomes more difficult to provide in addition to the anticipated costs associated with the care and income support of a rapidly ageing population. The potential labour force is also likely to reduce over time with these changes which may make it more difficult to maintain the support for a larger retired population.

The projection is not intended to provide a comprehensive set of figures. It will be regularly updated to ensure Council's planning work is soundly based.

The report has been considered by Council's Executive Management Team which resolved to adopt the use of the population figure of 2,000 net population increase per annum for future planning.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

1. Population Data and Projections: Tweed Shire.
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**5 [PE] Tree Preservation Order 1990**

**ORIGIN:**

**Strategic Town Planning**

**SUMMARY OF REPORT:**

Council has received a submission from a number of residents at Kielvale to protect a fig tree from being cleared as part of future development.

The village of Kielvale is identified in Council's Residential Development Strategy as an area that should be further developed. Accordingly land surrounding the village has been zoned 2(d) Village and 1(c) Rural Living.

Most of the Shire's urban release areas are affected by Council's Tree Preservation Orders adopted in 1990 (as amended) and 2004. The undeveloped land surrounding Kielvale is not.

To ensure that the significant vegetation on land surrounding the village is protected but in a manner, which does not restrict the existing agricultural uses of the land particularly the clearing of nuisance vegetation, it is considered that Council amend the Tree Preservation Order adopted in 1990 (as amended) to include the undeveloped land surrounding the village zoned 2(d) Village and 1(c) Rural Living.

**RECOMMENDATION:**

That Council, in accordance with Clause 54 of Tweed Local Environmental Plan 2000, amends the Tree Preservation Order adopted by Council in 1990 (as amended) to include the undeveloped land zoned 2(d) Residential (Village) and 1(c) Rural Living surrounding the village of Kielvale.

## **REPORT:**

### **Introduction**

Council has received a submission from a number of residents at Kielvale to protect a fig tree from being cleared as part of future development.

The purpose of this report is to identify issues with regard to amending the Tree Preservation Order (TPO) adopted in 1990 to include the undeveloped land zoned 2(d) Village and 1(c) Rural Living surrounding the village of Kielvale.

### **Background**

The village of Kielvale is identified in Council's Residential Development Strategy as an area that should be further developed. Accordingly land surrounding the village has been zoned 2(d) Village and 1(c) Rural Living to enable this to occur. See Figure 1 for details.

In accordance with the principles of ecologically sustainable development most of the Shire's urban release areas are affected by Council's Tree Preservation Orders adopted in 1990 (as amended) and 2004. The undeveloped land surrounding Kielvale is not.

Interest in developing part of the surrounding land was recently expressed to Council's Development Assessment Panel.

### **Planning Issues**

#### **Is there any Significant Vegetation?**

The majority of the surrounding land at Kielvale has been cleared and is used for agriculture. Some small-forested areas are present, however these are dominated by Camphor Laurels. Several large fig trees have been identified in and around the area, which an amendment to TPO 1990 will aim to protect.

#### **What about Existing Use Rights?**

Land surrounding the village of Kielvale is primarily used for agricultural purposes. By amending TPO 1990 some members of the community may be concerned about what effect it will have on their current farming practises particularly in regard of clearing nuisance vegetation.

TPO 1990 prohibits the removal or destruction of trees 30cm or more in girth measured at 45cm above ground or trees 3m or more in height. Noxious plants such as Camphor Laurel and Privet Trees are exempt from these provisions meaning that they can be readily removed regardless of their condition.

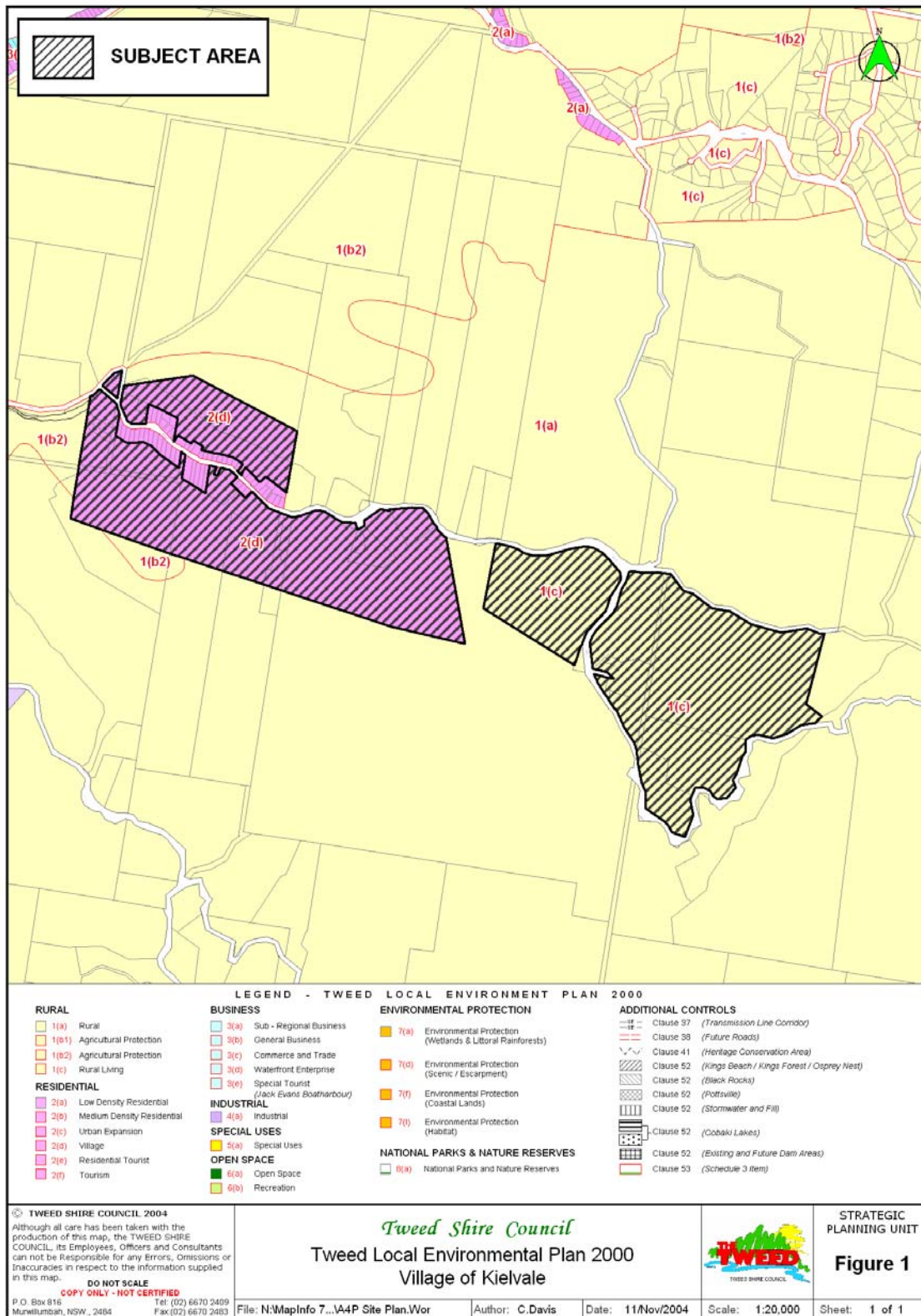
### **Developing in Context with Surrounding Environment**

The community has in the past strongly opposed development that dramatically changes the natural attributes of a site particularly where development removes significant trees and pockets of vegetation. The amendment of TPO 1990 will ensure that significant trees are protected.

### **Conclusion**

In accordance with Clause 54 of Tweed Local Environmental Plan 2000 it is recommended that Council amends the Tree Preservation Order adopted in 1990 (as amended) to include the undeveloped land surrounding the village of Kielvale zoned 2(d) Village and 1(c) Rural Living.

Figure 1





**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**6 [PE] Development Application DA04/0917 for a Two Storey Dwelling and Building Line Variation at Lot 4 DP1054265 No. 48 Kintyre Crescent Banora Point**

**ORIGIN:**

**Building Services**

**FILE NO: DA04/0917 Pt 1**

**SUMMARY OF REPORT:**

The subject application to construct a two storey dwelling was submitted to the Council meeting on 3 November 2004 with a recommendation for approval.

At that meeting Council resolved to defer determination of the application and requested that the applicant consider a list of proposed amendments.

The Applicant attended the Community Access Meeting on 10 November 2004 and presented a submission in response to Council's proposed list of amendments.

The proposed amendments had already been suggested by objectors to the proposal and were addressed in the original Council report.

The Applicant has agreed to lower the dwelling into the site by 400 mm to reduce the impact on surrounding properties however it was considered to be impractical or unreasonable to comply with all of the amendments.

Amended elevations showing greater articulation to the southern elevation had already been lodged and formed part of the original Council report.

On balance, it is considered that the proposal is acceptable and that the original recommendation for approval be reiterated.

**RECOMMENDATION:**

That Development Application DA04/0917 for a two storey dwelling and building line variation at Lot 4 DP 1054265, No. 48 Kintyre Crescent, Banora Point be approved subject to the following conditions: -

**GENERAL**

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

[GEN0020]

2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property. [GEN0030]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0120]
4. 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 license 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**

5. The footings and floor slab are to be designed by a practicing Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. [PCC0160]
6. Prior to the issue of a Construction Certificate provide two copies of wind bracing and tie down details for an anticipated maximum speed of N3. [PCCNS01]

**PRIOR TO COMMENCEMENT OF WORK**

7. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:
  - (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
  - (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and

- (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
    - (A) the method of protection; and
    - (B) the date of installation of the system; and
    - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
    - (D) the need to maintain and inspect the system on a regular basis.
- Note:** Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.
- [PCW0050]
8. 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]
9. **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]
10. 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]
11. 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]
12. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. **Note** All roof water must be connected to an interallotment drainage system where available. A detailed storm water and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.

[PCW0250]

13. 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]

14. Residential building work:

- (1) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
- (a) in the case of work for which a principal contractor is required to be appointed:
- (i) in the name and license number of the principal contractor, and
- (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
- (i) the name of the owner-builder, and
- (ii) if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (2) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0290]

#### **DURING CONSTRUCTION**

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

[DUR0010]

[DUR0060]

[DUR0080]

18. 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]
19. 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]
20. **A Sewer manhole** is present on this site. This manhole is not to be covered with soil or other material or concealed below ground level.

Should additional fill be proposed in the area of the sewer manhole Council's Engineering Services Division must be consulted and suitable arrangements made for the raising of the manhole to the satisfaction of Council's Manager Public Utilities.

21. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution. [DUR0840]
22. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays. [DUR0870]
23. The roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building. [DUR0900]
24. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Council's Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass and zoning. [DUR0960]
25. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction: [DUR1000]
- internal drainage, prior to slab preparation;
  - water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - external drainage prior to backfilling.
  - completion of work and prior to occupation of the building.
26. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work. [DUR1020]
- 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]
27. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

28. The finished floor level of the building should finish not less than 225mm above finished ground level. [DUR1130]

29. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:- [DUR1150]

- \* 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.

30. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following: [DUR1160]

- 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.

31. 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. [DUR1200]

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

32. 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. [DUR1210]

33. A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0020]

[POC0030]



## REPORT:

### Background

The above application to construct a dwelling on the subject allotment was referred to the Council meeting on Wednesday, 3 November 2004 with a recommendation for approval. This report should be read in conjunction with the report of 3 November 2004 which is tabled in the "Items Deferred" section of this business paper.

At that meeting it was resolved that: -

*"Development Application DA 04 / 0917 for a two storey dwelling and building line variation at Lot 4 DP 1054265, no 48. Kintyre Crescent Banora Point be deferred to enable the Applicant to consider the following points, these being: -*

- *Lowering the building further into the site by a metre to achieve balanced cut and fill, removing the need to import fill from an external source, and reducing the height of the front retaining wall and the loads this may put on the existing rock wall;*
- *Lowering the eastern portion of the dwelling house to natural ground level as opposed to artificially raising this part of the house on fill and piers;*
- *Lowering the ceiling height of the ground floor by at least half a metre and the lowering the ceiling height of the top floor by a least a further metre.*
- *Providing additional relief in terms of articulation and windows to the southern elevation"*

The Applicant addressed Council's Community Access Meeting on 10 November 2004 and distributed a written response to the above matters as follows: -

1. *Lowering the building further into the site by a metre to achieve a balanced cut and fill, removing the need to import fill from an external source and reducing the height of the front retaining wall and the loads this may put on the existing rock wall.*

### Applicant's response

We have lowered the dwelling by 400mm which will achieve a small cut and fill, with no requirement for fill to be sourced from an outside location.

The front retaining wall will start at 400mm at the eastern end of the property and run to a maximum of 2000mm past the dwelling to the western end of the property. We have employed Bordertech Engineering in regards to the load on the existing retaining wall, for which they provided the original design; reproduced below:

NB if the dwelling was lowered any further into the ground services such as sewerage would not be accessible for connection to the ground floor. The existing driveway also has to be considered, if the building was lowered by a metre the driveway would then become unusable.

### **Council Response**

Lowering the building into the site by a metre would require additional cost to the Applicant to excavate and subsequently retain the site along the southern wall of the dwelling.

The provision of natural light and ventilation to the proposed ground floor bathroom and future rooms along this side of the dwelling may be restricted and may not comply with the provisions of the Building Code of Australia.

Lowering the building by one metre may restrict access to the sewer connection point which has been provided to the site. This would depend on the final level of the ground floor slab and the route taken for the sewer drainage line.

Lowering the building by a metre may also adversely impact on the access to the southern most garage of the dwelling, however, from the levels supplied, access to the double garage would still appear to comply with Council's Driveway Policy.

Bordertech have previously provided written advice that, subject to the proposed building adopting piered footings it should not surcharge the existing retaining wall.

1. *Lowering the eastern portion of the dwelling house to natural ground level as opposed to artificially raising this part of the house on fill and piers.*

### **Applicant's response**

As the lower floor has been cut into the block the proposed floor level on the eastern end is not overly high above ground level, from Lots 1 & 2 this end of the dwelling appears to be single storey, as this end has been cut into the ground.

The underneath area is to be a shaded play area of our young children which will be used for future expansion of floor space as they get older.

### **Council response**

The south-eastern corner of the dwelling is proposed to be approximately 1.0 metre above existing natural ground level. This enables the creation of a sheltered area under the dwelling.

The Applicant proposes to use this area for future expansion of the dwelling, lowering the building as proposed would entail additional excavation and retaining costs to maintain a minimum statutory ceiling height in this area.

Lowering the southern wall of the dwelling as suggested may also limit the provision of natural light and ventilation to rooms along this wall which would contravene the provisions of the Building Code of Australia.

The southern elevation of the dwelling is single storey above existing ground level at the eastern end, extending to one and a half storeys at the western end.

This appearance is consistent with other buildings in this area which are constructed on sloping sites.

- 3        *Lowering the ceiling height of the ground floor by at least half a metre and lowering the ceiling height of the top floor by at least a further metre.*

**Applicant's response**

The ceiling of the ground floor is 2.70 metres and if this is to be lowered as suggested by the Planning Consultant this ground floor would then be 2.2 metres which does not comply with Building Code of Australia minimal heights.

**Council response**

The proposed ceiling heights to both levels is 2.70 metres, reducing these heights by the suggested amount would contravene the provisions of part 3.8.2 of the Building Code of Australia which specifies that the minimum ceiling height in a habitable room is 2.40 metres.

Council would not accept ceiling heights of less than 2.4 metres in habitable rooms.

- 4        *Provide additional relief in terms of articulation and windows to the southern elevation.*

**Applicant's response**

Windows have now been added to the southern elevation, please refer to newly submitted plans.

**Council response**

The Applicant has previously submitted amended plans showing detail to the southern elevation. These plans were submitted with the original Council report.

This detail comprises the provision of more windows and details of a mixture of external wall cladding which provides for more visual interest to this façade. In addition the building has been lowered into the site a further 400mm which has the effect of reducing the bulk of this elevation.

The Applicant has also submitted a letter from the Builder who is anticipated to construct the dwelling in which concern is raised at certain aspects of the dwelling if the suggested modifications are implemented.

The Applicant has also submitted a site plan which shows the location of dwellings on adjacent allotments and indicates the extent of views which will still be available to the occupants of these dwellings should the proposed dwelling be constructed as submitted.

**Conclusion**

The issues above, which were raised at the Council meeting dated 3 November 2004, have previously been considered in the initial Council report.

It is reiterated that the shape and levels of the subject allotment has resulted in a situation in which any dwelling which is constructed on this allotment would have some impact on adjoining properties.

The elevated construction of the allotment will result in any dwelling which is constructed on the allotment having a dominant appearance from the street.

The allotment was created at subdivision stage with no covenant in place to control the height of the dwelling and the owner of the allotment to the rear must expect that the view from this lot will be restricted in some way by the construction of a dwelling on the subject lot.

Whilst being of different design to the surrounding dwellings the overall height and bulk of the building is not inconsistent with other two storey buildings in this area.

It is considered that requesting the Applicant to further excavate the dwelling into the site, with associated additional construction costs and adverse impacts on the use of the dwelling is unreasonable.

As stated in the original Council report it is considered that, on balance, the application before Council should be approved.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Council refusal of this proposal may result in an Appeal against the decision, which would involve legal costs in defending such Appeal.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS**

**7 [EO] Envirofund Grant**

**ORIGIN:**

**Recreation Services**

**SUMMARY OF REPORT:**

Council has been successful in its application for funding through the Australian Government Envirofund for \$6,581.82 for a "Littoral Rainforest Restoration and Vegetation at Wooyung" project.

**RECOMMENDATION:**

That Council accepts the funding of \$6,581.82 from the Australian Government Envirofund for the "Littoral Rainforest Restoration and Vegetation at Wooyung" project and votes its expenditure.

**REPORT:**

Council has been successful in its application for funding through the Australian Government Envirofund for \$6,581.82 for "Littoral Rainforest Restoration and Vegetation at Wooyung".

The project will restore and expand degraded littoral rainforest by controlling invasive weeds within the rainforest and undertaking planting of 2000 native species in adjacent degraded areas. It will assist the protection of the core rainforest in the reserve and provide additional habitat for local native flora and fauna, including threatened species.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**8 [EO] Grant for Weed Control Program on Crown Lands**

**ORIGIN:**

**Recreation Services**

**SUMMARY OF REPORT:**

Council has been successful in its application for a grant under the joint Department of Lands and Department of Primary Industries weed control program on Crown lands. Council has been allocated a grant of \$12,000 to assist in achieving the aims of regional, state and national weed management strategies.

**RECOMMENDATION:**

That Council accepts the grant of \$12,000, joint Department of Lands and Department of Primary Industries, for weed control programs on Crown lands and votes the expenditure.

**REPORT:**

Council has been successful in its application for a grant under the joint Department of Lands and Department of Primary Industries weed control program on Crown lands. Council has been allocated a grant of \$12,000 to assist in achieving the aims of regional, state and national weed management strategies.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**9 [EO] Application for Closure of Crown Public Road - Reserve Creek**

**ORIGIN:**

**Design**

**FILE NO: GR3/12/1 – Condong**

**SUMMARY OF REPORT:**

Council has received a letter from the Department of Lands seeking comments in relation to an application received by them to close and purchase part of a Crown Public Road at Reserve Creek.

The Crown Road in question forms part of the public walking trail network in the area and on that basis Council is unwilling to support the application.

**RECOMMENDATION:**

That Council objects to the closure of part of a Crown Public Road at Reserve Creek as the road in question forms part of a public walking trail.

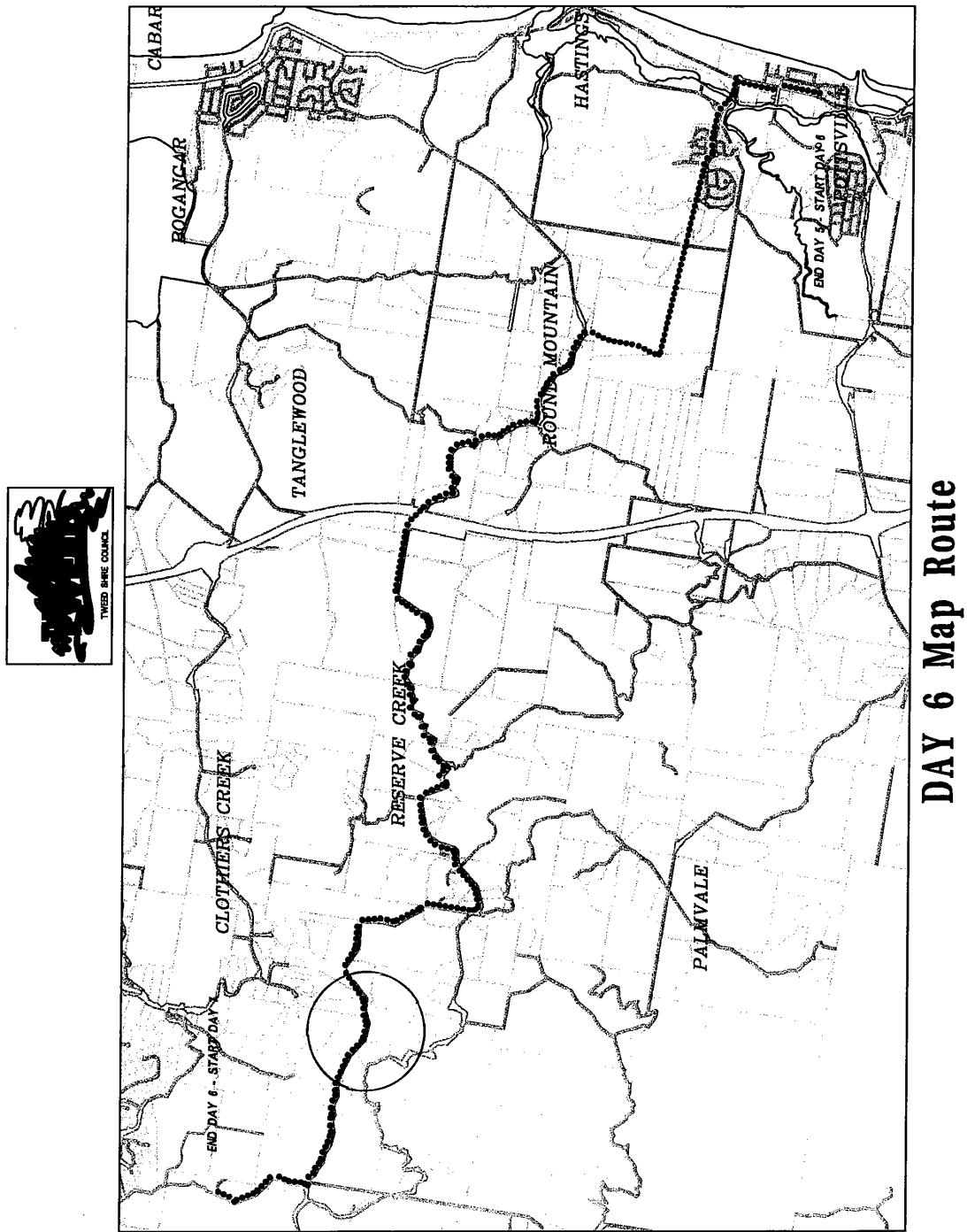
**REPORT:**

Council has received a letter from the Department of Lands seeking comments in relation to an application received by them to close and purchase part of a Crown Public Road at Reserve Creek.

The Crown Road in question forms part of the public walking trail network in the area and on that basis Council is unwilling to support the application.

In assessing such applications, Council officers also consider potential uses of the Crown Public Roads, for example, potential or existing fire buffers or trails, access for apiarists and equestrian uses.

A copy of a plan of the walking route showing the road in question follows:-



**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**10 [EO] Kingscliff Walk of Fame**

**ORIGIN:**

**Works**

**SUMMARY OF REPORT:**

Council has been approached to consider approving a "Hollywood" style walk of fame in the CBD of Kingscliff on Marine Parade (south side). The proposal involves setting concrete and brass pavers measuring 950mm x 650mm along the footpath adjacent to the property boundaries. As part of the proposal council is being requested to 'cut out' the existing path and place the commemorative pavers.

**RECOMMENDATION:**

That Council:-

1. Approves the proposal subject to the project being undertaken as per the "Walk of Fame Manual".
2. Agrees to donate machinery and labour to prepare the 'paver' sites and place pavers as works in kind.

**REPORT:**

Council has been approached to consider approving a "Hollywood" style walk of fame in the CBD of Kingscliff on Marine Parade (south side). The proposal involves setting concrete and brass pavers measuring 950mm x 650mm along the footpath adjacent to the property boundaries. As part of the proposal council is being requested to 'cut out' the existing path and place the commemorative pavers.

It is estimated that this would cost Council \$500 per paver. Given that 4 ceremonies per year are planned and say 3 pavers per ceremony, Council's annual contribution for works in kind will be about \$6,000.00.

The submission attached to this business paper explains the full process from nominations, selection committees to the ceremonies. It should be noted that it is proposed to have a Councillor on the Induction Committee and all money raised, after costs, will be distributed to Children's Charities.

From the submission there appear to be no issues for Council, other than the works in kind costs discussed earlier. The pavers will be flush with the path and do not represent a trip hazard.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

1. Australian Walk of Fame 'The Manual' prepared by Mr Alan Black, DataWorks No. 1124528
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**11 [EO] Cudgen Creek Pedestrian Bridge Public Feedback Report**

**ORIGIN:**

**Design**

**SUMMARY OF REPORT:**

At its meeting of 1 September 2004, Council considered a report relating to the construction of a footbridge and cycleway across Cudgen Creek, Kingscliff and resolved to further consult with the public on the matter. Public displays and feedback forms were placed at Council's Administration Offices at Murwillumbah and Tweed Heads and the Kingscliff library between 20 September and 29 October 2004. A public meeting was also held at the Kingscliff Amenities Centre on Monday 18 October 2004 and public submissions closed on the 29 October 2004.

This report provides a summary of all submissions received, including summaries of two petitions, for Council's further consideration and determination of a preferred option.

**RECOMMENDATION:**

That Council:-

1. Rescinds items 2 and 3 of its decision of 5 May 2004 regarding the provision of a pedestrian/cycleway link across Cudgen Creek immediately upstream of the Marine Parade ramp to Sutherland Point (Minute Number 279).
2. Adopts Option 2 (provision of a new pedestrian bridge just downstream of the existing Sutherland Street bridge including a boardwalk and cycleway linkage to Marine Parade) as the preferred option and proceed to the detailed design, estimate and development application stage.
3. Ensures the design can be easily integrated with a future traffic bridge at this location.
4. Advises the petitioners of Council's resolution 2 above.
5. Votes the expenditure for survey, investigation, design and preparation of a development application.
6. Considers funding options for the construction of Option 2 as part of 2005/2006 budget deliberations.

**REPORT:**

**PUBLIC FEEDBACK SUMMARY REGARDING OPTIONS 1 AND 2**

At its meeting of 1 September 2004, Council considered a report relating to the construction of a footbridge and cycleway across Cudgen Creek, Kingscliff and resolved (Minute Number 626):-

*"That:-*

1. *The following two options be displayed for 28 days for public comment at the Kingscliff Library and Council's Administration Offices at Murwillumbah and Tweed.*
  - *Option C - provision of a new pedestrian bridge just downstream of the existing Sutherland Street bridge including a boardwalk and cycleway linkage to Marine Parade.*
  - *Option D - provision of a large spanned timber pedestrian bridge at Marine Parade immediately upstream of the Marine Parade boat ramp.*
2. *A summary of the submissions be brought back to Council for further consideration and determination of the preferred option.*
3. *A public meeting be held at Kingscliff on this issue."*

Feedback from the community regarding Options C and D was enabled through the posting of displays and feedback forms at Council's Administration Offices at Murwillumbah and Tweed Heads and the Kingscliff library. Options C and D were retitled Option 2 and Option 1 respectively for the purpose of public feedback. ie Option D (provide a large spanned timber pedestrian bridge at Marine Parade) was retitled Option 1 and Option C (provide a new pedestrian bridge just downstream of the existing Sutherland Street bridge) was retitled Option 2.

The options were posted for a total of 40 calendar days (between 20 September and 29 October 2004) and 124 completed feedback forms were received. Of these, 9 came from the Murwillumbah office, 16 from the Tweed Heads office, 67 from the Kingscliff library and 32 through the post.

Table 1 below shows a summary of the feedback form comments. The options have been further divided into relevant sub-options which generally reflect the comments contained in the feedback responses. In summary the majority of responses (78%) favour Option 2. Persons involved in petitions have not been included in Table 1.



**TABLE 1 – SUMMARY OF PUBLIC FEEDBACK FORM RESPONSES**

MAIN OPTION	OPTION VARIATION	Number Supporting Option	TOTAL	% OF TOTAL
Option 1 : A large span timber bridge to span from near the existing boatramp off Marine Parade to the existing access road along Cudgen headland.	NIL	12	14	12%
	Plus continue boardwalk	2		
Option 2 : A small span timber bridge to be located parallel to and just downstream of the existing Sutherland Street bridge. Together with this option is the construction of a concrete cycleway and elevated boardwalk and the widening of the existing boardwalk on the northern bank of Cudgen Creek to link to Marine Parade.	NIL	61	97	78%
	Incorporate cycleway and pedestrian way into a new traffic bridge	31		
	Do not include boardwalk upgrade	4		
	Just widen existing bridge	1		
Alternative Option : Do nothing	NIL	11	13	10%
	One lane existing bridge (traffic calming)	2		
Total Number of Submissions Received			124	100%

Typical comments on the feedback forms were:-

**Option 1**

Ugly, dangerous for kids, could restrict flow of water, could encourage graffiti and litter. Easy to get to from Marine Parade. Easy access to the southern beach. Good opportunity for parking on the north bank.

**Option 2**

Easier access to the south. Less intrusive than Option 1. Need to ensure that flow is maintained and preferably increased with the construction of a new traffic bridge.

Many submissions were received via formal letter. The concerns raised in these letters included:-

- Any proposed pedestrian and cycleway link should use the existing access through Rotary Park, along the existing boardwalk to Clough Lane, then through Clough Lane to Moss Street, and then along Moss Street to Marine Parade. This will provide significant cost savings.
- Option 1 will visually degrade the vista and has safety impacts. Option 1 has most affect on residences in Moss and Hungerford Streets.

- More community consultation is required regarding need, environmental and cost impacts, bridge form, siting and materials and the availability of suitable alternatives including doing nothing.
- Both options will reduce tidal flow.
- Boardwalk doesn't need to be 3 to 4 metres wide.

A public meeting was also held on the evening of the 18 October 2004 to provide further information regarding the options and to facilitate questions and answers. About 75 to 80 people attended the public meeting, of whom approximately 90% resided in Kingscliff. The public meeting was also attended by Mayor Polglase, Crs Brimsmead, Holdom, James and Murray. The majority of those persons present appeared to favour a new bridge being built adjacent to the existing Sutherland Street Bridge. Typical audience concerns and Council officer responses from this meeting are shown in Table 2 below.

**TABLE 2 – TYPICAL PUBLIC MEETING COMMENTS**

Public Comment	Council Officer Response
Concerns about sand build up in Cudgen Creek from both options.	The upstream Option 2 and eventual rebuilding of the road bridge will open up the creek as the new bridge will have a large overall span. Constriction in the creek flow will therefore be reduced. Impact of siltation will also be considered during design process. For Option 1 the spans and clearance would be such as not to constrict the creek.
Option 1 is ugly/horrific. It will spoil view.	Noted.
Access for disabled. Existing boardwalk has gates which are difficult and inconvenient.	Option 2 will be disabled person friendly with width and access improved.
Weight limit and speed limit required on existing road bridge.	Existing bridge has the pre-Chinderah bypass load limit. Existing bridge is adequate and is not a B-Double route. Council officers are currently talking to construction companies regarding construction traffic from Salt.
Need to construct a new bridge which TSC need to make a priority.	Comment incorporated in other responses.
Wider boardwalk will be better.	Comment incorporated in other responses.
Funding is not available for a full road bridge.	Correct. Funding is currently not available for full road bridge. There is a small cost penalty to build a pedestrian bridge now.
NSW government controls Lot 490. Their funds could go towards a new bridge.	Plans for Lot 490 are not known. It may be possible to build a new road bridge in future as an alternative option.
A new combined pedestrian and traffic bridge would be better.	Comment incorporated in other responses.
Cloughs Lane may be unsuitable. In 1997 there was no direct link here.	Access grade and width are very substandard. It is also required for maintenance access to the pump station, therefore blocking public access for short periods.
Boardwalk close to properties. Requires property owners' input.	To discuss at end of meeting.
Council lost sight of the value of Cudgen Creek. The creek was destroyed in 1959 with the	Points acknowledged and have been considered in the Estuary Management Plan. Points will be further

Public Comment	Council Officer Response
construction of the existing bridge. This reduced the flow in the creek with silt & mud build up. Previously it was clean sand for kilometres upstream and now it is mud. No fish now. Use to net mullet. During Floods there is a 3 foot drop upstream to downstream hydraulic drop. Existing bridge should be removed	considered at the detailed design stage.
Wait 10-15 years and do the whole lot at Sutherland Street (pedestrian and traffic bridge). Build now, borrow now.	Pedestrian bridge can be constructed without affecting future road bridge and provide benefits now. A new traffic and pedestrian bridge is an alternative option. Council can borrow funds or delay other projects.
Bridge should be built even further upstream.	Pedestrian bridge is still needed to link to coastal cycleway. New traffic bridge could be elsewhere, if decided by Council.

**PETITIONS**

***Petition 1 - Petition against Both Options and for Extensive Public Consultation:***

A petition has been received by Council containing 180 names and addresses. The petition states (inter alia):

*“We, the residents of Kingscliff reject the adoption of two (2) options by Council in relation to the erection of a pedestrian / cycleway bridge over Cudgen Creek and the extension of the boardwalk along the northern bank of the Creek.*

*This petition seeks to have Council revise its resolution to pursue only two (2) options and to have all available alternatives considered before adoption. We are not in favour of the options presented and do not support the expenditure of Council funds whilst viable alternatives exist. This petition also seeks to express the residents support for the following preferred option:-*

***Preferred Option: The use of the existing Sutherland Street bridge and the use of the existing pedestrian path through Rotary Park, along the existing boardwalk and down Moss Street (see attached plan).***

*Detailed and extensive public consultation should **only** occur before any preferred options are decided upon.”*

The petition also provided an opportunity for the petitioners to comment. These comments have been summarised in Table 3 below.

**TABLE 3 – SUMMARY OF PUBLIC PETITION COMMENTS**

PETITION COMMENT	Number Sharing Comment	% OF TOTAL
Widen or "Fix" Existing Bridge	76	42%
More Thought and Public Consultation Required	60	33%
Build New Bridge (at Sutherland Street)	16	9%
Option 2 - (Additional bridge at Sutherland Street)	13	7%
No Bridge at All	8	4%
Close Existing Sutherland Street Bridge Totally and Convert to Pedestrian Only	4	2%
No Bridge at the End of Marine Parade	3	2%
<b>Total</b>	<b>180</b>	<b>100%</b>

The comment statistics above show a definite desire to either widen/fix the existing bridge and/or for Council to postpone a decision on any option until more options are publicly discussed.

***Petition 2 - Petition against Both Options and for Extensive Public Consultation***

A further petition has been received by Council containing 21 signatories. The petition states:-

*“We, the undersigned wish to object strongly to the proposal of a footbridge across Cudgen Creek at the boat ramp. We believe that such a bridge would totally destroy the unique beauty of the area. Surely an alternative site next to the present bridge would be the best option. We urge you to consider all other options and to leave this beautiful estuary unspoiled for future generations to admire.”*

**DISCUSSION AND CONCLUSIONS**

To assist in Council’s deliberation of the preferred option, the following facts are provided:-

- The Tweed Shire Bicycle Plan shows the existing and preferred bicycle network throughout Tweed Shire. The plan shows that ultimately both bridge locations are required to complete an effective bicycle and pedestrian network for the area. Should Council resolve to adopt one or other option at the present time, then the less desired option could be brought forward for Council’s consideration at a later date.

- There is no supporting evidence that either bridge option is dangerous for young persons. Similarly, comments regarding bridge appearance, loss of views or reduction in property values cannot reasonably be supported.
- The latest Austroads publication "*Guide to Traffic Engineering Practice Part 14 – Bicycles*" recommends a desirable minimum shared path width of 3.5 m for regular (and concurrent) commuting and recreational use and a minimum shared path width of 4.0 metres for a major recreational path. The existing boardwalk is less than 2.5 m wide for its entire length which is considered too narrow and thus requires widening.
- As visual impact is minimised for a pedestrian bridge located adjacent to the existing Sutherland Street Bridge, the bridge is recommended to be concrete or concrete substructure/concrete superstructure to minimise operational/maintenance costs.
- A cost estimate for replacing the existing Sutherland Street Bridge including an incorporated pedestrian path is in the order of \$1.9M. If the boardwalk upgrade and concrete pathway are included (\$0.55M) this totals \$2.45M. Therefore further immediate funding of \$1.2M would be required (\$2.45M minus \$1.25 M being the total estimated cost of Option 2).
- A pedestrian/cyclist demand analysis or criteria decision analysis has not been undertaken to evaluate the priority ranking of either Option 1 or Option 2.

As stated in a previous report to Council, a development application under Part 4 of the Environmental Planning and Assessment Act 1979 needs to be submitted. For the application to be thoroughly assessed, a single bridge option is required to be selected. The development application will provide a second opportunity for public comment, albeit on a single option, since the application will be publicly advertised over a 14-day period.

At Council's meeting of 5 May 2004 Council resolved (in part) to commence design for a pedestrian/cycleway link across Cudgen Creek immediately upstream of the Marine Parade ramp to Sutherland Point. Should Council wish to adopt option 2, items 2 and 3 this resolution should be rescinded. The resolution (Minute No. 279) stated:-

*"That Council:-*

- 1. Advises The Ray Group that a contribution to Council of \$450,000 prior to the linen plan release of SALT Stage 2 would fulfil the requirements of Condition No. 122 of the SALT consent.*
- 2. Proceeds immediately to finalise design and obtain development consent for a stand alone pedestrian/cycleway link across Cudgen Creek immediately upstream of the Marine Parade ramp to Sutherland Point.*
- 3. Receives a further report in regard to (2) above on detailed funding options when a final design and estimate have been confirmed."*

As a demand or criteria decision analysis has not been undertaken to evaluate the priority ranking of either Option 1 or Option 2, the following actions are provided for Council's consideration:-

***Action A:***

That Council:-

1. Rescind items 2 and 3 of its decision of 5 May 2004 regarding the provision of a pedestrian/cycleway link across Cudgen Creek immediately upstream of the Marine Parade ramp to Sutherland Point (Minute Number 279).
2. Adopt Option 2 (provision of a new pedestrian bridge just downstream of the existing Sutherland Street bridge including a boardwalk and cycleway linkage to Marine Parade) as the preferred option and proceed to the detailed design, estimate and development application stage. The pedestrian bridge design is to be of a concrete structure that can be easily integrated with a future traffic bridge. The design work is to also include a concept design for a future vehicular bridge located in the position occupied by the current timber bridge.
3. Advise the organisers of the petitions stated in this report through the Director Engineering and Operations of Council's resolution 2 above.
4. Votes the expenditure for survey, investigation, design and preparation of a development application.
5. Considers funding options for the construction of Option 2 as part of 2005/2006 budget deliberations.

**Action B:**

That Council:-

1. Adopt Option 1 (provision of a large spanned timber pedestrian bridge at Marine Parade immediately upstream of the Marine Parade boat ramp) as the preferred option and proceed to the detailed design, estimate and development application stage in accordance with Council's resolution of 5 May 2004 (Minute Number 279).
2. Votes the expenditure for survey, investigation, design and preparation of a development application.
3. Advise the organisers of the petitions stated in this report through the Director Engineering and Operations of Council's resolution 1 above.
4. Considers funding options for the construction of Option 1 as part of 2005/2006 budget deliberations.

**FUNDING:**

The following table summarises the current funding position:-

<b>FUNDING SOURCE</b>	<b>AMOUNT</b>
SALT contribution (cycleway component)	\$220,000.00
Moss Street Boardwalk	\$90,000.00
Section 94 Contributions	\$102,000.00
DIPNR	\$50,000.00
Loan Funds	\$738,000.00
<b><u>TOTAL</u></b>	<b><u>\$1,200,000.00</u></b>

Roads and Traffic Authority funding may also be available for this project. Council currently obtains up to \$80,000 p.a. from the RTA towards cycleway projects. This project is not currently within the 5 Year Cycleway Program but may be re-prioritised.

As per Council's resolution of 5 May 2004, a detailed funding report for the pedestrian bridge will be provided to Council once a final design and estimate have been confirmed.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

No allocation has been made in the current 2004/2005 Management Plan/Budget. Survey, investigation, design and preparation of a development application for either option however could be commenced this financial year. The estimated cost for this work is \$60,000.00 for Option 1 and \$40,000.00 for Option 2. These amounts can be funded from the \$450,000 SALT contribution received for bridge upgrading works.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**12 [EO] Application for Closure of Crown Public Road - Nobbys Creek**

**ORIGIN:**

**Design**

**FILE NO: GR3/12/5 – Kynnumboon**

**SUMMARY OF REPORT:**

Council has received a letter from the Department of Lands seeking comments in relation to an application received by them to close and purchase part of a Crown Public Road at Nobbys Creek adjacent to Lot 21 DP 1013890.

The Crown Road in question forms part of the eastern boundary of a subdivision, where 7 of the Lots in the subdivision abut the Road. When the Lots were fenced prior to sale to the current landowners, the Crown Road was fenced in with the Lots. Subsequent development of these Lots has disclosed the discrepancy in the fencing.

**RECOMMENDATION:**

That Council advises the Department of Lands of its objection to the closure of part of a Crown Public Road at Nobbys Creek adjacent to Lot 21 DP 1013890.

**REPORT:**

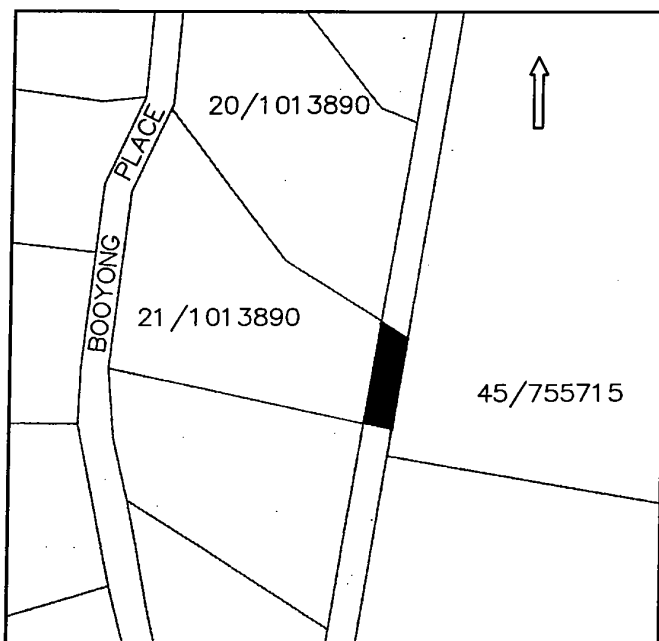
Council has received a letter from the Department of Lands seeking comments in relation to an application received by them to close and purchase part of a Crown Public Road at Nobbys Creek.

The Crown Road in question forms part of the eastern boundary of a subdivision off Nobbys Creek Road, where 7 of the Lots in the subdivision abut the Crown Public Road. When the Lots were fenced prior to sale to the current landowners, the Crown Road was fenced in with the Lots. Subsequent development of these Lots has disclosed the discrepancy in the fencing.

In assessing such applications, Council officers consider potential uses of the Crown Public Roads, for example, potential or existing fire buffers or trails, access for apiarists and equestrian uses.

Although the Crown Public Road in question does not form part of an existing established walking trail, Council officers consider that the Crown Public Road should be retained as such so that the potential uses listed above remain available.

A plan of the location follows:-



Diagrammatic Representation Only  
Not to Scale

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY**

**13 [EC] Beach Lifeguard Service**

**ORIGIN:**

**Environment & Health Services**

**SUMMARY OF REPORT:**

Council has previously agreed to provide a lifeguard service at a number of locations along Tweed Beaches. Surf Life Saving Services NSW have now advised that they have received notification that Casuarina Beach Resort Management will not be funding lifeguards at Casuarina Beach which they have funded for the past 2 years. As there are many other coastal locations that are similar to Casuarina Beach that do not have a lifeguard provided it is considered that no action be taken to provide a lifeguard at Casuarina Beach. Such to be further considered when Council adopts a Beach Safety Strategy which is currently in draft form and is expected to be considered by Council in the New Year.

**RECOMMENDATION:**

That Council does not provide a lifeguard service to Casuarina Beach for the 2004/05 lifeguard season.

**REPORT:**

Council will recall that at its last meeting it resolved to agree to accept the offer of Surf Life Saving NSW to provide lifeguards on certain beaches along the Tweed Coast.

Council has now been advised by Surf Life Saving NSW that the lifeguard service funded by Casuarina Beach Town Hall for the past 2 years will not be funded this year. This information was provided to Surf Life Saving NSW by David Parrish, General Manager of the Casuarina Beach Resort.

Council was previously requested to provide a lifeguard service at Casuarina Beach but declined to do so. This was because it was considered there was no more justification to provide this service as there was to provide additional services at other growing residential areas such as South of Pottsville Creek or Black Rocks, Wooyung or South Cabarita, North Kingscliff or South Fingal.

Therefore as part of its promotion of Casuarina Beach the Management Company funded the provision of lifeguards for 2 years with 2 patrol areas in the first year and only 1 in the second.

As stated above it is considered that there are many factors, including the cost, population growth, beach profile etc which should determine where and when lifeguard services are provided. To this end Council is currently developing a Beach Safety Strategy which will allow these issues to be further determined.

This strategy is in draft form and should be ready for Council's consideration in the New Year.

Therefore it is recommended that Council takes no action in the matter of the provision of life guards in the Casuarina Beach area for the 2004/05 life guard period.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

No Budget allocation has been made for this service.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

**14 [EC] Waste Collection and Disposal Contract**

**ORIGIN:**

**Environment & Health Services**

**SUMMARY OF REPORT:**

Council at its meeting of 21 January 2004 resolved to enter into a new contract with Solo Waste to apply from the expiry of the existing contract for a period of 5 years.

The terms of the contract have been agreed upon and it is now required for the contract to be executed under the Common Seal of Council.

**RECOMMENDATION:**

That Council executes the Waste Collection and Disposal Contract under the Common Seal of Council.

**REPORT:**

Council at its meeting of 21 January 2004 resolved in part: -

*Council, in order to provide all residences within the area with both a domestic waste collection service and recycle service, proceeds to enter into a contract for the provision of domestic waste and weekly recycling collection services with Solo Waste Australia Pty Ltd generally in accord with the Option A proposal as set out in the body of the report to take effect from the expiry of the existing contract in 2004 for a five (5) year period expiring in 2009.*

The terms of the contract have now been agreed upon by both Council and Solo Waste and have also been checked by Council's legal advisors.

The contract now requires execution by applying the Common Seal of Council.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**15 [EC] Request for "In Kind" Support/Waive Fee**

**ORIGIN:**

**Environment & Health Services**

**SUMMARY OF REPORT:**

Council has received requests from Kingscliff Family Mission asking that Council waives the fee for evening hire of Kingscliff Community Hall from 28 December 2004 to 8 January 2005 excluding 1 and 2 January 2005. Details of the request are reproduced in the body of this report.

In accordance with Section 356 of the Local Government Act 1993 - Donations, Council resolved on 6 October 2004 that:-

*"... in future, all donations made by Council, whether in cash or in kind, be made by way of a resolution of Council."*

**RECOMMENDATION:**

That Council determines this report.

**REPORT:**

Council has received requests from Kingscliff Family Mission asking that Council waives the fee for evening hire of Kingscliff Community Hall from 28 December 2004 to 8 January 2005 excluding 1 and 2 January 2005. The total hire fee for the period is \$740.00. The letter of request is reproduced for Council's consideration:-

To Tweed Shire Council,

My name is David Shea and I am the Director of the Kingscliff Family Mission, which works under Scripture Union Queensland, a non-profit organization. As you may be aware we have been operating as a holiday program during the Christmas and New Year period for more than 50 years in Kingscliff, and is an event that many holidaymakers and locals anticipate every year. We have booked the use of the Kingscliff Community Hall for our evening programs from Tuesday the 27th of December 2004 through to Friday January the 8th 2005 excluding the 1st and 2nd of January.

Kingscliff Family Mission is non-profit based and as such our funds are limited by donations and fees, which the voluntary operating personnel pay themselves (no cost to those attending). Our request of the Tweed Shire Council is that we could have the privilege of its use without the incurring fees as it has been done in previous years. If a waiver is not possible then we cannot afford the cost of its use and would have to use a lesser appropriate facility.

We are very great full for the excellent co-operation of the council with all our requests, and we hope that with the always-popular program, Kingscliff is given another reason to be an attractive holiday and residential destination.

If you have any questions then please feel free to contact me on 0409 276 876.

Thank you for your time

Kingscliff Family Mission Director

David Shea

*Kingscliff Beach Mission.*

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should requests be approved for the waiving of fees for room hire, the income for the meeting room will be impacted by the amount of the fee reduction.

Should requests for "in kind" support be approved, this will impact on the costing of Council's involvement in the activity.

**POLICY IMPLICATIONS:**

In considering this request, reference should be made to:-

Festivals Policy.

Donations Policy.

Guidelines for Fee Reduction, Auditoriums, Meeting Rooms and Halls.

**UNDER SEPARATE COVER:**

Nil.

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**16 [EC] Cities for Climate Protection Milestone 5**

**ORIGIN:**

**Environment & Health Services**

**SUMMARY OF REPORT:**

Tweed Shire Council is currently at Milestone 4 of 5 in the Cities for Climate Protection Campaign.

In October 2004 Tweed Shire Council was successful in applying for Milestone 5 funding (\$4,400) from the Australian Greenhouse Office to progress to Milestone 5 in the Cities for Climate Protection Campaign.

Milestone 5 involves conducting a re-inventory of greenhouse gas emissions in the shire in accordance with the Australian Greenhouse Office (AGO) and International Council for Local Environmental Initiatives (I.C.L.E.I) requirements.

It is important to note that this project will be entirely funded by the Australian Greenhouse Office and represents an important opportunity for Tweed Shire Council to complete the milestone process in the Cities for Climate Protection Campaign.

**RECOMMENDATION:**

That Council endorses the use of the Australian Greenhouse Office's Milestone 5 funding (\$4,400) to progress to Milestone 5 in the Cities for Climate Protection Campaign.

**REPORT:**

In October 2002, Doctor David Kemp, Federal Minister for the Environment and Heritage wrote to all Local Governments encouraging them to consider the outcomes of the Local Leaders in Sustainability Forum and to pursue Local Government actions recommended by the forum. A key recommendation of the forum was the fast tracking of the Cities for Climate Protection (CCP™ ) Campaign.

The CCP™ Campaign is an international initiative that provides funding and technical assistance to local governments to promote the reduction of greenhouse gas emissions in their area.

In Australia, the CCP™ Campaign is delivered by the International Council of Local Environmental Initiatives (I.C.L.E.I) in collaboration with the Australian Greenhouse Office (AGO). There are currently 170 local governments, representing 66% of Australia's population, participating in the program.

As part of the CCP™ program, Tweed Shire Council is required to achieve a set of five milestones which are described as follows:

**Milestone 1:**

Establish a base year 'emissions inventory' and 'forecast' for the community and corporate sector.

**Milestone 2:**

Set emissions reduction goal(s).

**Milestone 3:**

Develop and adopt a greenhouse reduction strategy – the Local Action Plan (LAP).

**Milestone 4:**

Implement the greenhouse Local Action Plan.

**Milestone 5:**

Conduct a 're-inventory' of greenhouse gas emission for the corporate and community sector.

**TWEED SHIRE COUNCIL'S MILESTONE ACHIEVEMENTS:**

**Milestone 1:**

Achieved in May 2001 when a greenhouse gas emissions 'inventory' and 'forecast' for council and the community was completed by council and endorsed by I.C.L.E.I.

**Milestone 2:**

Achieved in February 2003 when Council resolved to set an emissions reduction goal of 20% based on 1996 emission levels.

**Milestone 3:**

Achieved in May 2003 following Council's adoption of the CCP™ Local Action Plan.

**Milestone 4:**

Achieved in October 2003 as a result of various greenhouse gas reduction projects being implemented. (E.g. methane extraction at the Stotts Creek Landfill, office lighting retrofit)

**Milestone 5:**

Milestone 5 funding to the value of \$4,400 has been received from the Australian Greenhouse Office in order to progress to Milestone 5 in the Cities for Climate Protection Campaign.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**17 [EC] Proposed Extension of Compacts Service Agreement**

**ORIGIN:**

**Environment & Health Services**

**SUMMARY OF REPORT:**

Tweed Community Options has recently completed a successful trial period, undertaking case management and brokerage of services for identified patients from Tweed Heads Hospital. The most significant outcome was the ability of the ComPacks funding to contribute effectively towards providing additional funding resources to support frail aged members of the Tweed community after discharge from hospital. All costs associated with ComPacks were recouped by invoicing the NSW Department of Health, after services and case management was provided. Community Options recommends that Council continues providing the service until 30 June 2005.

**RECOMMENDATION:**

That Council:-

1. Council enters into an agreement with NSW Health to provide ComPacks services for the Tweed Heads District Hospital until 30 June 2005.
2. All documentation be completed under the Common Seal of Council.

**REPORT:**

As per summary

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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18 [EC] State of the Shire Report

**ORIGIN:**

**Environment & Health Services**

**SUMMARY OF REPORT:**

To facilitate a strong, sustainable shire the Tweed 04/24 Strategic Plan (adopted by Council on 20/10/04) identifies the need to initiate a community sustainability awareness program and to prepare a community focussed 'State of the Shire Report' that allows the community to measure its progress towards sustainability.

Council currently prepares an annual State of the Environment (SoE) Report in accordance with its statutory requirements under the *Local Government Act, 1993* however this report is generally more than 200 pages long and is not a community focussed document. The State of the Shire Report will draw upon information contained within the SoE Report and present it in a format that is easily understandable and relevant to the local community.

A significant component of the annual State of the Shire Report will be the inclusion of set of community sustainability indicators that provide people with meaningful information about the natural, built, social and cultural assets on which their quality of life depends. These indicators must be easily understandable and locally relevant if they are to foster and maintain sustainable behaviour in the community.

A community consultation process is proposed in order to involve the community in the development of a set of sustainability indicators that provide a snap shot of the quality of life in the shire. To facilitate the community consultation process a set of potential sustainability indicators have been developed for public comment (*refer to Attachment 1*).

The development of 'Community Sustainability Indicators' and the 'State of the Shire Report' is a community education/participation initiative aimed at fostering and improving sustainable behaviour within the Tweed community.

**RECOMMENDATION:**

That Council endorses a community consultation process to develop a set of community sustainability indicators for inclusion in the State of the Shire Report.

## REPORT:

Ecologically sustainable development is generally defined as 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'.

Section 8(1) of the *Local Government Act, 1993* states that 'Council must properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development.

Following on from this, the principles of ecologically sustainable development (ESD) are:

- Equity between generations: leave sufficient resources for the next generation.
- Precautionary principle: it's better to be safe than sorry in order to prevent irreversible environmental harm.
- Maintain biodiversity: protect and improve the remaining bushland and waterways.
- Consider the social and economic values of doing those three things.

A significant component of moving towards a more sustainable shire involves fostering and maintaining the ongoing participation of the local community. Small lifestyle improvements that increase household water and energy efficiency, reduce waste generation, increase recycling rates, conserve local flora and fauna, minimise pollution impacts and maintain a vibrant and diverse community must continue to become an integral part of the community culture.

In recognition of the importance of public participation in moving towards sustainability, the Tweed 04/24 Strategic Plan identifies the need to initiate an ongoing community and business awareness program to:

- Increase understanding of sustainability principles.
- Explain Council's legal obligations to implement ESD.
- Highlight the need for all sectors of the community to share responsibility for this task.

The Strategic Plan also identifies the need to recast Council's State of the Environment (SoE) Report as a broader, community focussed 'State of the Shire Report' that incorporates a triple bottom line framework and locally relevant sustainability indicators that are meaningful to the Tweed community (*Priority Action 3 of the Strategic Plan*).

While Council must continue to prepare an annual State of the Environment (SoE) Report in accordance with its statutory requirements under the *Local Government Act 1993*, a succinct community focussed State of the Shire Report which presents information that is relevant and meaningful to the local community will help to encourage people to adopt lifestyle choices that benefit the community and the environment.

In response to the priorities identified in the Tweed 04/24 Strategic Plan and building on lessons learned by other NSW local governments a 'State of the Shire Report' will be developed with the aim of:

- Increasing the communities understanding of sustainability.
- Galvanising effective local action relating to sustainability.
- Measuring progress towards sustainability via a set of easily understandable and locally relevant 'community sustainability indicators'.

Indicators of a sustainable community will provide the Tweed community with a snap shot of the quality of life in the shire. The indicators will give people meaningful information about the natural, built, social and cultural assets on which their quality of life depends.

Indicators of community sustainability are different from traditional indicators of economic, social, and environmental progress. Traditional indicators - such as stockholder profits, asthma rates, and water quality measure changes in one part of a community as if they were entirely independent of the other parts. Community sustainability indicators aim to reflect the reality that the three different segments are very tightly interconnected. An example of a community sustainability indicator is 'the number of people who work within 20 minutes from home'. This indicator tells us more than just one thing about the community. First, people who work near their homes avoid environmental, social and emotional costs of long commutes. Second, people are more likely to be concerned with their community the more they are involved in it. In a sustainable community a high percentage of its members will work near their home. It is also important that community sustainability indicators relate to something that the community can influence through their behaviour. In order to do this, they must be meaningful and relevant. For example, a traditional indicator of 'total annual water consumption' provides a figure in mega-litres that is neither meaningful nor relevant to the majority of the community, and as a result it has no influence on everyday life. A community sustainability indicator of 'daily water consumption per person' provides much the same information as the traditional indicator, but in a format that is aimed at motivating people to reduce their daily water use.

If the community sustainability indicators are to be relevant and meaningful to the local community then the community must be involved in their development. This is why a community consultation process is proposed.

To facilitate the community consultation process a number of potential sustainability indicators covering four sustainability themes have been developed for public comment (*refer to Attachment 1*). These potential indicators were developed following an extensive review of all work done in this field by other agencies throughout Australia and the rest of the world.

The proposed community consultation process and outcomes would take the following form:

1. Potential sustainability indicators (and supporting information) placed on public exhibition until February 2005.
2. Written community responses reviewed and summarised in March 2005.
3. Community workshop(s) held in March/April 2005 with the aim of identifying a set of meaningful sustainability indicators for the Tweed community (based on the potential indicators put forward by council, written community responses and the workshop outcomes).
4. Data for the adopted sustainability indicators collated prior to November 2005 for inclusion in the 'State of the Shire Report'.
5. 'State of the Shire Report' released in November 2005.
6. Community responses and sustainability (indicator) trends reviewed and presented for consideration during the 2006 Plan of Management and Budget review process.

Discussions with council staff have confirmed that the collection of data for the proposed community sustainability indicators won't involve any additional funding, in fact most of the data already exists in one form or another.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Implementing priority actions identified in the Strategic Plan.

**UNDER SEPARATE COVER:**

1. Potential Community Sustainability Indicators
-

**REPORTS FROM SUB-COMMITTEES/WORKING GROUPS**

- 1 [SUB-SAC] Minutes of the Sports Advisory Committee Meeting held Tuesday, 16 November 2004**

**FOR THE CONSIDERATION OF COUNCIL:**

**VENUE:**

Tweed Heads Civic Centre.

**TIME:**

5.10pm.

**PRESENT:**

**Committee Members:** Cr Warren Polglase, Cr Bernie Bell, Stewart Brawley, Merve Edwards, Glynnis Kenny, Peter Moschogianis, and Allana Brims.

**Informal:** Mrs Blyth Short (Recorder).

**APOLOGIES:**

Cr Max Boyd & Rod Neinhuis.

**CONFIRMATION OF MINUTES:**

**Moved: M Edwards**

**Seconded: B Bell**

**RESOLVED** that the Minutes of Sports Advisory Meeting held Tuesday, 19 October 2004 be accepted as a true and accurate record of the proceedings of that meeting.

**BUSINESS ARISING:**

Nil.

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**CORRESPONDENCE:**

- 1. Terranora Lakes Equestrian Group**  
**Sports fields - Asset Reserves Fund Appln; Sports fields - Bilambil Sports Complex**

Terranora Lakes Equestrian Group (TLEG) have requested financial assistance through the Assets Reserve Trust Fund to erect a boundary fence to the adjoining football field. It was noted that TLEG contribute to the Assets Reserve Trust Fund.

**Moved: Glynnis Kenny**  
**Second: Allana Brims**

**RECOMMENDATION:**

That Council contributes \$1,266 from the Sports Field Asset's Reserve Trust Fund to the Terranora Lakes Equestrian Group for the construction of a boundary fence at the Bilambil Sporting Facilities.

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**2. NSW Sport & Recreation - Regional Grants**  
**Regional Sports Facility Program; Govt Grants - Sport & Rec; Sport & Rec General**

Regional Sports Facility Program Grants close 30 November 2004.

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**GENERAL BUSINESS:**

**3. Sports Field Plan of Management**  
**Sports field - Assets Reserves Fund Appln; Parks - Bookings**

Stewart advised that the current Sports Field Plan of Management was adopted in 1995 and is subsequently due for review. A consultant brief will be prepared to produce the new plan of management.

The main issue of consideration for the committee in the plan review will be the future management of the Assets Reserve Fund. The current plan restricts the use of the fund to small-scale capital works. Were there more flexibility in a new plan, the committee may be able to consider utilising these funds (or part thereof) on various initiatives to promote or assist sports in the shire. The committee was requested to start considering potential initiatives i.e. scholarships etc.

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**4. Committee member's attendance**

**Sports Advisory Cttee**

Concerns expressed with the lack of attendance by some members.

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**5. Exercise Trails**

**Parks - General**



Cherie Aston requested exercise trails be considered for the outer perimeters of the Arkinstall Park and South Tweed Sports Fields eg 100, 200m markers and sit up planks. These facilities cater for the downtime use of the fields.

Stewart Brawley to consider options.

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**NEXT MEETING:**

The next meeting of the Sports Advisory Committee will be held on Monday, 21 February 2005 at the Murwillumbah Buchanan Depot.

The meeting closed at 6.50pm.

**DIRECTOR'S COMMENTS:**

Nil.

**DIRECTOR'S RECOMMENDATIONS:**

- 1. Terranora Lakes Equestrian Group  
Sports fields - Asset Reserves Fund Appln; Sports fields - Bilambil Sports  
Complex**

As per the Committee's recommendation.

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2 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday, 18 November 2004

**FOR THE CONSIDERATION OF COUNCIL:**

**VENUE:**

Peter Border Room

**TIME:**

Commencing at 9.00am.

**PRESENT:**

**Committee Members:** Mike Baldwin, Roads and Traffic Authority; Snr Constable Brett Mahaffy, NSW Police.

**Informal:** Chairman: Mr Paul Morgan, Mr Ray Clark and Judith Finch Tweed Shire Council, Frank Smallman (RTA) and Craig Orvad (Tamworth Council). Messrs Smallman and Orvad attended the meeting to observe how the Traffic Committee meeting is run at Tweed Shire Council utilising available technology. Mr Lance Vickery, Roads and Traffic Authority Manager, had previously attended the Committee meeting and was impressed with the state of the art technology and meeting processes. He advised that he wanted to use Tweed Shire Council as a 'model' and that representatives from other Councils in the region be allowed to attend as observers.

**APOLOGIES:**

Mr Don Page MP, Member for Ballina, Cr John Murray, Mr N Newell, MP Member for Tweed.

**MINUTES OF PREVIOUS MEETING:**

**RESOLVED** that the Minutes of the Local Traffic Committee Meeting held Thursday 21 October 2004 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

Note that Judith Finch was not present at the meeting held on 21 October 2004. Susan Davidson was in attendance as the Minutes Secretary.

## SCHEDULE OF OUTSTANDING LOCAL TRAFFIC COMMITTEE ITEMS

### FOR COUNCILLORS INFORMATION:

Traffic - Committee

**1. Leisure Drive, Banora Point  
R3035 Pt3; R2131 Pt2; DW1016762; Pedestrian Crossings; Speed Zones**

The Committee noted that RTA requirements in terms of pedestrian volumes would not be met at the location. However the Committee recommended that the situation be monitored after the proposed roadworks are completed and any issues reported back to the Local Traffic Committee. It was also noted that this section of Leisure Drive is a 50kph zone and cannot be lowered any further.

#### RECOMMENDATION:

That the Applicant be advised that this location does not meet RTA requirements for a pedestrian crossing.

**Current Status:** Monitoring of Leisure Drive after proposed roadworks. Any issues to be reported to the LTC.

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**11. Queen Street, Murwillumbah  
R4500; DW1034590; Car Parks - Murwillumbah; Parking Zones**

The Committee discussed the issues raised above and did not support the reserving of spaces for vet staff on public land even though a long term agreement with doctors allows such. The conversion of a 'No Parking' zone in Queen Street to a loading zone was considered appropriate as it provides up to 15 minutes for a station wagon or commercial vehicle to park to load or unload and half an hour for trucks. The Committee considered that this matter should be reconsidered in 12 months time or earlier if major changes to the car parking in the vicinity being planned are implemented. The issue of hotel patrons blocking access to the rear of the vets on site car parking is a private matter between the adjoining land holders and should be resolved between themselves.

#### RECOMMENDATION:

That the 'No Parking' zone adjacent to the old BGF building in Queen Street be converted to a loading zone.

**Current Status:** To be brought forward to the LTC for meeting in May 2005.

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**BUSINESS ARISING:**

**Item from Meeting held 21 October 2004**

**Committee Members:**

Note that Judith Finch was not present at the meeting held on 21 October 2004. Susan Davidson was in attendance as the Minutes Secretary.

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**Item from Meeting held 20/5/04**

**2. Frances Street, Tweed Heads**

**R2131 Pt2; DW1019863; Traffic - Parking Zones**

Brought forward from the Schedule of Outstanding Local Traffic Committee Items (from meeting held 20 May 2004) and reproduced as follows:-

*"The Committee suggested the Road Safety Officer should contact the Parish Manager to discuss the issue on site and the difficulties that would occur with signage and other options that are available which may meet the Parish objectives. The matter should then be reviewed for 6 months and if the problem is not resolved the issue be referred back to the Local Traffic Committee.*

*For Council's information.*

*To be brought forward to the LTC for meeting on 18 November 2004."*

The Road Safety Officer advised that he had contacted the Catholic Church who advised that the problem seems to be a bit better. The Minister undertook to contact Council if the problem gets any worse.

For Council's information.

---

**GENERAL BUSINESS:**

**PART A**

**1. Wollumbin Street, Murwillumbah**

**R5940 Pt2; DW1117717; Traffic - Parking Zones**

Request received for the installation of "No Parking" signs at the exit of the driveway of the Returned & Services League Club - Murwillumbah. This is to assist buses turning right out of the driveway.

The Committee sees this as an internal issue and the Club can either address it by redesigning its car park and driveway to suit bus movements. The use of prohibitive signage to cover infrequent events is not supported. However the safer option is to use the existing bus zone provided by Council on Wollumbin Street, which is designated for that purpose.

For Council's information.

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**2. Parking of Vehicles in Wrong Direction to Way of Travel  
DW1117732; 1117733; Traffic - Committee; Parking Zones; Safety; Local Area  
Traffic Management**

Request received for advice in relation to vehicles parking in the wrong direction to the way they are travelling.

The RTA Representative stated that Road Rule 208 is the regulation governing this. The Committee discussed the issue and the sometimes potential safety implications of this behaviour which basically has no reason. Examples discussed included Glen Ayr Drive and Darlington Drive. The Committee noted that these parking issues should be referred to the Council Ranger for enforcement and requests the Rangers to enforce such breaches for one month and report back to the next Local Traffic committee meeting on infringements issued.

For Council's information.

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**3. Tumbulgum Road, Murwillumbah  
R5570 Pt1; DW1118301; Traffic - Safety; Pedestrian Crossings;  
School - Mbah East Public**

Request received in relation to Murwillumbah East Primary School students walking to and from the CBD of Murwillumbah via Tumbulgum Road. The following suggestions have been made:-

That:-

1. A pedestrian crossing across Tumbulgum Road would assist the students in more safely crossing Tumbulgum Road.
2. A guardrail be installed on the curve of the western side of Tumbulgum Road. This is not the School's major walking access but it is reported that many children walk around this corner and are completely hidden from traffic in this area and often push and shove each other.

The Committee discussed the request and the following comments were made:

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1. The Committee noted that the site does not meet the RTA requirements for a pedestrian or school crossing. The Committee noted the Principal's concerns however it was noted that sight distance to the north is 381m and to the south 178m and Tumbulgum Road has a speed limit of 50kph. The provision of a pedestrian refuge and/or kerb blisters was considered and the Committee recommended that these devices be investigated and considered in a future pedestrian facilities program. In the short term the Committee recommended the installation of 'Children Crossing' warning signs each side of Reynolds Street on Tumbulgum Road.
2. In regards to the request for a guardrail around the western footpath between Old Ferry Road and the Council Chambers it was noted that the width between the top of the kerb and the embankment retainer wall is only 1m wide making the installation of a guardrail impossible whilst maintaining the footpath. It was noted that an adequate footpath exists on the eastern side and crossing facilities are provided in the vicinity of the Council Chambers.

The issue of the guard rail or alternative should be referred to Council's Manager of Design to investigate if there are any products or methods available to address the issue.

The matter of a guard rail or alternative between Old Ferry Road and the Council Chambers is to be brought forward for further discussion after the Manager of Design has reviewed the possibilities.

**RECOMMENDATION:**

That 'Children Crossing' warning signs be installed each side of Reynolds Street on Tumbulgum Road

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**4. Traffic Issues, Pottsville**

**R3975 Pt1; R1360 Pt1; DW1117884; Traffic - Speed Zones; Safety; Local Area Traffic Management;**

Request received in relation to the traffic speeding in particular on Overall Drive. This item was discussed at the LTC meetings of 18 March and 20 May 2004. See item reproduced below:-

18 March 2004:-

*"Late agenda item. Request received for the possibility of checking speeds on Coronation Avenue, Pottsville near the western edge of the village.*

*Deferred to the next meeting to enable speed data to be collected.*

*For Council's information."*

20 May 2004:-

*"The Road Safety Officer advised that speed counts have been performed readings being , eastbound 85<sup>th</sup> percentile was 58.7kph and westbound 85<sup>th</sup> percentile was 61.6kph. It was noted that these speeds exceed the 50kph speed limit on the subject section of road.*

*The data from the speed surveys was provided to the Police Representative for action as deemed necessary.*

*For Council's information."*

The Committee noted that vehicles using Overall Drive is local traffic. Police enforcement has occurred in this area. The Road Safety Officer will continue to work with Sgt Darnell to bring about a change in driver behaviour.

For Council's information.

---

**5. Elanora Avenue, Coast Road - Coronation Avenue, Black Rocks Bridge Area and Overall Drive, Pottsville**

**Traffic Committee; - Speed Zones; Parking Zones; Safety; R1180 Pt1; R1830 Pt1; R3975 Pt1; DW1114675**

Request received regarding of number of traffic problems in the Pottsville area as follows:-

**1. Elanora Avenue**

Being used as an alternative to the traffic calming in place on Coast Road. Signage is requested for installation on Elanora Avenue to remind drivers of the 50km/h speed limit. Some form of traffic claming is also requested but not speed humps.

**2. Coast Road - Coronation Avenue**

A 50km/h speed limit is requested for Coast Road from the Koala Beach roundabout right through to the roundabout on the Pottsville Mooball Road at Seabreeze. A 40km/h limit through the shopping area in Pottsville and a similar restriction on heavy vehicles over the entire distance is also requested. It is reported that residents along this route and in particular those living along the western end of Coronation Avenue are continually disturbed by speeding and noisy traffic.



3. **Black Rocks Bridge area (Coast Road)**

The issue of pedestrian safety in the region of Black Rocks Bridge has been raised. It is reported that a number of residents from Black Rocks Estate are now using the access to the beach and it is considered a safety issue for families and the elderly crossing a road with a 100km/h speed limit. There is also a concern regarding vehicles parking on the road reserve in the vicinity. Because of a drain along this section parked vehicles are too close to the actual road with no safety when exiting from the right side of the vehicle.

4. **Overall Drive**

This road has sufficient 50km/h signage but residents report a high degree of non compliance, despite Council initiatives and Police attention. It is requested that some form of traffic calming may be required.

Following discussions the Committee decided that:-

1. **Elanora Avenue**

The Committee discussed the issue but it would appear that this is a perception however a traffic counter will be installed in Elanora Avenue to determine if there is unusually high traffic volumes in this street. It is not considered necessary to install extra 50kph speed signs as this is the general urban speed limit.

2. **Coast Road - Coronation Avenue**

The Committee discussed the issue but requested speed surveys to be undertaken in at least two locations for a more informed decision to be made. However it was noted that dropping the speed limit on a designated distributor road may well encourage people to look for short cuts such as Elanora Avenue. It was also noted that the Coast Road has and always will be a major distributor road but is still carrying much less traffic than it did in 2000.

3. **Black Rocks Bridge Area (Coast Road)**

The issues were noted however the traffic volume on the Coast Road in the vicinity is around 500 vehicles per day which is very low and a more than adequate opportunity exists to cross the road. Sight distance is also adequate for a 100kph speed zone. The Committee did agree that parking restrictions need to be provided in the vicinity where sufficient shoulder space does not exist to allow vehicles to park safely.

4. **Overall Drive**

The Committee noted that vehicles using Overall Drive are local traffic. Police enforcement has occurred in this area. The Road Safety Officer will continue to work with Sgt Darnell to bring about a change in driver behaviour.

**RECOMMENDATION:**

That "No Parking" signage be installed on the eastern side of the Coast Road for approximately 50m each side of the Black Rocks Bridge.

**6. McPhail Avenue, Oceanview and Gibson Streets, Kingscliff  
R3240 Pt1; R5345 Pt1; R5740 Pt1; DW1116939; Traffic - Committee; Speed Zones;  
Weights of Vehicles; Bridges - Cudgen Creek**

Request received for assistance with the following matters:-

1. The placement of load limits on Viking Street, McPhail Avenue, Sutherland Street and on Cudgen Creek Bridge.
2. It is reported that the 50km/h speed limits are not being adhered to in Kingscliff and police enforcement is requested. More 50km/h speed limit marking on roads is requested as a reminder to motorists.
3. It is suggested that the construction of a roundabout at the McPhail, Oceanview and Gibson Street intersection would assist in slowing down traffic that currently speeds along McPhail Avenue.

The Committee noted that:-

1. The issue of heavy vehicles using these streets was addressed at the last Local Traffic Committee meeting and should be monitored to see if the previously recommended action resolves the problem. Traffic counts previously taken did not indicate a significant problem and therefore a load limit is not supported at this time.
2. In regards to the 50kph speed limit traffic count data does not indicate a significant problem. However Police will target this area when resources are available.
3. The intersection of Gibson Street and McPhail Avenue does not have a significant crash history and does not justify a roundabout at this intersection. It is noted that such a device would assist in reducing traffic speed however no Council funding exists for such a project at this time.

Heavy vehicle usage (item 1) is to be monitored and further action taken if necessary. For review at the Local Traffic Committee meeting of March 2005.

For Council's information.

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**7. Fingal Road, Fingal Head  
R2060 Pt4; DW1107783; Traffic - Committee; Safety; Speed Zones**

Request received for advice in relation to excessive speeds by motorists travelling along Fingal Road since the road has been sealed. The Committee noted the road has been sealed for over 20 years.

The Committee discussed the issue and noted the recent road improvements and the fact that traffic calming is included. Given the status of the road as a trunk collector no variation to the speed limit was considered appropriate.

For Council's information.

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**8. Prospero Street, Murwillumbah**

**R4450 Pt1; Traffic - Committee; Parking Zones**

Late Agenda item. Bruce Monement Motors have requested a "No Parking" sign over the driveway in Prospero Street.

Under the Australian Road Rules signage is not required as it is an offence to obstruct access to a driveway. Given the ambiguous nature of the driveway to the premises appearing as a shop front the Committee would agree to 'No Parking' signs across the driveway provided the applicant meets the costs.

**RECOMMENDATION:**

That 'No Parking' signs be installed, at the applicant's expense, across the drive way to Bruce Monement Motors on Prospero Street, Murwillumbah due to the ambiguous nature of the driveway.

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**PART B**

**1. Proposed Residential Flat Building Incorporating 35 Dwellings at Lot 169 DP 1031933 Casuarina Way, Casuarina  
DA04/1373 Pt 1; DW1115483; Traffic - Committee; LN: 44829; SEPP**

Request received for Local Traffic Committee advice in accordance with the provisions of State Environmental Planning Policy No. 11 (SEPP 11) - Traffic Generating Developments. Comments are sought in relation to:-

- Adequacy of the proposed access to the site;
- Impact that the development will have on the road network; and
- Adequacy of the internal parking configuration.

The Committee comments are as follows:-

1. The development does not appear to comply with AS2890 Off Street Parking in regards to sight triangles.
2. The entrance driveway to the security gates obstruct access to the visitor's car parking which would result in vehicles parking on the road unnecessarily.

3. The applicant needs to clarify how the bin storage area in the basement is to be serviced.

For Council's information.

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**NEXT MEETING:**

The next meeting of the Local Traffic Committee will be held on the 16 December 2004 in the Peter Border Room commencing at 9.00am.

The meeting closed at 10:45am.

**DIRECTOR'S COMMENTS:**

Nil.

**DIRECTOR'S RECOMMENDATIONS:**

3. **Tumbulgum Road, Murwillumbah**  
**R5570 Pt1; DW1118301; Traffic - Safety; Pedestrian Crossings;**  
**School - Murwillumbah East Public**

As per the Committee's recommendation.

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5. **Elanora Avenue, Coast Road - Coronation Avenue, Black Rocks Bridge Area and Overall Drive, Pottsville**  
**Traffic Committee; - Speed Zones; Parking Zones; Safety;**  
**R1180 Pt1; R1830 Pt1; R3975 Pt1; DW1114675**

As per the Committee's recommendation.

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8. **Prospero Street, Murwillumbah**  
**R4450 Pt1; Traffic - Committee; Parking Zones**

As per the Committee's recommendation.

**CONFIDENTIAL MATTERS**

**REPORTS THROUGH GENERAL MANAGER IN COMMITTEE**

**REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT IN COMMITTEE**

- 1            **[PE] Development Application D95/0320 for the Construction of a Shopping Village in Six (6) Stages at Lot 1 DP 848875, Henry Lawson Drive, Terranora**

**REASON FOR CONFIDENTIALITY:**

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

- (a) personnel matters concerning particular individuals (other than councillors)
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- 2            **[PE] Unauthorised Clearing at Wooyung, Hastings Point, Kings Forest and West Kingscliff**

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

Nil.

**REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE**

**3 [EO] Contract EC2004-119 Proposed Change Room Amenities Building  
John Rabjones Oval 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] EQ2004-164 Supply and Delivery of Reinforcing Steel and  
Accessories for Bray Park Clear Water Tank**

**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
-