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SCHEDULE OF OUTSTANDING RESOLUTIONS

Schedule of Outstanding Resolutions

FOR COUNCILLOR'S INFORMATION:

3 December 2003

ORDERS OF THE DAY

1 [NOM] Honorary Rangers

1033

Councillor W J Polglase

Councillor G Davidson

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

Current Status: Report to be prepared.

17 March 2003

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.

5 [NOM] Septic Tanks-On-site Sewage Management Facilities

NOTICE OF MOTION:

214

Councillor P C P Youngblutt

Councillor W M Marshall

RESOLVED that Council investigates the possibility of external funding to assist in the rehabilitation of failed on-site septic systems in existing unsewered villages where there is a high likelihood of a negative impact on adjoining water courses.

Current Status: Report to be prepared.

QUESTION TIME

4 Timber Bridges in the Tweed Shire

Councillor M R Boyd

Asked could Council staff bring forward a report which covers how many timber bridges there are on road reserves which are presently not maintained by Council. This report also to indicate the number of residents serviced by those bridges and the road lengths involved.

The General Manager responded that this requested would be met.

Current Status: Report to be prepared.

MAYORAL MINUTE

Mayoral Minute

Councillors,

1. Citizenship Ceremony

29 March – Private Citizenship Ceremony at Murwillumbah for Mr. C Webb and Ms S Thorngaard

2. Tweed Futures

30 March – Tweed Futures Steering Committee Meeting at Twin Towns

3. Murwillumbah Chamber of Commerce

31 March – Meeting of Murwillumbah Chamber of Commerce

4. Junior Chamber International

2 April – welcome to National President Junior Chamber International at Seagulls

5. Junior Chamber International

3 April – Border Senators Group of Junior Chamber International Fellowship and Dinner at Kingscliff

6. Queensland Netball

4 April - Opening Ceremony 2004 Four'n Twenty Origin Netball Shield at Murwillumbah

7. Sub Regional General Managers' Meeting

5 April – welcome of Sub-Regional General Managers to Tweed

8. Oxley RSL Day Club

5 April – first birthday celebrations for Oxley RSL Day Club, Bray Park

9. Tweed Heads Ministerial Taskforce

5 April – Meeting of Jack Evans Boatharbour Steering Committee at Tweed Heads

10. Tweed Rotary

5 April – attended meeting of Tweed Rotary in company with Japanese Study Tour visitor & Japanese Rotarian, Mr. Kamikara.

11. Masonic Lodge

6 April – Anzac Memorial Service at Masonic Lodge Tweed Heads

12. Visit by Hon. John Howard MP, Prime Minister of Australia

13 April – Morning Tea and Lunch with Prime Minister and Cabinet Ministers at Tweed Heads

13. TACTIC

14 April – meeting with TACTIC concerning dismissed volunteer

14. Tweed Regional Art Gallery

15 April – meeting of Art Gallery Foundation at new Gallery

15. Volunteer Marine Rescue

18 April – Launch of new rescue vessel at Kingscliff

16. Visit Shadow Cabinet Ministers

20 April – Met with Shadow Cabinet Ministers at Tweed Heads

17. Business Excellence

21 April – Business Excellence Breakfast at Tweed Heads

18. Japanese Study Tour

21 April – met with representatives of Japanese Study Tour Group for signing of sister-school agreements with Tweed high schools

INVITATIONS ACCEPTED:

- 22 April – Farewell BBQ to Australia/England Test Match Bowls Players
- 23 April – Tweed Theatre Company Presentation “Daylight Saving” at THCC
- 24 April – Anzac Remembrance Night Murwillumbah Masonic Lodge
- 25 April – Anzac Day Service at Pottsville Beach
- 25 April – Anzac Day Service at Tweed Heads
- 26 April - Meeting & BBQ Men’s Meeting St. Cuthberts Church
-

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

- 5th International Cities, Town Centres & Communities Conference 2004 **4-7 May 2004** Fremantle WA
 - Crash Course in Planning & Development – **Friday 14 May 2004** Sydney Convention Centre Darling Harbour
 - Local Govt Women’s Association 51st Annual Conference **17-20 June 2004** Parramatta
 - ICAC Workshop **25 May 2004 Coffs Harbour; 24 June 2004 Sydney**
 - National Local Roads Congress **11 - 13 July 2004** Barossa Valley SA
 - Sustainable Economic Growth for Regional Australia Conference **6 - 8 September 2004** Alice Springs Convention Centre
-

ABSENCES FROM SHIRE BY EXECUTIVE, AND COUNCILLORS:

Executive

EXECUTIVE

Name	From	To	Location	Details
EM	17 May 2004	18 May 2004	Homebush	NSW LG Finance Professionals Annual Conference
DES	6 May 2004	7 June 2004	Sydney	Water Directorate Meetings
GM	23 May 2004	26 May 2004	Melbourne	LGMA National Congresss
GM	31 May 2004		Sydney	LGMA Forum "The Hitchhiker's Guide to Local Government"

ITEMS DEFERRED

[ID] a26 [EC] Development Application DA03/0080 for Construction of a Single Dwelling at Lot 6 DP 577427 No 513 Carool Rd, Carool

ITEM DEFERRED FROM MEETING HELD:

17 March 2004

*Councillor G Davidson
Councillor B J Carroll*

RESOLVED that this item be deferred to allow Councillors the opportunity to inspect the subject and adjacent properties.

ORIGIN:

Building Services

FILE NO: DA03/0080 Pt1

SUMMARY OF REPORT:

Application has been lodged to construct a dwelling on the subject allotment which will replace the existing dwelling when completed.

Adjoining to the south west of this allotment is Lot 1 DP 873622 on which is located the Coolangatta Pet Motel which is a boarding establishment for cats and dogs. The kennels are located about 70 metres from the common boundary of the subject allotment and extends about 100 metres to the west.

The owner of the Coolangatta Pet Motel Mr A Bulke has lodged a strong objection to the location of the proposed dwelling through Bolster Solicitors, in conjunction with Daryl Anderson Consulting on several grounds claiming that, if approved, the occupants of the dwelling would be subject to noise nuisance from barking dogs which would restrict the ability of the kennels to operate or expand.

Both the Applicant and the Objector have lodged reports from various consultants in support of their respective positions.

All information in this matter has been assessed and it is considered that approval can be recommended subject to the construction of the dwelling meeting the recommendations contained in the submitted noise reports.

RECOMMENDATION:

That Development Application DA03/0080 for a single dwelling at Lot 6 DP 577427, No. 513 Carool Road, Carool be approved, subject to the following conditions:

1. The dwelling shall be acoustically treated against intrusive noise from the dog kennels such that the level of intrusive noise does not exceed a measured noise level of 30 dB(A) when measured in any sleeping area, dedicated lounges or other habitable spaces inside the dwelling. For this purpose a minimum noise exposure level of 65 dB(A) (adjusted) at the external wall facing the dog kennels of the dwelling shall be adopted.
2. The applicant shall be required to provide certified details to and receive approval of Council for the design, type and Sound Transmission Class/Weighted Sound Reduction Index (STC/Rw) ratings of the construction materials to be used in acoustically treating the dwelling against intrusive noise from the dog kennels prior to the issue of the construction certificate. Mechanical ventilation shall be provided in accordance with the provisions of the Building Code of Australia where necessary to achieve required indoor design noise levels.
3. Certification is to be provided to the satisfaction of Council's Director Environment and Community Services from a suitably qualified acoustic engineer certifying that the dwelling has been acoustically treated to prevent intrusive noise from the dog kennels in compliance with the provisions of conditions of approval. Such certification shall be provided prior to the occupation of the dwelling.

GENERAL

4. 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]
5. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0120]
6. The erection of a building in accordance with a development consent must not be commenced until:
 - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

- (b1) the principal certifying authority has, no later than 2 days before the building work commences:
- (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

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

[PCC0160]

PRIOR TO COMMENCEMENT OF WORK

8. 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]

9. 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]

10. **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]

11. 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]

12. 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]

13. 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 licence 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

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

[DUR0010]
15. 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]
16. 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]
17. 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]
18. 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]
19. 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]

20. 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]

21. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;
 - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - c. external drainage prior to backfilling.
 - d. completion of work.

[DUR1020]

22. 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]

23. 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]

24. The finished floor level of the building should finish not less than 225mm above finished ground level.

[DUR1150]

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

- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50⁰C in all other classes of buildings.

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

[DUR1160]

26. 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]

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

[DUR1210]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0020]

USE

29. The existing dwelling is not to be used for any habitable purpose on occupation of the new dwelling.

[USE0060]

30. The existing dwelling shall be made uninhabitable, on occupation of the new dwelling, by the removal of the kitchen.

[USENS01]

S68 WASTE TREATMENT DEVICE

31. The on site sewage management system proposed for the above site is approved subject to the following additional special conditions.

- i. All sanitary plumbing and drainage work is done in accordance with the requirements of the local sewage authority or the Local Government (Water, Sewerage and Drainage) Regulation 1993. No alterations or additions are permitted without the express approval of Council.
- ii. All effluent arising from an aerated waste treatment system must not be permitted to discharge into any natural waterway or stormwater drain.

- iii. A minimum total area of 300 square metres of landscaped area should be provided for the specific purpose of receiving the effluent from the aerated septic tank. Full details of the proposed landscaping plan including; type and depth of soil; retaining and filling; grading; type of shrubs; depth of pinebark; and any other relevant information must be submitted to scale on the site plan. Details of the irrigation system including sizes and types of fittings must also be provided.
- iv. Effluent from an aerated waste treatment system must not be permitted to discharge into any natural waterway or stormwater drain.
- v. An aerated waste treatment system must not be installed in such a way that it can contaminate any domestic water supply.
- vi. All distribution lines of the irrigation system must be buried to a minimum depth of 100mm below finished ground level.
- vii. All irrigation equipment must be installed in such a way that it will not be readily subject to damage.
- viii. All irrigation pipework and fittings must comply with AS 2698 *Plastic pipes and fittings for irrigation and rural applications*; and
 - a. standard household hose fittings may not be used.
 - b. the irrigation system may not be capable of being connected to the mains water supply.
- ix. Effluent from aerated waste treatment system must be disposed of under a mulch bed
- x. The land application area must not be used to grow vegetables or fruit for human consumption.
- xi. The land application area may be divided into two or more areas.
- xii. Additional land application areas may be used only with the written prior approval of Council.
- xiii. Soaker hoses and standard household sprinklers and attachments must not be used for the irrigation of aerated waste treatment systems effluent.
- xiv. The irrigation system must be operated in such a way as to prevent any run-off of effluent from the land application area.
- xv. The land application area should be landscaped by terracing and filling or retaining and filling so as to provide a relatively level area to the satisfaction of Council.
- xvi. All effluent land application areas must be completely prepared or landscaped to the satisfaction of Council before:
 - a. in the case of a new dwelling, occupation of the dwelling
 - b. in any case, commissioning of the aerated waste treatment system.
- xvii. Within the effluent irrigation area there must be at least two warning signs that comply with AS1319 and have:
 - a. a green background
 - b. 20 millimetre high capital lettering in black or white, and
 - c. the words "RECLAIMED EFFLUENT - NOT FOR DRINKING - AVOID CONTACT"
- xviii. The aerated waste treatment system unit shall be maintained by a service agent approved by Council.

[SEP0010]

REPORT:

Applicant: Mr MW Miller-Morrison
Owner: Mr A Leishman & Ms V Leishman
Location: Lot 6 DP 577427 No. 513 Carool Road Carool
Zoning: 1(a) Rural
Est Cost: 150,000.00

Background

Application has been lodged to construct a dwelling on the subject allotment which will replace the existing dwelling when completed.

The subject allotment encompasses an area of 12.08 hectares, is located on the southern side of Carool Road. An existing timber framed dwelling exists at the front of the site, a road level and a bitumen track leads to a cleared plateau area above and behind the existing dwelling. A dirt track exists uphill from this plateau which accesses the rear of the allotment.

The vegetation of the allotment is sparsely treed on the lower portion, grass on the plateau and more dense trees above this area.

The land is zoned 1(a) Rural which permits the construction of a dwelling.

Adjoining to the south west of this allotment is Lot 1 DP 873622 on which is located the Coolangatta Pet Motel which is a boarding establishment for cats and dogs.

The kennels are located about 70 metres from the common boundary of the subject allotment and extends about 100 metres to the west.

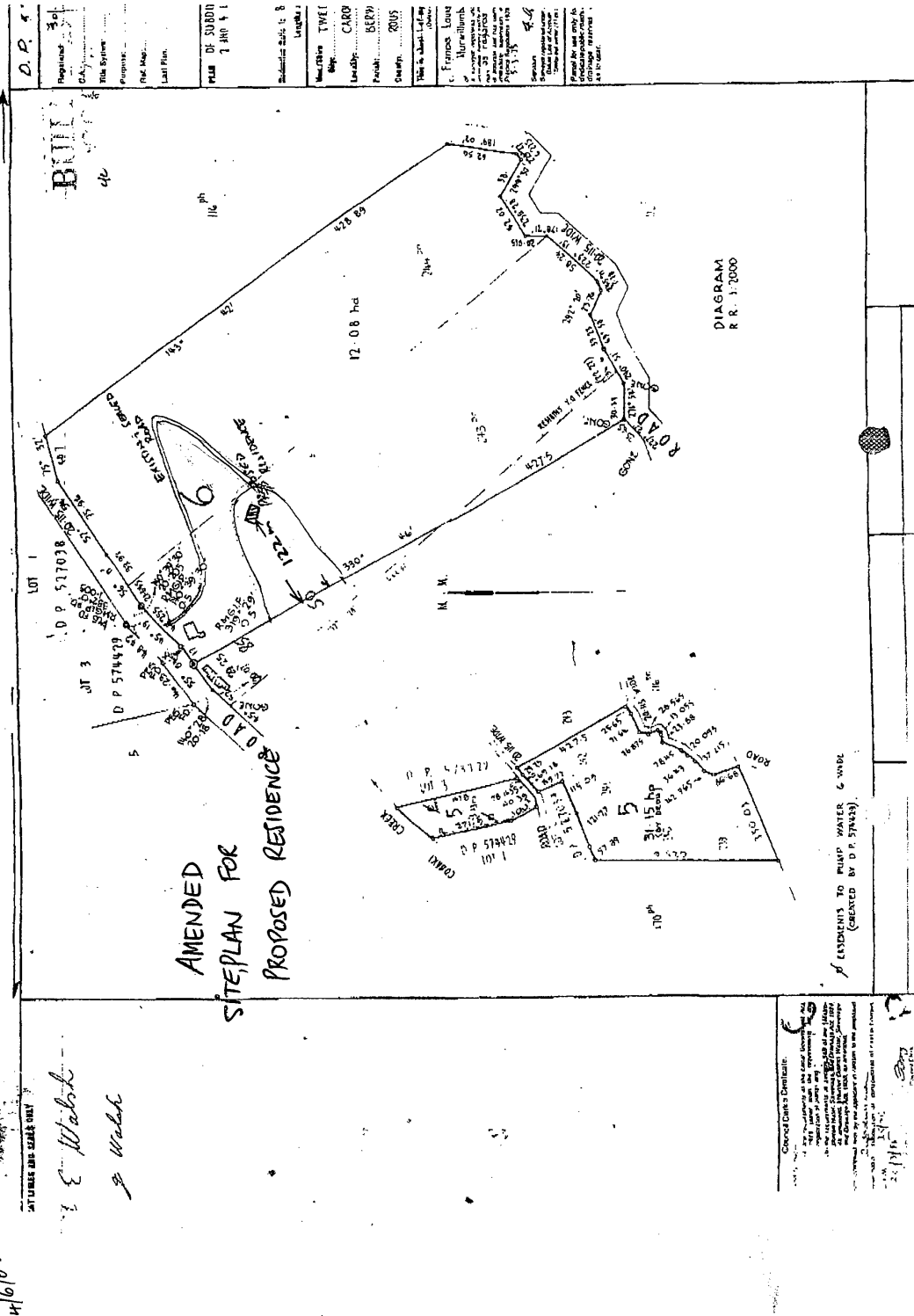
The kennel has development consent to operate and has recently had extensions carried out with Council approval.

The owner of the Coolangatta Pet Motel Mr A Bulke has lodged a strong objection to the location of the proposed dwelling through Bolster Solicitors, in conjunction with Daryl Anderson Consulting on several grounds claiming that, if approved, the occupants of the dwelling would be subject to noise nuisance from barking dogs which would restrict the ability of the kennels to operate or expand.

Both the Applicant and the Objector have lodged reports from various consultants in support of their respective positions.

All information in this matter has been assessed and it is considered that approval can be recommended subject to the construction of the dwelling meeting the recommendations contained in the submitted noise reports.

Site Diagram



Considerations Under Section 79C of the Environmental Planning and Assessment Act 1979

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

The proposal complies with the Tweed Local Environment Plan 2000

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

There are no draft planning instruments applicable.

(a) (iii) Development Control Plans (DCPs)

There is no Development Control Plan applicable.

(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 construction of the proposed dwelling is not considered likely to have any adverse impact on the natural or built environments. Subject to satisfying stringent construction standards as specified in the noise reports which have been submitted in relation to this application it is considered that the proposed development can be constructed such that it will not have any adverse social or economic impact in the locality.

(c) Suitability of the site for the development

The site contains an area of 12.08 hectares of mainly sloping land covered with vegetation of various standards. The proposed building plateau is level and elevated and has views to the ocean. There is adequate room in this area for construction of the dwelling, outdoor recreation area and septic disposal and therefore the site is considered to be suitable for the proposed development.

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

The adjoining property owner, and proprietor of the Coolangatta Pet Motel, Mr A Bulke became aware of the subject application soon after submission and contacted Council with a request to be notified of the proposal. In accordance with Mr Bulke's request he was provided with a copy of the site plan and external elevations of the dwelling and was allowed fourteen days in which to lodge an objection to the proposal if he was concerned.

An objection, dated 2 June 2003, was subsequently lodged on Mr Bulke's behalf by Bolster & Co Solicitors in conjunction with Daryl Anderson Consulting in which fifteen points of objection were raised.

The objections contained in this report and a response are included hereunder:-

1. The application is inconsistent with the objectives of the Rural 1(a) zone in that it will compromise the continued use of the boarding kennels.

Response

The dwelling will be subject to a condition of approval requiring that it be constructed in accordance with the recommendations contained in the submitted noise report and therefore will not result in the continued use of the boarding kennels being compromised.

2. The Coolangatta Pet Motel has existing consent and this should be given determining weight in determining application.

Response

The Applicant has the right to lodge an application for development on their own property.

3. The Rural 1(a) Zoning is the only appropriate zone for the dog kennels to operate.

Response

See response 1 above.

4. The application is for a replacement dwelling therefore the new dwelling should be located in the same location as the existing dwelling.

Response

The Applicant is within his rights to lodge an application for a dwelling anywhere on the allotment and has undertaken to de-commission the existing dwelling, on completion of the new dwelling, and wishes to retain the existing dwelling for storage and workshop purposes.

The proposed dwelling site is elevated and has access to views of the coast and coastal breezes that are not available at the site of the existing dwelling.

5. Should be buffer of 150mm between dwelling and property boundary of land where agricultural pursuits are carried out.

Response

Adjoining land (lot 1 DP 873622) is classed as class 4 & 5 agricultural land which is not prime agricultural land and therefore the setback of 150 m need not be enforced. The objector would be responsible for ensuring that drift from spraying activities is contained within his own property boundaries.

6. Approval would give rise to noise complaints against the dog kennels which would not be in the public interest.

Response

See response 1 above.

7. Adverse social and economic interest if dog kennel was forced to close.

Response

See response 1 above.

8. Spatial separation between proposed dwelling and dog kennels is manifestly inadequate and not good planning practise.

Response

The proposed dwelling will be located in excess of 200 metres from the closest part of the dog kennel and subject to the recommendations contained in the noise report from McNeillage & Associates dated 19 October 2003 it is considered that this separation is adequate.

9. Submitted application does not adequately address issues relating to contamination, noise , socio economic considerations and buffering.

Response

- Contamination- the Applicant has since submitted a “contaminated land assessment “ report from Border Tech dated July 2003 who carried out a site investigation of potential chemical contamination from past agricultural practises.

This report recognised the presence of some chemicals in the area of the proposed house site however concluded that the level of contamination was well below ‘health based soil investigation levels ‘and that the site can be considered suitable for the proposed residential use.

- Noise – see Noise section below.
- Socio economic considerations and buffering – discussed above.

10. Insufficient information has been provide to enable Council to fully assess application.

Response

Council has requested additional information and Consultants reports from the Applicant where necessary and it is considered that all information has been provided for Council to properly assess this application.

11. Close to potential fire hazard.

Response

Council's Bushfire Hazard maps indicate that the building plateau does not have a designated fire risk and the surrounding areas of the allotment which are closest to the proposed dwelling are low bushfire risk and therefore are not considered to pose any threat to the dwelling in this regard.

12. Site was formerly used to grow bananas and land may be contaminated from this activity.

Response

See response 9 above.

Proposed house site is on ridge and is visually prominent.

Response

Proposed house will be located on existing cleared plateau which has a large rocky outcrop behind.

This rocky outcrop is indicated on the plan prepared by McLauchlan Surveying dated 20/2/04 and will provide a backdrop for the dwelling with the result that it will not have a significant adverse impact on the landscape and scenic quality of the locality.

14. Application does not address the impact on flora and fauna of vegetation removal to create bushfire asset protection zones .

Response

See response 11 above

15. Replacement dwelling should be in the same location as the existing dwelling.

Response

See response 4 above

NOISE ISSUES

The main source of objection to this proposal has been in relation to the effect that the occupants of the proposed dwelling may suffer from noise from barking dogs on the adjoining property. This matter has been extensively researched and comments in this matter are included hereunder

On 3 June 2003 Council received an objection from Bolster & Co. solicitors on behalf of Mr & Mrs Bulke, to DA03/0080. Attached with this objection was a report from McNeilage & Associates Pty Ltd dated 23 May 2003. McNeilage & Associates Pty Ltd are a company with experience in acoustic assessment.

This report was a "theoretical" assessment of the likely noise impact upon the proposed residence as a result of dog barking noise from the kennels and did not contain any actual "on site" noise level readings.

With respect to kennel noise impact, the report contained the following statement:

"An initial precautionary approach would be to assume a potential noise level at the proposed residence of up to 65dB allowing for impulsiveness and multiple dogs. Such noise levels are likely to adversely impact on the residents of the proposed dwelling due to sleep disturbance and annoyance by dog noise intruding into their relaxation".

The report went on to state that:

"Noise from dogs in the kennels is highly likely to be clearly audible above the background noise levels, and it is highly likely that the residents of the proposed dwelling will find this intrusive."

Based upon this theoretical assessment the McNeilage & Associates report contained the following recommendations in relation to the noise from the kennels.

"Recommendations

The selected site for the proposed new residence on the adjacent land is the worst location that could have been selected in regard to noise impacts from the kennels. Dog barking can be annoying to many people. The proposal submitted is highly likely to result in complaints to the Tweed Shire Council in regard to noise from the adjacent kennels.

There is a strong risk that the Tweed Shire Council will need to decide between ignoring noise complaints from the residents of the proposed dwelling if it proceeds and taking action against your kennels that may force you to cease operations. The proposed development presents a strong threat to your business and may force you to cease operations at the current site, or to undertake a major rebuilding program. I recommend you obtain both town planning and legal advice

in regard to the actions available to you should the Tweed Shire Council approve the application.

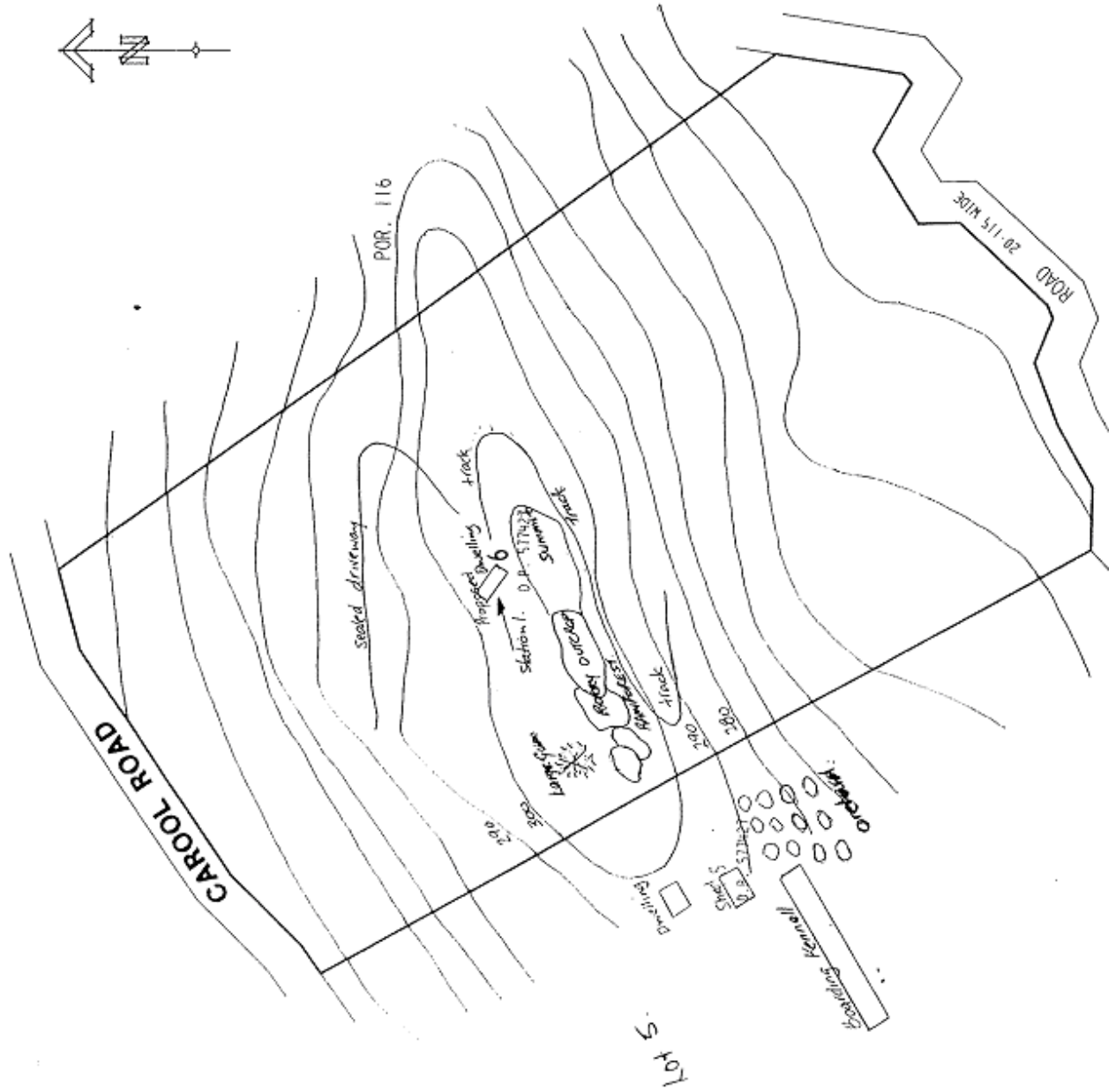
It is strongly recommended that you object to the proposal and urge the Tweed Shire Council to reject the development application at the proposed site.

If Council do allow construction of the proposed residence it would reduce the risks to your business if the following conditions were set.

- A comprehensive acoustic assessment and design report is prepared by the proponents that considers all potential noise impacts including kennel barking and that demonstrates that the residents will enjoy adequate acoustic amenity.*
- Future potential buyers of the proposed residence are informed that a dog kennel is located close to the property boundary, and that dog barking may occur.*
- Building designs must demonstrate acceptable acoustic amenity will be achieved around and within the proposed dwelling."*

On 23 June 2003, Council wrote to the applicant advising of the receipt of the objection and requested the applicant to undertake their own acoustic assessment. In response, the applicant submitted a Noise Level Impact Statement report prepared by Craig Hill Acoustics and dated 8 September 2003. Craig Hill Acoustics is a company with experience in noise assessment. This report was prepared to examine the noise impact of existing boarding kennels at the Coolangatta Pet Motel, Carool Road Carool upon the proposed home site at 513 Carool Road.

The measurement location, referred to in the report as Station 1 was located on the proposed home site indicated on the site plan below. (The location was later verified on site with Craig Hill).



The noise level readings were taken on Wednesday 9 July 2003 between the hours of 1700-1715 and 1800-1815 and Thursday 10 July between the hours of 0940-0955.

Table 4.2 taken from the report with the associated summary also taken from the report represents the results of the readings taken on 9 July 2003 while Table 4.3 and the associated summary also taken from the report represents the results of the readings taken on 10 July 2003.

Table 4.2

Wednesday 9 July 2003 dB(a) fast response					
Station	Time	LAMAX	LA10	LAeq	LA90
	1700-1715	34.4	30.3	25.2	25.0
	1800-1815	34.0	31.2	25.2	25.0
1	Noise from dogs barking. Dogs assumed to be locked up for night time.	30.0			
Comments: No insects, birds, wind or any other intrusions upon results. Results above early evening would be representative of night time levels, Noise from dogs barking (impulsive noise) but only just audible add 2dB					

Summary

External noise from dogs (32Lamax adjusted) is just above the required criteria of 30 dB(A) (ambient +5) for night time based on the measured above 25 LA90.

The background measured was extremely low and while backgrounds such as these would be expected at various times of the year such as in still cool weather, levels between 40-50db(A) where insect noise is present would be more common.

Table 4.3

Thursday 10 July 2003 dB(a) fast response					
Station	Time	LAMAX	LA10	LAeq	LA90
	0940-0955	35.0	33.0	32.0	30.0
1	Noise from dogs barking. Dogs assumed to be in run area/night boxes open.	28-33			
Comments: No insects, birds, wind or any other intrusions upon results. Results above early evening would be representative of night time levels, Noise from dogs barking (impulsive noise) but only just audible add 2dB					

Summary

Noise from dogs are within the required criteria for daytime.

Ambient	30 dB(A)
Dogs	35 dB(A) adjusted (33+2)
Criteria	35 dB(A) ambient +5

Based upon the results of the noise level readings, the following conclusions were reached by Craig Hill.

"CONCLUSIONS

Based on the above recorded noise levels of dogs barking at the adjacent kennels would be within the required criteria and not cause unreasonable impact on the proposed residential premises.

Noise from adjacent kennels has been assessed without the cooperation of the kennel owner and based on observations using a hand held meter.

Long term unattended noise monitoring using data logging devices is not considered being of additional benefit in assessing noise impact due to possible interference from outside influences."

It was decided that the two reports should be evaluated by an independent acoustic firm employed by Council, in order to assess which report should be given preference in the decision process in respect to the noise issue.

Vipac Engineers and Scientists Ltd were consequently engaged by Council for this purpose and submitted an assessment to Council dated 6 November 2003.

The assessment by Vipac advised that the NSW Environment Protection Authority Industrial Noise Policy should be adopted to assess the noise impact from dog kennels and neither report adopted this Policy. In addition Vipac provided the following comments in respect to each report.

"McNeilage & Assoc.

- *A Location Plan and site plan identifying the subject site, the proposed dwelling and any significant features such as topographic variation, barrier and intervening buildings should be included in the report.*
- *Noise measurements should be conducted on site and measurement results should be included in the report.*
- *The noise prediction assumed relatively flat conditions between the dog kennel and the proposed dwelling. The barrier effect from the ridge and rock outcrop between the dog kennel and the proposed dwelling has not been considered.*

Craig Hill Acoustics

- *The noise criteria in section 2.1 does not have references to any governing authority.*
- *Dogs were assumed to be in the run area during day measurement and in the night boxes during early evening measurements. However, the measurements results for both day and evening measurement were similar. Further justification for the similarity of the results is required.*

- *The recommended glazing rating of STC39 in Table 4.4 cannot be readily achievable with single glazing.*

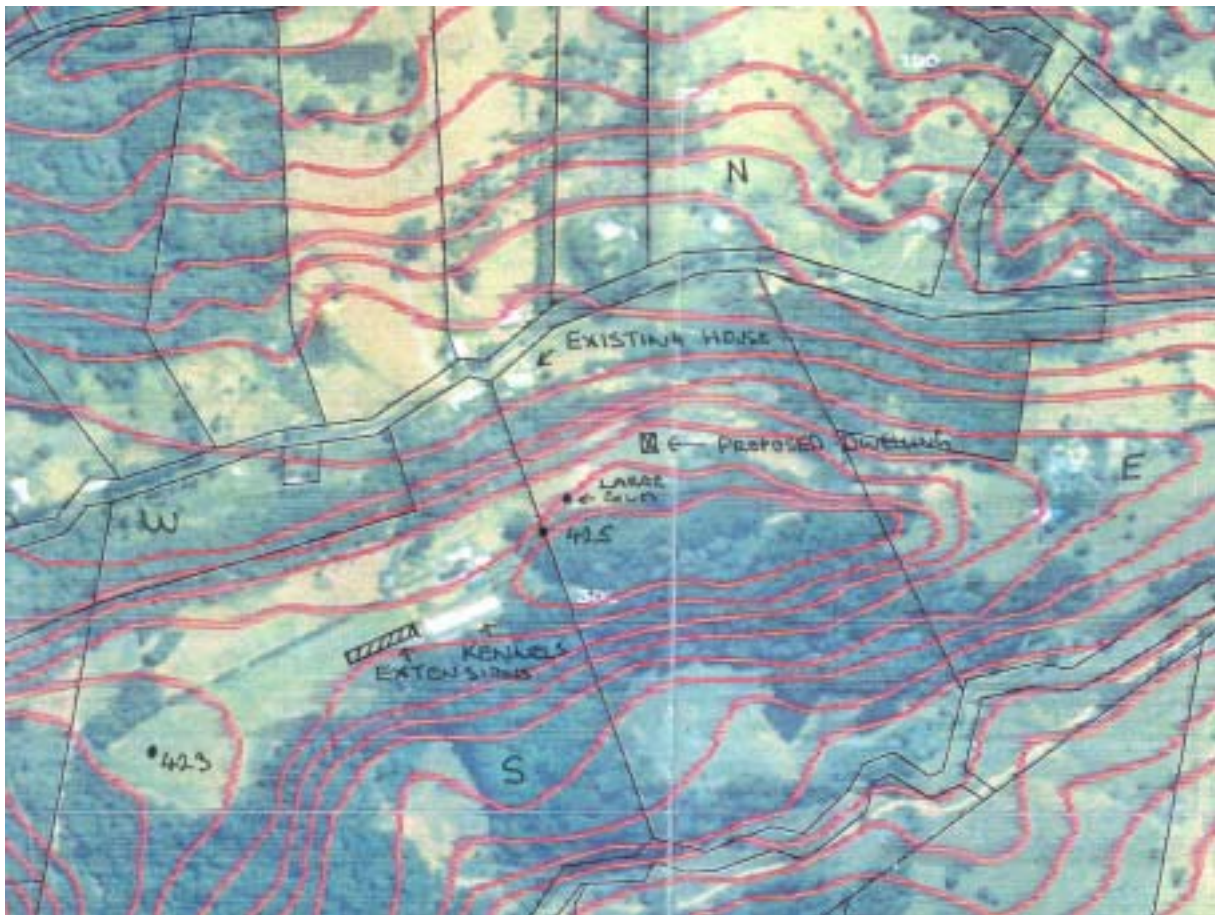
Overall, the noise impact from the dog kennel should be assessed with the NSW EPA Industrial Noise Policy. The comments above should be addressed. At this stage, we cannot give a preference in the decision making process until these issues are addressed."

It should be noted that Vipac could not at that stage give a preference to either report until the issues they identified were addressed.

During the period when Vipac were reviewing the respective reports, a second report was received from McNeilage & Associates Pty Ltd dated 19 October 2003.

This report contained noise level readings as recorded by two (2) acoustic loggers positioned at different locations on the Coolangatta Pet Motel property as indicated on the attached plan.

Map 1: Location of kennels, loggers and proposed house site



10 metre contours shown in red
Source of base map Tweed Shire GISWEB

The data loggers were recording from 2 October 2003 to 6 October 2003.

Tables 1 and 2 taken from the report show the results for selected periods for both acoustic loggers, while Table 3 indicates the expected noise levels at the proposed residence location.

Table 1: Logger 422 – Noise levels for selected periods.

DAY (0700 – 1800)

			Leq	Lmax	L10	L90
		Average	42.8	56.2	46.4	33.0
From	3/10/2003 7:00	Min	33.5	47.2	34.7	28.5
To	3/10/2003 16:25	Max	51.4	79.3	55.9	47.8

			Leq	Lmax	L10	L90
		Average	41.3	55.5	44.4	31.8
From	5/10/2003 7:00	Min	33.7	47.1	35.9	29.7
To	5/10/2003 11:55	Max	56.6	72.9	60.9	39.3

EVENING (1800 – 2200)

			Leq	Lmax	L10	L90
		Average	43.0	53.7	44.6	40.8
From	3/10/2003 18:00	Min	38.9	45.1	40.6	36.7
To	3/10/2003 21:55	Max	48.1	65.8	51.3	44.6

			Leq	Lmax	L10	L90
		Average	40.2	48.5	42.1	36.3
From	4/10/2003 19:00	Min	35.2	41.0	37.1	30.5
To	4/10/2003 21:55	Max	46.2	61.8	48.5	43.8

NIGHT (2200 – 0700)

			Leq	Lmax	L10	L90
		Average	40.7	56.6	43.1	30.5
From	3/10/2003 5:00	Min	35.9	49.4	36.5	27.7
To	3/10/2003 6:55	Max	53.2	78.3	50.8	38.4

			Leq	Lmax	L10	L90
		Average	40.1	50.4	42.3	36.6
From	3/10/2003 22:00	Min	34.2	40.2	35.1	33.1
To	4/10/2003 4:55	Max	44.8	59.0	49.3	41.1

			Leq	Lmax	L10	L90
		Average	36.2	49.4	38.3	30.3
From	4/10/2003 22:00	Min	27.7	30.3	28.1	27.3
To	5/10/2003 6:55	Max	46.7	64.8	46.6	34.2

Table 2: Logger 425 – Noise levels for selected periods.

DAY (0700 – 1800)

			Leq	Lmax	L10	L90
		Average	48.4	62.2	51.7	35.0
From	3/10/2003 7:00	Min	37.2	51.6	34.8	28.8
To	3/10/2003 16:25	Max	59.8	77.2	65.6	51.0

			Leq	Lmax	L10	L90
		Average	44.8	60.2	47.6	32.3
From	5/10/2003 7:00	Min	35.8	48.2	36.0	28.3
To	5/10/2003 11:55	Max	60.1	71.6	67.0	47.9

EVENING (1800 - 2200)

			Leq	Lmax	L10	L90
		Average	47.8	56.8	49.8	45.0
From	3/10/2003 18:00	Min	42.4	47.1	44.4	38.8
To	3/10/2003 21:55	Max	53.4	72.5	55.1	51.6

			Leq	Lmax	L10	L90
		Average	39.8	51.8	42.7	32.0
From	4/10/2003 19:00	Min	31.8	41.0	35.0	28.1
To	4/10/2003 21:55	Max	49.3	62.6	54.0	37.4

NIGHT (2200 – 0700)

			Leq	Lmax	L10	L90
		Average	44.5	59.8	46.9	32.3
From	3/10/2003 5:00	Min	37.6	53.6	39.7	28.5
To	3/10/2003 6:55	Max	54.8	75.3	55.5	51.5

			Leq	Lmax	L10	L90
		Average	47.5	56.1	50.2	43.0
From	3/10/2003 22:00	Min	40.4	46.9	43.0	36.9
To	4/10/2003 4:55	Max	52.7	74.0	57.3	47.7

			Leq	Lmax	L10	L90
		Average	39.4	52.8	41.6	32.1
From	4/10/2003 22:00	Min	29.0	34.9	30.9	26.4
To	5/10/2003 6:55	Max	46.9	66.9	51.7	41.5

Table 3: Expected noise levels at the proposed residence**DAY (0700 – 1800)**

	Leq	Lmax	L10	L90
Average	42	56	45	32
Min	34	47	35	29
Max	55	76	58	44

EVENING (1800 -2200)

	Leq	Lmax	L10	L90
Average	42	51	43	39
Min	37	43	39	34
Max	47	64	50	44

NIGHT (2200 – 0700)

	Leq	Lmax	L10	L90
Average	39	52	41	33
Min	33	40	33	29
Max	48	67	49	38

The report concluded with the following recommendations.

Recommendations

I repeat my earlier comments below, and note that the report prepared by Craig Hill is both very limited in the range of monitoring undertaken, and may contain a number of errors.

The selected site for the proposed new residence on the adjacent land is the worst location that could have been selected in regard to noise impacts from the kennels. Dog barking can be annoying to many people. The proposal submitted is highly likely to result in complaints to the Tweed Shire Council in regard to noise from the adjacent kennels.

It is strongly recommended that you object to the proposal and urge the Tweed Shire Council to reject the development application at the proposed site.

If Council do allow construction of the proposed residence it would reduce the risks to your business if the following conditions were set:

- A comprehensive acoustic assessment and design report is prepared by the proponents and that considers all potential noise impacts including kennel barking and that demonstrates that the residents will enjoy adequate acoustic amenity. This report should include extensive continuously supervised monitoring results.*

- *Future potential buyers of the proposed residence are informed that a dog kennel is located close to the property boundary, and that dog barking may occur.*
- *Building designs must demonstrate acceptable acoustic amenity will be achieved outside and within the proposed dwelling."*

This second McNeilage & Associates report dated 19 October 2003 along with a copy of a plan prepared by McLauchlan Surveying dated 20 February 2004 for the applicant was sent to Vipac for review in accordance with previous decisions to seek an independent review of the Craig Hill and initial McNeilage reports.

A response from Vipac was received on 16 March 2004 which contained the following advice.

"The rocky outcrop provides noise shielding from the eastern part of the kennel but there is a direct line of the sight between the western part of the kennel and the proposed building envelope. The predicted external noise level at the proposed development due to dog barking from the western part of the kennel is predicted to be in the order of 50 dB(A) to 60 dB(A) which may cause sleep disturbance and will most likely exceed the Project Specific Noise Levels from the NSW EPA Industrial Noise Policy.

We therefore agree with the recommendations listed in the McNeilage & Associates report."

Should Council resolve to approve the construction of the dwelling it should do so having regard to the following:

- The statement made in the McNeilage & Associates report dated 19 October 2003 as follows:

"These estimated noise levels from kennel dogs correlate well with the observed maximum noise levels (L_{max}) in the tables above, suggesting that levels of up to 65 dB(A) should be used to guide any decision about residential construction at the proposed house site until extensive direct observations are collected."

- With respect to the above statement, Council should note that no "extensive" direct observations have been collected on the proposed dwelling site.
- In recommending requiring the applicant to adopt construction measures aimed at satisfying the above 65 dB(A) guide for inside acoustic amenity no allowances have been made to address outside acoustic amenity levels.
- That McNeilage & Associates have stressed in their recommendations that "the selected site for the proposed new residence on the adjacent land is in the worst location that could have been selected in regard to noise impacts from the kennels" and that "the proposal submitted is highly likely to result in complaints to the Tweed

Shire Council in regard to noise from the adjacent kennels".

- It should also be noted that the second report by McNeilage & Associates dated 19 October 2003 was based upon noise level recordings carried out over a longer period of time than those carried out by Craig Hill Acoustics, although such recordings as carried out by McNeilage & Associates were unattended whereas the readings carried out by Craig Hill were attended.
- Recordings carried out over a longer period of time could be considered as indicating a more comprehensive assessment of the noise issue under investigation.

e) Public interest

The issue of public interest has been discussed above and it is considered that subject to the construction of the dwelling satisfying the recommendation of the submitted noise report prepared by McNeilage & Associates dated 19 October 2003 then no adverse public interest issues are likely to occur.

There is an obvious need for pet motels in the community and finding suitable locations is difficult. The current owner spent considerable time and had a number of appointments with the Development Assessment Panel prior to selecting the current site, thus it is considered important that the recommended conditions be adopted.

Conclusion

The application to construct a replacement dwelling on the subject allotment has been considered along with the submitted consultants reports. The objector has submitted his own consultants report in support of his objection to this proposal.

All the available information has been considered in the assessment of this application and it is considered that, on balance, the application can be supported.

Conditions of approval which specifically relate to the construction of the dwelling are included hereunder and have been formulated in accordance with the recommendations contained in the noise report prepared by McNeilage & Associates dated 19 October 2003.

Recommendation:

It is recommended that Council resolve to approve the construction of the dwelling on Lot 6 DP 577427 No. 513 Carool Road, Carool, subject to the following conditions which are included in the recommendation section of this report.

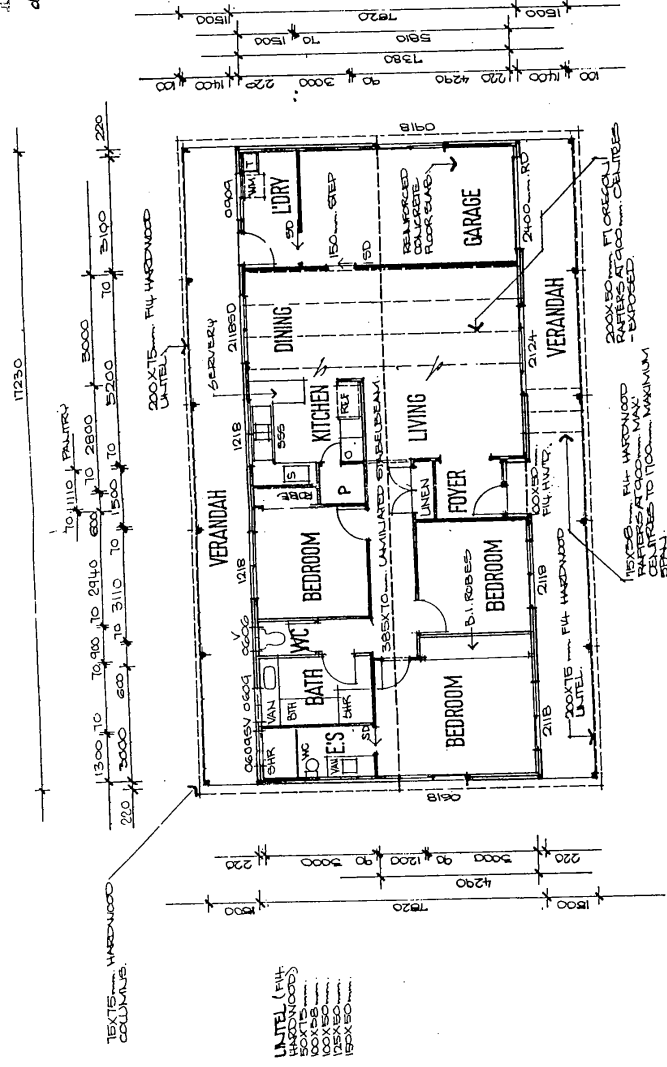
1. The dwelling shall be acoustically treated against intrusive noise from the dog kennels such that the level of intrusive noise does not exceed a measured noise level of 30 dB(A) when measured in any sleeping area, dedicated lounges or other habitable spaces inside the dwelling. For this purpose a minimum noise exposure

level of 65 dB(A) (adjusted) at the external wall facing the dog kennels of the dwelling shall be adopted.

2. The applicant shall be required to provide certified details to and receive approval of Council for the design, type and Sound Transmission Class/ Weighted Sound Reduction Index (STC/Rw) ratings of the construction materials to be used in acoustically treating the dwelling against intrusive noise from the dog kennels prior to the issue of the construction certificate. Mechanical ventilation shall be provided in accordance with the provisions of the Building Code of Australia where necessary to achieve required indoor design noise levels.
3. Certification is to be provided to the satisfaction of Council's Director Environment and Community Services from a suitably qualified acoustic engineering certifying that the dwelling has been acoustically treated to prevent intrusive noise from the dog kennels in compliance with the provisions of conditions of approval. Such certification shall be provided prior to the occupation of the dwelling.

and any other conditions as specified by the Director Environment & Community Services.

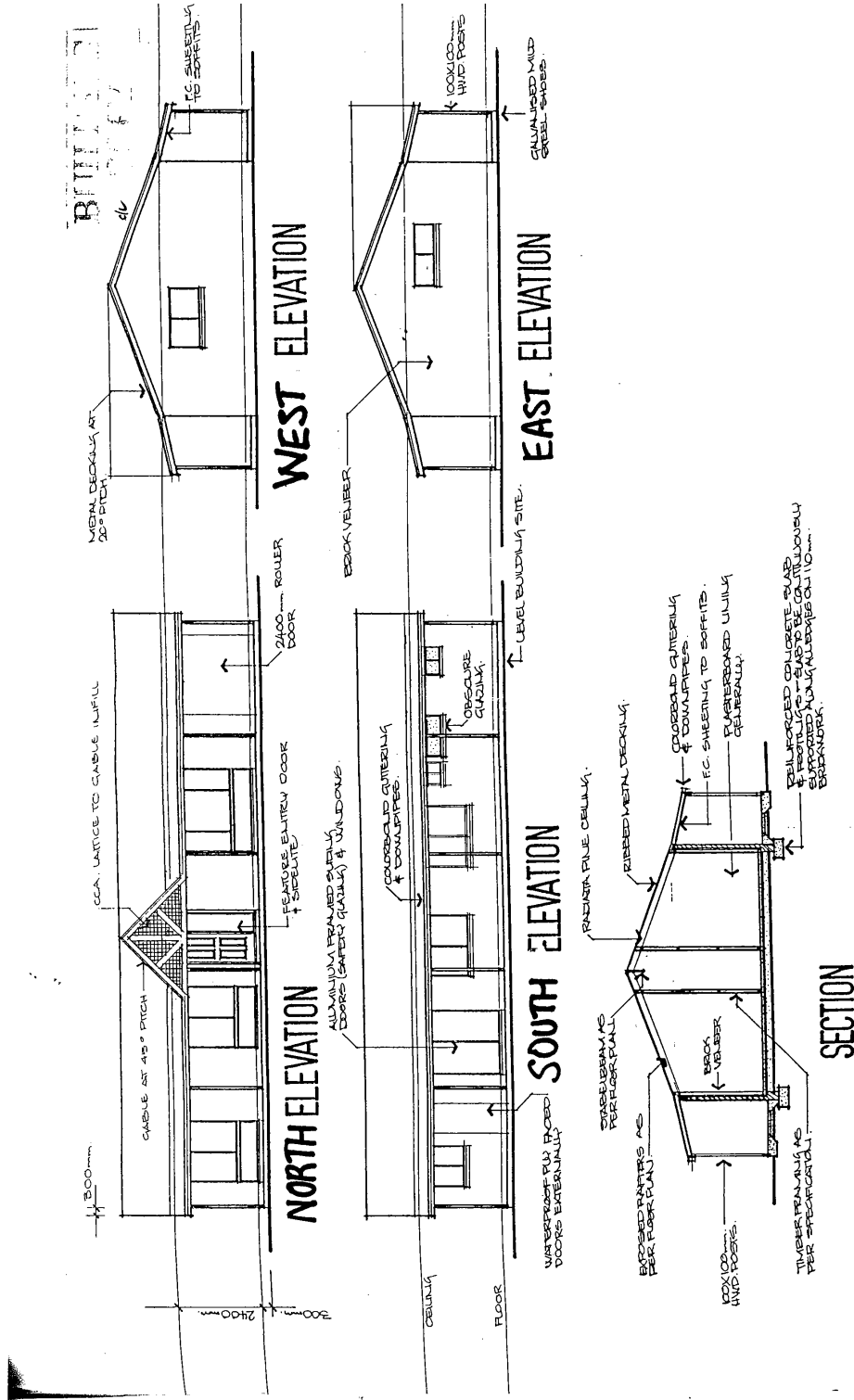
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 2004



FLOOR PLAN 1:100

PROPOSED RESIDENCE
 LOT 6 CAROOL RD CAROOL

- SPAN
- UP TO 6000
 - UP TO 1200
 - UP TO 1800
 - UP TO 2400
 - UP TO 3000
 - UP TO 3600
 - UP TO 4200
 - UP TO 4800
 - UP TO 5400
 - UP TO 6000
- UNITEL (FILL WARDWOOD)
- 200x75
 - 200x50
 - 150x75
 - 150x50
 - 100x75
 - 100x50
 - 50x75
 - 50x50



PARTNERS:
Paul Bolster
Mark Bolster LL.B.



paul_bolster@bolster.com.au
mark_bolster@bolster.com.au

BOLSTER & CO.
SOLICITORS

NEW SOUTH WALES & QUEENSLAND
A Solicitor Corporation under the Legal Profession Act

Your Ref: DA03/0080

Our Ref: PAB:JM:20034404

8 Beryl Street
Tweed Heads

PO Box 52
Tweed Heads 2485

Telephone: (07) 5536 1188

Facsimile: (07) 5536 1505

DA03 6218372

TWEED SHIRE COUNCIL	
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FAX: 02 6670 2590

FAXED

2 June 2003

Tweed Shire Council
Po Box 816
MURWILLUMBAH NSW 2484

Attention: Mark Roworth

Dear Sir

Re: **Bulke Objection to Development Application DA03/0080**

We act for Mr and Mrs Bulke who are the owners of the neighbouring property upon which they conduct the Coolangatta Pet Motel. On behalf of our clients we object to the above development application. The grounds for the objection are as follows:

1. The development application is inconsistent with the objectives of the rural 1 (a) zone in that it will compromise the continued use of the existing lawful boarding kennels on the adjacent property.
2. The Coolangatta Pet Motel is an existing lawful land use, development consent No 91/333 and development consent No 1339/2001 DA, and must be given determining weight in balancing the merits of development application No 03/0080.
3. The rural 1 (a) zone is the only appropriate zone under the provisions of Tweed LEP 2000 within which dog and cat boarding kennels can be suitably established.
4. The application seeks to replace an existing dwelling. The replacement dwelling must be sited at the location of the existing dwelling to maintain the status quo in terms of spatial separation and acoustic buffering.
5. Approval of the development application would be inconsistent with the provisions of policy and action No. 24 contained in Tweed 2000 + strategic plan which requires a buffer of 150 m from the boundary between agricultural land and a dwelling site. Mr Bulke currently undertakes Intensive horticulture pursuits on his land which involves ground spraying of herbicides and pesticides. The proposed dwelling will be located approximately 60 m from the common lot boundary. The prevailing winds in the area are generally from Mr Bulke's



property towards the proposed dwelling site. If this dwelling is approved our client will come under pressure to cease his lawful activity of ground spraying because of the spray drift towards the proposed house.

6. Approval of the development application would be inconsistent with the public interest as it would give rise to noise complaints against the existing lawful boarding kennels which have not previously generated any complaints from existing dwellings in the locality.
7. Significant and unacceptable adverse social and economic impacts would arise if the development application was approved in that it may give rise to the closure of the boarding kennels on our clients property resulting in the loss of four full-time equivalent employment positions and a loss in local economic benefits in the order of \$500,000.00 per annum. Further losses of indirect employment opportunities would also arise. The applicant has failed to address this issue in the development application. Our client at considerable expense has commissioned a noise consultant to assess the likely impacts of the proposed development taking into account our clients boarding kennel operation. Attached hereto is a letter from McNeillage and Associates Pty Ltd setting out the impacts of the proposed development. We draw your attention to this report and to the recommendations contained therein.
8. The proposed dwelling site is inconsistent with sound environmental planning principles in that the spatial separation between the site and adjoining incompatible land uses is manifestly inadequate.
9. The statement of environmental effects accompanying the development application does not adequately address issues relating to contamination, noise, socio economic considerations and buffering. It is therefore submitted that Council does not have before it a valid and adequate development application.
10. Insufficient information has been provided with the development application to enable Council to properly and fully assess the merits of the application in accordance with its statutory obligations.
11. Based on the information submitted it would appear that the dwelling site is in close proximity to a potential fire hazard which may trigger the integrated development provisions of the act. The development application does not adequately address this issue.
12. Available information indicates that the land on which the dwelling is proposed has previously been used for banana production however no information accompanies the development application in relation to potential contamination as is required by SEPP 55; The Environmental Planning and Assessment Act and councils contamination guidelines. It is therefore submitted that the



Messrs Bolster & Co

Page 3

development application is manifestly inadequate.

Our client has taken the opportunity of consulting two previous owners of the property, Mr Frank Walsh and Mr and Mrs Butler. In addition our client has also consulted an adjoining neighbour of 54 years standing Mr Arthur Bonser. We enclose herewith letters from Mr Walsh, Mr and Mrs Butler and Mr Bonser concerning the land use. These letters clearly demonstrate that the area proposed for the house has been used to grow small crops and bananas and that these crops were extensively sprayed with a variety of different sprays including arsenic.

13. The proposed dwelling site is located on a ridge line which is usually prominent and the erection of a dwelling in this location will result in significant adverse impacts on the landscape and scenic quality of the locality.
14. The statement of environmental effects does not adequately address impacts on flora and fauna as required by Sections 5 A and 5 C of the act, particularly as vegetation removal appears to be necessary to create the necessary bushfire asset protection zone.
15. Given that the development application indicates that the proposed dwelling house is intended to replace the existing dwelling house it is submitted that having regard to all the circumstances, the replacement dwelling should be located on or adjacent to the existing dwelling site.

Yours faithfully
BOLSTER & CO



PAUL BOLSTER

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT SERVICES

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

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

MATTERS FOR CONSIDERATION

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

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1 [DS] Section 96 Application to amend Development Consent DA03/1368 for the Johnny O'Keefe Sculpture at Road 5901, Wharf Street, Tweed Heads

ORIGIN:

Development Assessment Unit

FILE NO: DA03/1368

SUMMARY OF REPORT:

An application has been received to modify the consent for the proposed Johnny O'Keefe statue opposite the Twin Towns Services Club at Wharf Street, Tweed Heads. The proposed modifications involve relocation of the statue and increasing the height of the base of the statue by 800mm to 1.8m. The overall height of the statue including the base is proposed to be 5.1 metres.

It is considered that the revised location of the statue is suitable however the additional height is not considered acceptable at this location.

The entire approved structure consists of the following: -

- ⇒ Platform 200mm
- ⇒ Base 1.0 metre
- ⇒ Statue 3.1 metres

RECOMMENDATION:

That part of the Section 96 Application to amend Development Consent DA03/1368 for the Johnny O'Keefe sculpture at Road 5901, Wharf Street, Tweed Heads, to change the location of the statue be approved and Condition 1 be amended as follows: -

1. The development shall be completed in accordance with the plans approved by Council including Figure 1 and Figure 3 of the amended site plans and the Statement of Environmental Effects, except where varied by these conditions of consent.

REPORT:

Applicant: Tweed Shire Council
Owner: Tweed Shire Council
Location: Road 5901 Wharf Street, Tweed Heads
Zoning: Unzoned land
Cost: Nil

BACKGROUND:

Council considered a report regarding the Johnny O'Keefe bronze statue on 17 December 2003. The proposal included a base for the statue 1.8m in height.

It was recommended that the base be deleted so that the statue would be at or near ground level. Council resolved to permit a 1 metre high base. Consent was issued on 19 December 2003 with one of the conditions requiring the base to be 1 metre in height.

The proposed modifications are as follows: -

1. The location of the statue is proposed to be shifted approximately 15m south of the position shown in the original DA (see Figure 1 and 2). The original location is to be highly visible to passing traffic and may become a visual distraction to motorists. The revised location proposes to position the statue within a recess cut into the existing garden as shown in Figure 3. Palm trees will screen the view of the statue from the road.
2. The height of the base is proposed to be raised from 1m to 1.8m. The sculptor (Dr Koloszy) designed the base of the statue to be proportionally correct at a height of 1.8m as shown in the original plans.

It is considered that the proposed location is acceptable as it is unlikely that it will distract motorists or interrupt pedestrian movement.

The reason for the modified height relate to design and scale of the statue when viewed from ground level. It is contended that if the statue sits on a 1 metre base it will appear out of proportion. It is considered that the design should not have been finalised until the required approvals were in place. A 5.1 m high statue of a former entertainer in the footpath area is not considered desirable. A smaller structure at this location is considered to be more appealing and less obtrusive. It is considered that the 5.1m high statue will be imposing and will not make a positive contribution to the streetscape.

SITE DIAGRAM:



Figure 1: Previous and new location of statue.



Figure 2: Original location of proposed sculpture – highly visible to traffic.
NOT TO SCALE



Figure 3. Revised location of the sculpture - palm trees will provide a visual screen to passing motorists.
NOT TO SCALE

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

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

Tweed Local Environmental Plan 2000

The subject land is unzoned under the provisions of the Tweed LEP 2000. The development is permissible with consent from Council.

Council is required to consider whether the proposed development is compatible with development permissible in the adjoining zone and the character and use of existing development in the vicinity.

The adjoining land is zoned 3(a) Sub-Regional Business. The zone permits a wide range of commercial and tourist developments. Existing development in the vicinity consists of commercial and tourist uses. The proposal generally accords with existing and permitted development.

The site is within a class 2 acid sulfate area. Council's management plan for minor works is required to be complied with. Conditions will be imposed to reflect this requirement.

North Coast Regional Environmental Plan 1988

N/A.

State Environmental Planning Policies

The site is within the coastal zone as such SEPP-71 Coastal Development applies. The matters for consideration contained in the SEPP have been satisfied.

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

N/A.

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

N/A.

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

All matters satisfied.

(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 total height of the structure will be 5.1 metres above the existing footpath level. The statue could be located on the 1m high base and still have the same effect and be a point of interest for tourists.

Whilst the statue will be located in the footpath it is proposed to be sited clear of the main traffic route. It is unlikely that disturbance to pedestrians will occur. The application was discussed with Council's Traffic Engineer and no concerns regarding traffic have been raised.

(c) Suitability of the site for the development

There are no physical impediments or safety reasons why the statue should not be located at the proposed location.

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

The application was not readvertised. The original application was advertised and two submissions were received. The submissions related to the appropriateness of a Johnny O'Keefe statue at this location and that the visual appeal of the statue could be improved if the 1.8m base was removed.

(e) Public interest

It is considered that the statue will provide a point of interest for some sections of the community. Whilst the statue may not be universally accepted as tasteful it is considered that the structure will not have any significant detrimental impacts provided the 1.0m base is retained.

OPTIONS:

1. Approve the relocation of the statue but not the additional height.
2. Approve the relocation and the additional height.
3. Refuse the amended application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council will be responsible for the maintenance of the statue.

POLICY IMPLICATIONS:

The proposal is not contrary to Council's Public Art Policy provided the conditions of consent are complied with.

CONCLUSION:

It is considered that the existing overall height of 4.3 metres for the statue is considered reasonable. The amended location is considered acceptable. The additional height of 800mm is likely to result in the statue been obtrusive and at a scale that is not suitable for the location.

UNDER SEPARATE COVER:

Nil.

2 [DS] Development Application DA03/1259 - Demolition of Existing Dwelling & Construction of Multi-Dwelling Housing Comprising 3 Dwellings at Lot C DP 406494, No. 2 Boundary Lane, Tweed Heads

ORIGIN:

Development Assessment Unit

FILE NO: DA03/1259 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application for a multi-dwelling housing development containing three (3) units. The proposed building is five (5) storeys in height, and is accessed from Boundary Lane. The subject land has an area of 398.6m².

The application seeks a variation to the Building Line and design principles in Development Control Plan No. 18 - Tweed Heads. The submitted plans have not demonstrated compliance with on site car parking, however it is noted that the applicant contends the basement can be modified to comply.

During the public exhibition of the development application four (4) submissions were received objecting to the proposal. The application has not been supported. The number of non-compliances with the proposed development are considered to be representative of the over development of the site.

RECOMMENDATION:

That Development Application DA03/1259 for the demolition of existing dwelling & construction of multi-dwelling housing comprising 3 dwellings at Lot C DP 406494, No. 2 Boundary Lane, Tweed Heads be refused for the following reasons:

1. The proposed development is not considered to achieve the primary objective of the zone provided in Tweed Local Environmental Plan 2000 as good design outcomes are not achieved over the site.
2. The proposed development is in conflict with the provisions of Development Control Plan No. 18 - Tweed Heads in relation to the following:
 - The proposed development does not achieve the strategic policy for the precinct as provided in that landscaping should be of an appropriate scale relative to both the street width and the building bulk.
 - The proposed development is not considered to achieve the objectives of the building envelope provisions as the physical impact and bulk of the building has an impact on the adjoining public street.

- The proposed development is not considered to achieve objectives of the high density residential precincts in that the design will have unreasonable impacts on the streetscape.
 - ⇒ The proposed development is considered not to achieve the residential design principles of:
 - ⇒ Bulk and scale,
 - ⇒ Shadow impact to the adjoining property in mid winter,
 - ⇒ Landscaped area,
 - ⇒ Roofline,
 - ⇒ Car Wash Areas not being included in calculations for on site parking
- 3. The proposed development is not in the general public interest as it is considered to be an over development of the site.
- 4. The proposed Building Line Variation is not supported as it is considered to be unacceptable.

REPORT:

Applicant: Ms J Harvey
Owner: Ms J Harvey
Location: Lot C DP 406494 No. 2 Boundary Lane, Tweed Heads
Zoning: 2(b) Medium Density Residential
Cost: \$650,000.00

BACKGROUND:

Council is in receipt of a development application for the demolition of an existing building and the erection of a multi dwelling housing development comprising three dwellings in a five storey building.

The subject land has a 15 metre frontage to Boundary Lane, this is the only public street frontage for the development. Boundary Lane has a four metre wide pavement that can not support any on street car parking. The laneway is one way.

The proposed development is accompanied by a Building Line Variation as the open decks at each level are approximately 4 metres from the laneway alignment. Strictly the Building Line Policy does not apply to laneways, however in this case it is the primary and only frontage for the allotment, and as such the 6 metre building line should be observed.

The applicant submitted an application to vary the building line and such was not supported by the Building Surveyor. Issues in the Building Surveyor report were supported by the Area Team Meeting, including:

- Building Line Setback
- Size of Allotment
- Merits of the Design given the height and scale
- Cumulative Impacts
- Precedent of Development along laneway.

The proposed development also seeks variations to the design principles contained in Development Control Plan No.18 - Tweed Heads.

The following report assesses the proposed development in light of Council's controls and the issues raised above.

SITE DIAGRAM:



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

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

Tweed Local Environmental Plan 2000

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

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

The proposed development is medium density residential development and is the expected type of development for the zone objective. However the proposed development is not considered to achieve a good design outcome for the site. As such the proposed development is not considered to meet the primary objective of the zone.

Clause 15 of the TLEP requires essential services to be available to the site or satisfactory arrangements being made prior to Council determining an application. The subject site has access to essential services.

Clause 16 of the TLEP sets height limitations by way of a building height plan. The subject site has a height limitation of RL 50m AHD. The applicant has provided plans detailing the building height to be RL 42.46m AHD thereby complying with the height limitation for the site.

Clause 17 of the TLEP relates to the need for social impact assessment for development where Council is of the view that the development is likely to generate a social or economic impact in the locality. The redevelopment of this property in accordance with the identified controls for the site is not considered to raise significant social or economic issues.

Clause 35 of the TLEP relates to the management of acid sulfate soils. The applicant has submitted that due to the height of the land the proposed basement is not likely to intercept ground water or lower ground water in adjoining acid sulfate soil areas. Council's Environmental Health Surveyor has not raised any objection in relation to this aspect of the proposal.

North Coast Regional Environmental Plan 1988

Clause 32B of the NCREP is applicable to development in that the land is located in the area of Tweed Heads and is affected by the Coastal Policy. The proposed development does not result in the overshadowing of any coastal reserves. The applicant has submitted shadow diagrams which demonstrate the extent of impacts from the proposal.

Clause 43 of the NCREP aims at maximising residential densities of development to maximise the use of land and limit the size of roads. The proposed development is considered to be in fill development in an area identified for the proposed use and as such the proposed development is not considered to be in conflict with this clause.

Clause 51 of the NCREP relates to building heights and requires the consent authority to obtain concurrence of the Director General for buildings over 14 metres in height. The proposed building does not exceed 14 metres in height.

The proposed development is not considered to be in conflict with the provisions of the NCREP.

State Environmental Planning Policies

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

This policy requires development that is more than 3 storeys in height, and contains 4 or more self contained units to be assessed under the provisions of SEPP65. The proposed development is only for three units and as such the applicant was not required to complete a full assessment of the application under SEPP65.

The applicant has submitted that the proposed development has been designed with consideration to the design quality principles.

State Environmental Planning Policy No.71 - Coastal Protection

The subject land is not in a sensitive coastal location. The proposed development is 12.926 m above natural ground level at its highest point and as such Council is the consent authority for the proposed development.

Clause 8 of SEPP71 contains matters for consideration that have been addressed by the applicant. The proposed development is located approximately 300 metres from the Tweed River and foreshore areas, however the proposed development does not result in overshadowing of these areas.

The proposed development generally complies with the matters for consideration under SEPP71.

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

The proposed development does not raise the need for further assessment in relation to the existing draft environmental plans, as the height limitation for this site is based on an RL level and not number of stories.

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

Development Control Plan No.18 - Tweed Heads

The subject land is located in the Flagstaff Hill Precinct which is one of the high density residential precincts. The objectives of the high density residential precincts are:

- Develop the precincts primarily as high density residential areas which respect existing residential amenity;
- Provide additional housing choice in housing accommodation to cater for an increasing variety of household types;
- Facilitate an increased residential population in proximity to the sub regional centre of Tweed Heads to maximise economic and social benefits;
- Promote the efficient use of residential land;
- Develop a streetscape that reflects the climate, topography and lifestyle of the locality.

The proposed development is a high density residential development however it is considered through the assessment of the proposal that the impact of the development on the public road in terms of amenity from the setbacks and inadequate landscaping will not result in the laneway being developed to reflect the climate, topography and lifestyle of the locality.

The precinct has a strategic policy in relation to streetscapes and landscaping. Other than the need for applications to be accompanied by a landscape plan prepared by a qualified landscape architect, there is a requirement that:

- Landscaping should integrate site building design and blend new developments into overall streetscape,
- Landscaping should be of an appropriate scale relative to both the street width and the building bulk.

The proposed development provides a six metre setback from Boundary Lane on the basement floor plan however the ground floor plan is setback four metres from the laneway. The proposed development dominates the laneway frontage with a ramped entry into the basement and garage door entry, and block wall with minor screening to the laneway provided along the property frontage.

The proposed development is not considered to satisfy the requirement of the landscaping being to an appropriate scale for both the street width and the building bulk. The laneway is a four metre wide pavement and given the height and bulk of the proposed development the landscaping should provide relief to the public road frontage however this is not demonstrated in the

design. There is inadequate space on the allotment to provide the extent of landscaping for a development of this bulk.

Standard	DCP requirement	Variation / Complies
Building more than 8 metres in height	DA should be accompanied by a model, visual statement, shadow diagram, perspective drawings to demonstrate compliance with building envelope.	The proposed development does not comply with the building envelope and the application has only been accompanied by a set of plans including shadow diagrams.
Building Envelope	72 degrees from property boundary	The proposed development seeks a variation to the building envelope. This is further assessed below.
Building Mass	The bulk of a building should be reduced by breaking the building into smaller components.	<p>The proposed development has a bulky appearance from the Boundary Lane frontage as the building fully occupies the frontage with each storey providing minimum relief.</p> <p>The side elevations have attempted to break up the line of the building with different shaped buildings and some variation due to the building envelope, however these elevations have an imposing bulk in there appearance given the minimal side setbacks.</p>
Ventilation	Cross ventilation for high quality living.	The proposed development would achieve cross ventilation as the apartments occupy an entire level and therefore have access to the direction of prevailing winds and air movement.
Daylight Access	Daylight access to habitable rooms.	The living areas of the units would achieve this principle as they access sunlight from the balconies and Boundary Lane frontage.
Wind Mitigation	Minimise down draft impacts.	The proposed development does not adjoin a public footpath or other public land that would result in pedestrians being affected by the downdraft.

Overshadowing	Buildings should not overshadow reserves and consideration to mid winter impacts.	The proposed development does not overshadow a reserve, however the proposed development does result in shadow impacts to the adjoining property in mid winter that is considered to be significant due to the shadow dominating the times from 9.00am to midday. The applicant has identified the shadow times to extend from 9.00am to 4.30pm mid winter to adjoining properties and contends that the redevelopment of the adjoining properties will occur and therefore the shadow impacts will not be long term in this area.
Roof Lines	Roof lines should provide a visual interest.	The proposed development has an uninteresting roof line that does not provide and relief to the appearance of the proposed building and does not contribute to the streetscape.
Privacy	Visual privacy should be achieved between developments.	The proposed development has not demonstrated the relationship between it and future adjoining development, however from the location of large windows it is considered that visual privacy may be achieved.
Security	Security is to be provided in entrances and areas of surveillance in development.	The proposed development is provided with a basement and a gated pedestrian entry to the main entry. This area of the development is very small and narrow and is not visually prominent to the streetscape.
Materials and Colours	Buildings should be finished to a high standard.	The proposed development would be able to be provided to a high standard of colour and low reflective glass finish.
Access and Parking Car Wash	Access is encouraged from secondary frontages and parking should be provided in basements.	The access to the site is from the only frontage, this being Boundary Lane and dominates the streetscape. The car parking is provided in a basement.

Open Space and Balconies	Balconies to have a minimum area of 8m ² and a minimum dimension of 2m. Landscaped area should be 25m ² per unit.	The proposed balconies comply with the area requirements. The applicant contends that the development provides 124m ² of landscaping however it is noted from the site plans that the majority of this is hard stand paved areas with minimal garden beds provided. As the DCP only requires 25m ² per unit the proposal only requires 75m ² of landscaping. The impact from the bulk and scale of the development is not reduced by the landscaping.
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Building Envelope

The objectives of the building envelope provisions are:

- Ensure that building setbacks to property boundaries increase relative to any increase in building height;
- Minimise the visual and physical impact and apparent bulk of tall buildings on adjoining developments and public streets and spaces;
- Facilitate adequate sunlight access to and minimise shadow impact on adjoining properties and public streets and spaces;
- Reduce ground level wind effects caused by tall buildings;
- Facilitate the development of taller, narrow buildings which produce visual diversity and can preserve important view corridors.

The proposed development encroaches into the building envelope with the stairwells intruding as well as eave overhangs. These components of the building are not residential spaces however the design of the components encroaching into the building envelope do not enhance the design or provide an improvement to the building. Rather these encroachments are a result of the building envelope being maximised to achieve a density outcome on the site.

The proposed development is not considered to achieve the objectives of the building envelope provisions as the physical impact and bulk of the building has an impact on the adjoining public street.

The proposed development is considered to exceed the design principles for the site as set out in Development Control Plan No.18.

Development Control Plan No.2 - Car Parking

The proposed development requires the provision of 5 car parking spaces at the rate of 1.5 per unit. The plan submitted for the basement only identifies three spaces however the applicant contends that with a minor modification the proposal can accommodate four spaces in the basement. At the entry to the development, access from the driveway level, the development provides one visitor space adjacent to a car wash bay that the applicant has submitted to be used also as a parking space. As such the proposed development can with minor changes provide five spaces.

Compliance with the on site car parking for this proposal is important as the public street does not provide the possibility for any casual on street parking. As the applicant contends the proposal can be modified to comply with DCP2 this is not included as a reason for refusal.

Development Control Plan No.39 - Energy Efficient Housing

The applicant has submitted NatHERS certificates for each of the proposed units and demonstrates compliance with the requirements of DCP 39.

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

The subject land is affected by the NSW Coastal Policy. The proposed development is not considered to be in conflict with the strategic aims and goals of this policy.

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

Residential Design and Amenity

The non compliances with DCP 18 have been detailed. The variations being sought to the design principles in DCP 18 reduce the amenity of the development and surrounding area. The applicant has submitted a building line variation that has been assessed and not supported due to the impacts of such a building line variation to a narrow laneway. The potential for future developments along the laneway requesting the same would result in an unacceptable cumulative impact.

The proposed development would result in an unacceptable impact to the amenity of the surrounding area and the future redevelopment.

(c) Suitability of the site for the development

Size of Allotment

The subject land is not considered to be suitable for a development of this scale and bulk as the site area is only 398.6m². This small site area is further exacerbated by the allotment only having a frontage to a laneway that is

relatively narrow. The subject land does not have the relief of public footpath of wide road reserve to assist in meeting the design principles detailed in DCP 18.

The site needs to provide all landscaping and visual relief within the development, and as the proposal attempts to maximise density, an over development of the site results.

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

The proposed development was advertised for a two week period during which four submissions were received. The following table addresses the issues raised in the submissions.

Issue	Detail	Assessment
Access and car Parking	Concern was raised in relation to the proposed car parking and access to the development.	<p>The applicant has submitted that the development only needed to provide 5 spaces together with one wash bay under DCP 2, and therefore the proposed development complies.</p> <p>The proposal combines the wash bay with one of the spaces and this is considered unreasonable as the development should be able to accommodate 5 vehicles in addition to the car wash bay.</p> <p>The applicant has acknowledged that the car wash bay cannot be used as a visitor space and as such has indicated that the basement can be modified to comply.</p> <p>The applicant has submitted that a no standing zone exists down the laneway that is enforced by the police. And therefore the development would not be able to impact on the lane with informal parking.</p> <p>The issue of car parking is not a reason for refusal as the applicant contends the development can be modified to comply.</p>

Over Development	Concern was raised that the proposal is an over sized development.	<p>The applicant contends that the development is within the expectation for the site as detailed in DCP 18 and the height limitation for the site.</p> <p>While the proposal does not exceed the height limitation it is considered that the bulk and scale of the development and the impacts to building envelope are a reflection of over development of the site. The number of non compliances detailed in this report conclude that the development is an over development of the site and as such a reason for refusal of the proposal.</p>
Privacy	Concern has been raised that the proposed development will result in a loss of privacy to adjoining development.	<p>The applicant has submitted that this results from single dwelling houses within the medium density zones. The development has been designed to orientate balconies away from adjoining properties to minimise loss of privacy.</p> <p>The applicant submitted further plans to detail where privacy screens could be installed.</p> <p>This issue has not been included as a reason for refusal as it is difficult to quantify the areas of existing privacy being lost by the proposal.</p>
Noise and impacts during construction	Concern was raised in relation to location of air conditioning and during construction noise.	These aspects of the development would be conditioned in the event that the proposal was being approved.

The submissions received raised issues in relation to the proposal, some of which are included in the recommended reasons for refusal.

(e) Public interest

The proposed development is not in the general public interest as it is not in accordance with the development controls for the site. The number of variations being sought when considered in relation to the size of the allotment and bulk of the development result in over development of the site.

The proposed development is not in the general public interest for the locality.

OPTIONS:

1. Refuse the proposal for the recommended reasons.
2. Request conditions be brought forward to approve the proposed development.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has a right of appeal to the NSW Land and Environment Court if dissatisfied with the determination.

POLICY IMPLICATIONS:

Approval of this application would set an undesirable precedent in approving development that undermines the design principles of Development Control Plan No. 18.

CONCLUSION:

In conclusion it is considered that the proposal should not be supported for the reasons detailed in this report.

UNDER SEPARATE COVER:

Nil.

3 [DS] Tweed Futures Steering Committee

ORIGIN:

Strategic Town Planning

SUMMARY OF REPORT:

Council resolved on 6 August 2003 to review the Tweed Shire 2000+ Strategic Plan. The review (Tweed Futures) was to be assisted by the appointment of an Independent Facilitator.

The intention has been to integrate Tweed Futures with the preparation of the Management Plan, which is currently being drafted. Before this can be undertaken the Steering Committee needs to be reappointed.

The Steering Committee has proven to be invaluable to date providing direct access to expertise the Project Manager would not ordinarily enjoy. It is essential that the momentum of the project and the work of the Steering Committee be maintained. To achieve that the make up of the Committee should be retained, with the reappointment of all Members except the Deputy Mayor. A replacement Councillor for the former Deputy Mayor, George Davidson, is required.

RECOMMENDATION:

That Council:

1. Reappoints the following to the Tweed Futures Steering Committee:
 - G Sansom - Chair - non-voting)
 - Mayor
 - Cr Beck
 - Cr James
 - B Longland
 - R Quirk
 - R Wesener
 - M Leybourne
 - B Ray
 - T Watson
 - D Jardine (Tweed Futures Project Manager - non-voting)
2. Appoints a replacement for the former Deputy Mayor, George Davidson.
3. Notes that a Council Workshop in respect of Tweed Futures will be held on Tuesday, 4 May 2004.

REPORT:

Council resolved on 6 August 2003 to review the Tweed Shire 2000+ Strategic Plan, to be undertaken in two stages:

- Stage 1: Identification of Key Issues by March 2004.
- Stage 2: Preparation and adoption of a Strategic Plan following the Council elections in March 2004.

The review (Tweed Futures) was to be assisted by:

- The appointment of an Independent Facilitator;
- The establishment of a Steering Committee.

The following have been appointed to the Steering Committee:

G Sansom - Chair - non-voting)
Mayor, Cr Polglase
Deputy Mayor, Cr Davidson
Cr Beck
Cr James
B Longland
R Quirk
R Wesener
M Leybourne
B Ray
T Watson
D Jardine (Tweed Futures Project Manager - non-voting)

The Terms of Reference of the Committee are:

- To oversight and advise Council on the process for preparation of a new Tweed Strategic Plan;
- To ensure adequate and proper community consultation in the preparation of the Plan;
- To provide a channel for communication to Council of the full spectrum of community opinion;
- To offer guidance to Council staff engaged in preparation of the Plan;
- To make recommendations to Council on the format and content of the Plan, including recommendations on key issues and implementation mechanisms.

The intention has been to integrate Tweed Futures with the preparation of the Management Plan, which is currently being drafted. Before this can be undertaken the Steering Committee needs to be reappointed.

The Steering Committee has proven to be invaluable to date providing direct access to expertise the Project Manager would not ordinarily enjoy. It is essential that the momentum of the project and the work of the Steering Committee be maintained. To achieve that the make up of the Committee should be retained, with the reappointment of all Members except the Deputy Mayor. A replacement Councillor for the former Deputy Mayor, George Davidson, is required.

Subject to the reappointment of the Steering Committee, again to retain the momentum of the project, the following timetable to achieve a draft Strategic Plan with the Management Plan is nominated:

Monday, 3 May 2004	Steering Committee Meeting
Tuesday, 4 May 2004	Council Workshop (with the Steering Committee)
Wednesday, 19 May 2004	Strategic Plan submitted to Council

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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4 [DS] Tweed Local Environmental Plan 2000 - Definition of Bed and Breakfast

ORIGIN:

Strategic Town Planning

FILE NO: GT1/LEP/2000

SUMMARY OF REPORT:

On 19 November 2003 Council resolved to prepare a report on the implications of modifying the current Tweed Local Environmental Plan 2000 definition of "*Bed and Breakfast*" to a proposed definition that was presented in the Notice of Motion.

This report reviews the implications and impacts of the proposed definition.

RECOMMENDATION:

That this report be received and noted.

REPORT:

Background

On 19 November 2003 Council resolved that: -

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

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

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

This report reviews the proposed Tweed Local Environmental Plan 2000 (LEP) definition and what impacts that it might have.

General Principles

There is no standard definition of *Bed and Breakfast* across local environmental plans within New South Wales. However, there are some general principles that are consistent among adopted definitions. These are that the *Bed and Breakfast*: -

- forms part of a place of residence or dwelling,
- offers short term guest accommodation.

Other common features of local environmental plan definitions are: -

- That the *Bed and Breakfast* must provide meals or breakfast to guests,
- The size of the *Bed and Breakfast* is limited by the number of guests, number of guest rooms or size of the floor area,
- That no provisions be made available for the preparation of meals within guests rooms

Current situation

Council's current LEP 2000 definition of *Bed and Breakfast*: -

"the use of a dwelling erected with a building approval or development consent, in addition to its use as a principal place of residence, for the provision of:

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

The important part about the current definition is that the development must be part of a *dwelling* that has been erected, and that *dwelling* has been approved. That is the *dwelling* must be a lawful existing use before a *Bed and Breakfast* can be approved.

A Bed and Breakfast is permissible with development consent in all LEP zones except for: -

- 5(a) Special Uses
- 6(a) Open Space
- 8(a) National Parks and Nature Reserves

The main difference in the definitions from other local environmental plans is whether the dwelling is: -

- Lawful, and / or
- Existing.

This is important because it determines whether the *Bed and Breakfast* can form part of a development application for a dwelling or other building.

Model Provisions

The Tweed LEP has used the standardised set of definitions as presented in the Environmental Planning and Assessment Model Provisions 1980. These model provisions provide uniformity across land use definitions in most local environmental plans within New South Wales.

The definition of *Bed and Breakfast* is not included in the model provisions. Subsequently, the definition adopted in the Tweed LEP 2000 has been specifically drafted to suite the local requirements of this type of development as it arises in the Tweed.

Proposed Definition

The proposed LEP definition of *Bed and Breakfast* put forward in the Council resolution is: -

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

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

The most significant difference between the existing and proposed definitions is the removal of the words *"the use of a dwelling erected with a building approval or development consent"*. The removal of these words will have several implications;

- It would allow *dwellings* without historic approval (ie. illegal dwellings) to developed as a *Bed and Breakfast*,
- It would allow development approvals for a combined *dwelling / Bed and Breakfast* in zones where *dwellings* are not appropriate and are currently not permissible.

Legal Advice

Advice has been sought from Stacks on this matter and is provided as follows:

STACKS // NORTHERN RIVERS

17 February 2004

The General Manager
Tweed Shire Council
Tumbulgum Road
MURWILLUMBAH NSW 2484

LEP

TWEED SHIRE COUNCIL
FILE No. GT1/LEP 2000 Pt2
DOCUMENT No. 7002306
REC'D 18 FEB 2004
BOX No. []
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a member of
STACKS // THE LAW FIRM

12 Queen Street
Murwillumbah NSW 2484
PO Box 819
Murwillumbah NSW 2484
DX 20451 Murwillumbah NSW
Telephone 02 6672 1855
Facsimile 02 6672 4677
www.stacklaw.com.au

OUR REF:MMD:RP:40109
YOUR REF: GT1/LEP/2000 Pt2.

ATTENTION: MR. MARK TICKLE

Dear Sir,

Re: **TWEED LOCAL ENVIRONMENT PLAN 2000 -
DEFINITION OF "BED AND BREAKFAST"**

We refer to your letter dated 8th January 2004 seeking advice in regards to the resolution of Council of the 19th November 2003, changing the definition of a Bed and Breakfast in the Tweed Local Environment Plan 2000.

We note the current definition of the LEP is as follows:-

"The use of a dwelling erected with a Building Approval or Development Consent, in addition to its uses of a principle place of residence for the provision of:-

- (a) *Accommodation for people away from their normal place of residents; and*
- (b) *Meals and ancillary services, by the permanent resident, or residents of the dwelling for those people".*

We note the resolution of 19th November 2003:-

A report be prepared on the implications of the proposal to change the current definition of Bed and Breakfast to:-

"A dwelling used as a principle place of residence, and in addition for the provision of:-

- (a) *Accommodation for people away from their normal place of residents; and*
- (b) *Meals and ancillary services, by the permanent resident, or residents of the dwelling for those people".*

SYDNEY CANBERRA NEWCASTLE TAREE PORT MACQUARIE FORSTER MURWILLUMBAH TWEED HEADS
Liability limited by the Solicitors Scheme, approved under the Professional Standards Act 1994 (NSW) **STACKS // NORTHERN RIVERS** P/L ABN 35 105 147 626

Under the Tweed Local and Environment Plan 2000, Bed and Breakfasts are allowed in various zones (eg: 1a, 1b, 2a, 2b, 2d) only with the consent of Council.

We further note that under DCP No.: 40 - Exempt and Complying Developments, Bed and Breakfasts are a complying development and hence, do not require a Development Application to be lodged seeking consent under the provisions of the Zoning Requirements if they satisfy the following criteria:-

Bed and Breakfast

- * *Is an approved single dwelling house;*
 - (a) *Has no more than three (3) guest rooms; and/or*
 - (b) *Is not capable of accommodating more than six (6) guests;*
- * *Has only one external sign up to 0.6 square metres in area.*
- * *Complies with the Food Act, 1989, Food (General) Regulations 1992 and Council's Code for food premises.*
- * *Must comply with requirements for a Class 1b Classification set down under the "Classification" provisions of the Building Code of Australia.*
- * *Has a fire extinguisher and a fire blanket in the kitchen.*
- * *A reticulated water supply is available or, if this is not the case, than a potable water supply of at least 20,000 litres is available from a roof water catchment and a roof water management plan is submitted to and approved of, by Council, prior to the issue of a Complying Development Certificate.*
- * *If not connected to a Council reticulates sewerage system, the onsite effluent management facility must be adequate to cater for the development.*
- * *Approval from Council is required under Section 68 of the Local Government Act 1993 if the development involves any of the following:-*
 - (a) *Connection of a private drain to a public drain;*
 - (b) *Installation of a stormwater quality control devices;*
 - (c) *Erosion and sediment control plan works.*

The issue of the definition of Bed and Breakfast is dealt with in widely differing manners in different local authorities LEP's. To give but a few examples:-

1. An example of no restrictions.

Hawkesbury LEP 1989 - Section 39A
39A - Bed and Breakfast Accommodation

- (i) Nothing in this plan prevents a person from using an existing dwelling house for the purpose of a Bed and Breakfast Accommodation without the consent of the Council.
- (ii) In this clause, Bed and Breakfast Accommodation means an existing dwelling house with not more than four (4) bedrooms used to provide short term accommodation which may include meals.

2. An example of definitions with some restrictions.

Oberon LEP 1998 - Section 30
30 - Bed and Breakfast Establishments.

Development for the purpose of providing Bed and Breakfasts is prohibited unless the dwelling house in which it is carried out:-

- (i) Is connected to a reticulated sewerage system; or
- (ii) Is located on an allotment on which the Council is satisfied (by a geotechnical or water balance assessment) the disposal of waste water within the boundaries of the allotment is feasible.

3. An example of more stringent restrictions.

Lismore LEP 2000 - Section 57
57 - Bed and Breakfast Establishments in Urban Areas.

This clause applies to land within Zone 2a, 2f, or 2v.

A person must not carry out development for the purpose of a Bed and Breakfast Establishment on land to which this clause applies if there is vehicular access to or egress from the land directly to or from the Bruxner Highway or Bangalow Road and the speed limit at the point of direct vehicular access or egress is more than 80 km per hour.

The issue of how Bed and Breakfasts are dealt with, can be seen from the above to be different in Local Authority Areas and also, and most importantly, different between complying developments under DCP's stemming from SEP 60 and non-complying developments which are still possible with consent on a merits based assessment under the LEP.

This then means that it is possible to have a different definition for Bed and Breakfast under the LEP to that definition under the DCP No.: 40. Indeed the situation is currently that the definition under the LEP is in fact different to the DCP.

However, we draw your attention to one very important feature where there is compatibility between the current definition of the LEP and that under the DCP No.: 40, and that is in the use of the "approved" in the DCP and "building approval or development consent" under the LEP.

The resolution of the Council seeks to assess the impact of a re-definition of Bed and Breakfast under the LEP that would remove the requirement that the Building have approval or development consent for it to be approved under the LEP for use as a Bed and Breakfast.

We would advise that the proposed amendment to the definition under the LEP leaves the Council vulnerable to the possibility, faint as it may be, of a Development Application being lodged with the Council seeking approval under the LEP for the use of an illegal or existing but non-approved dwelling as a Bed and Breakfast.

While it may be that the Development assessment process involved would pick up the issue of whether the dwelling that is sought to be approved for the purpose of a Bed and Breakfast has prior approval it is not a foregone conclusion that this would be the case if definition does not require prior approval.

We would therefore see that the inconsistencies that are envisaged by the proposed change in the LEP, would leave the Council vulnerable to a member of the public being injured in a Bed and Breakfast establishment and then seeking to take action against the Council that issued an approval for the establishment to be used for a Bed and Breakfast when it ought to have known, or ought to have found out, that in fact the dwelling did not in itself have approval and was not complying with Council regulations and building codes.

We would therefore say that the impact of the proposed change is a negative one and advise against the proposal.

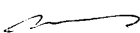
Instead, we would suggest the following definition:-

An approved dwelling, used as a principle place of residence which is also used for the provision of:-

- (a) *Short term accommodation.*

- (b) *Meals and ancillary services, provided by the permanent resident or residents of the dwelling which are incidental to the use of the dwelling for short term accommodation.*

Should you have any queries regarding the above advice, please do not hesitate to contact our Mr. Mark Delany to discuss.



Yours faithfully
STACKS //NORTHERN RIVERS
Mr. Mark Milne Delany.

Per:

Conclusions

Notwithstanding the suggestion by Stacks it is considered that the current definition of "Bed and Breakfast" in the Tweed Local Environmental Plan 2000 is adequate. There are appropriate mechanisms through the development assessment process to ensure the dwelling has Council approval prior to the approval of a 'bed and breakfast'.

It is recommended that no further action be taken in relation to the definition of "*Bed and Breakfast*" in the Tweed Local Environmental Plan 2000.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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5 [DS] Development Application DA03/0124 for an Attached Dual Occupancy at Lot 1 DP 373105, No. 26 Sutherland Street Kingscliff - Review of Determination

ORIGIN:

Development Assessment Unit

FILE NO: DA03/0124 Pt1

SUMMARY OF REPORT:

Council is in receipt of a request for Review of Determination in relation to a refusal notice issued for Development Application DA03/0124 on 25 September 2003. The application was lodged for a dual occupancy development comprising two residential storeys over a basement garaged area. A number of issues arose during the assessment that were reflected in the reasons for refusal. The applicant's architect has revisited the development in light of the issues and has provided a revised concept. The appropriateness of the revised development is assessed against the identification of the areas of concern and the means of impact amelioration. It is recommended that the review of determination should support the amended proposal.

RECOMMENDATION:

That Development Application DA03/0124 for an attached dual occupancy at Lot 1 DP 373105, No. 26 Sutherland Street Kingscliff be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects "Review of Determination" prepared by Jim Glazebrook & Associates dated November 2003 and Plans (as amended in RED) identified as DA0124 Sheets 1 to 12 dated 25/02/2004 prepared by Brian Kenny, except where varied by these conditions. [GEN0010]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0120]
3. The erection of a building in accordance with a development consent must not be commenced until:
 - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:

- (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (b1) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [GEN0150]*
4. 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]
 5. Prior to commencement of work pursuant to this consent a **Construction Certificate** shall be obtained for the works proposed and required by this consent.
 - a) copies of compliance certificates relied upon
 - b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks
 - road pavement
 - road furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, Country Energy and
-

Telstra)

- the approved Traffic Control Plan
- the relevant maintenance manuals (eg. G.P.T's, water pump station)

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

[GEN0140]

6. No external ground anchors are approved by this consent. Any works beyond the site boundaries not specifically referred to in this consent shall require the consent of the landowner and subject to separate prior development approval from Tweed Shire Council.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. Section 94 Contributions

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

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

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

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

- a. Tweed Road Contribution Plan: \$1,820
S94 Plan No. 4 (Version 4.0)

(Sector 6 - Kingscliff)

- b. West Kingscliff - Structured Open Space: \$131
S94 Plan No. 7

- c. West Kingscliff - Drainage: \$128.56
0.008ha @ \$16,070
DCP No. 9 S94 Plan No. 7

- d. Shirewide Library Facilities: \$212
S94 Plan No. 11

e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$48
f.	Community Facilities (Tweed Coast) (North Coast) S94 Plan No. 15	\$492
g.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$87
h.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$178.34
i.	Cycleways S94 Plan No. 22	\$50
j.	Regional Open Space (Structured) S94 Plan No. 26	\$361
k.	Regional Open Space (Casual) S94 Plan No. 26	\$67

[PCC0050/PSC0005]

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

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

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

Water: 1 additional unit \$4,110

Sewer: 1 additional unit \$3,290

South Kingscliff Water Levy: 1 additional unit \$211

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

Note: The Environmental Planning and Assessment Act, 1979 (as amended)

makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0070/PSC0004]

9. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCC0190]

10. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

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

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

[PCC0240]

11. A detailed plan of landscaping, prepared by a suitably qualified landscape architect, is to be submitted and approved by Council's Director - Development Services prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[PCC0010]

12. Development approval only is granted for a driveway from the development to connect with the adjacent public road.

You will be advised separately of the determination of your application to Council for consent under Section 138 of the Roads Act 1993 to construct or modify a driveway on the public road adjacent to your property

You must receive this separate written consent from Council under Section 138 of the Roads Act 1993 prior to the issue of a construction certificate which includes any works on the adjacent public road and prior to any works taking place on the adjacent public road.

[PCC0200]

13. The development application sought approval for stormwater drainage works under s68 of the Local Government Act 1993. The s68 application appended

to the development application did not contain sufficient detailed information for Council to fully assess the proposal.

The s68 application for stormwater drainage works is approved in general only.

Prior to approval being given to a construction certificate application that includes any of the following specific stormwater drainage works

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

Further approval is required from Council under s68 of the Local Government Act 1993 for these specific works.

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

[PCC0250]

14. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This may be achieved by on site detention (OSD), on site retention or a combination of both. Detention storage may be incorporated into surface depressions in landscaping or aboveground car parking areas. The maximum water depth under design conditions in aboveground vehicle parking areas shall be 200mm. OSD devices including discharge control pits (DCP) are to comply with standards in The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook, Third Edition, December 1999" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire. All these works and the connection to Councils drainage system shall be constructed in accordance with design calculations, plans and specifications to be submitted with the construction certificate application and approved by the Director of Engineering Services.

[PCC0260]

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

(a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 -*

Stormwater Quality" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.

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

[PCC0320]

16. All retaining walls are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

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

- (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
- (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
- (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
- (A) the method of protection; and
 - (B) the date of installation of the system; and
 - (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]

18. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council, or
- (c) if that is not practicable, any other sewage management facility approved by the council.

[PCW0060]

19. **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]

20. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:

- i. The person must, at the person's own expense:
 - a. preserve and protect the building from damage; and
 - b. if necessary, underpin and support the building in an approved manner.
- ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

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

[PCW0090]

22. 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]

23. 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 stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.

[PCW0250]

24. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

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

[PCW0190]

25. 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]

26. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR0040]

27. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.

[DUR0100]

28. 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]

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

[DUR0160]

30. 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]

31. 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]

32. a. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
b. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0210]

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

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

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

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

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

[DUR0220]

34. 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]

35. 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]

36. 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]

37. 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]
38. 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]
39. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.
- [DUR1040]
40. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.
- [DUR1070]
41. 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]
42. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.
- [DUR1160]
43. 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]
44. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1210]
45. Swimming Pools (Building)
- A. The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).
 - B. Swimming pools shall have suitable means for the drainage and disposal of overflow water.
 - C. The pool filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
 - D. The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction.
 - a. Steel reinforcing prior to the pouring of concrete.
 - b. Swimming pool safety fencing prior to filling the pool with water.
 - E. In the event that Council is not utilised as the inspection/certifying authority:-
 - a. Within seven (7) days of the filling of the pool a Compliance Certificate in the prescribed form shall be submitted to Council together with the prescribed fee, by the Accredited Certifier to certify that all works have been completed in accordance with the approved plans and conditions of Consent and that the swimming pool safety fencing has been installed and complies with AS 1926.
 - b. The Certifying authority is to be given 24 hours notice in writing for an inspection of the swimming pool safety fencing prior to filling the pool with water.
- [DUR1280]
46. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
- [DUR1290]

DURING CONSTRUCTION

47. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet, including the following specific work
- i. Bitumen sealing of accesses from the road carriageway to the property boundary of each proposed lot.
 - ii. Provision of 375mm minimum diameter pipe culvert crossings, including precast headwalls, to each lot to the satisfaction of the Director Development Services.
 - iii. Provision of standard vehicular crossings to each proposed lot.
- [DUR0390]
48. The concrete driveway across the footpath is to be constructed in accordance with the approved plan dimensions and be a minimum of 150 millimetres thick reinforced with F62 mesh.
- [DUR0450]
49. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet. Such to specifically include the following:
- [DUR0460]
50. 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]
51. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.
- [DUR0490]
52. The earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction.
- [DUR0620]
53. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services.
- [DUR1230]

54. The planter box atop the basement garage area along the eastern elevation is to provide suitable drainage, this must take into account heavy rain fall. No discharge from the planter box is permitted to occur beyond the property boundary.

[DURNS01]

55. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres, the balance area to be graded to the kerb and turfed. The footpath is to have a 3% crossfall which must be attained at each side boundary. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. The footpaving is to be located 800 millimetres from the property boundary. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and maintained unvaried across the (any) driveway cross-section. An inspection of the formwork is to be arranged with Council's Engineering Services Division prior to concrete being placed.

[DUR0520]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

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

[POC0020]

57. The use of any ancillary mechanical or electrical swimming pool devices, e.g. pumps & filters, shall be suitably located and screened so as not to cause a nuisance by way of noise or in being visually obtrusive to neighbouring residences.

[USENS01]

REPORT:

Applicant: Mr B Kenny
Owner: Resort Constructions Pty Ltd
Location: Lot 1 DP 373105, No. 26 Sutherland Street, Kingscliff
Zoning: 2(b) Medium Density Residential
Cost: \$450,000.00

BACKGROUND:

Council is in receipt of a request for a Review of Determination in relation to a refusal notice issued for Development Application DA03/0124 on 25 September 2003. The application was lodged for a dual occupancy development comprising two residential storeys over a basement garaged area. Issues arose throughout the assessment period with respect to the level of planning code compliance and appropriateness of design. The application was refused at a Development Assessment Panel meeting on 24 September 2003.

At a meeting of 5 November 2003 between Council Planning Officers, the landowner and his consultants, the reasons given for the refusal were discussed and alternative building design options tabled. Based on the issues raised in the meeting the building design has been revisited by the architect and a number of amendments have been made. The applicant, pursuant to cl.82A of the Environmental Planning and Assessment Act, 1979, lodged a request for review of determination on 18 November 2003. Pursuant to cl.82A(4)(c) of the Act the amended development is considered substantially the same development as the development described in the original application. The four principle areas of issue and the means of impact amelioration are set out below.

1. Floor Space Ratio

The development as originally submitted did not state the level of attainment with the *Site Density* provisions of Development Control Plan (DCP) No.6 - Multi-Dwelling Housing, s.3.1.3, in particular the Acceptable Solutions criteria A1 for floor space ratio (FSR) at 0.5:1. Using a planimeter the FSR was estimated at 0.8:1.

The objective of the site density design element states:

01. *To ensure that the building bulk of new development is compatible with the existing or desired future character of the locality.*

The DCP, s.2.4 *How Does Each Design Element Work*, states in relation to the objectives:

Objectives are a general statement of the overall intention of applying a design element. In complying with the objective of an element, an application can either use the performance criteria or the acceptable solutions or a combination of both.

Performance criteria of the DCP *are general statements of the means of achieving the objective and are not meant to be overly limiting in nature. Acceptable solutions on the other hand are provided as examples of what is considered acceptable to enable the performance criteria to be achieved, but should not be interpreted as an alternative prescriptive form of regulation.* The design elements of the DCP are structured having a hierarchal relationship with the 'objective' of the design element forming the principle provision, and the only one that must be attained.

The Applicant has since provided that the original FSR at 454.1m² was 0.9:1, which is now reduced to 0.7:1 (349.5m²) representing a reduction of 104.6m². The building footprint is 225m² with the remaining 274m² predominantly forming the sites ground level landscaping and recreational areas. The decrease in floor area and improved roof and balcony design has resulted in a reduction of building mass, providing a more balanced scale and appearance, which is more compatible to the existing built form. In this regard the development is considered to achieve the object of the design element and as such is not required to attain the acceptable solution example of 0.5:1. This was not so in the original application, where a correlation existed between the identified adverse external impacts, i.e. unnecessary levels of overshadowing and impact upon streetscape, and the buildings scale. In that instance, a smaller FSR, which could have been based on the DCP example, would have yielded a more acceptable development. In essence the revised design has moved closer to the DCP example as a result of 'de-scaling' the development.

The floor space ratio of the proposed development is considered acceptable in light of the attainment of the design element objective.

2. Building Setback

The original development presented setback to the eastern boundary ranging from 900mm to 4metres. The eastern elevation of the proposal is where the main areas of impact are likely to occur. It is therefore paramount that the building design respects the existing neighbouring residence, in particular the private open space areas. The revised proposal has by virtue of the decreased floor area permitted an increase in setback to the building of 1.5metres minimum. It should be noted that the building has a podium arrangement resulting from the use of basement garaging. The podium level which is approximately 300mm off the boundary rises between 1 to 1.4metres from natural ground level. The existing boundary fence is to remain.

Despite the increase in setback the podium area still presented an issue of concern because it had the potential to be accessed off the ground floor bedroom via a sliding door, and additional fencing would further impact the visual amenity of the neighbouring residence. To ameliorate these matters the applicant was requested to make further revision to the design. This has resulted in a 1metre deep planter box atop the podium, to be vegetated, and the replacement of the sliding door access with a window having a sill height of 1.5metres. Visual interaction between the ground floor level bedroom and kitchen areas is markedly reduced. The removal of access to the podium should ensure that the area is not used as an extension to outdoor recreational areas, which are generously provided to the south. In addition, utilising a planter box atop the podium will

assist in minimising the impact of the elevated podium, which should be largely obscured by the boundary fencing.

The reduced building size and increased setback to the eastern boundary will assist in minimising the impact upon the neighbouring property. The building setback is significantly greater than that required, and in this instance is considered satisfactory.

3. Building Plane Envelope

The proposed revised development provides areas of encroachment into the building envelope provided in the DCP example, s.3.3.1, acceptable solution A1. The reduced floor area of the development has resulted in a noticeable reduction in encroachment over the original design plans.

However, notwithstanding the minor encroachments the development satisfies the design element objectives, as follows:

Objectives

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

The revised development provides a very geometric stepped design that maximises building articulation and minimises structural massing. The building height is within the permitted design parameters and is consistent with existing development in the locality. The building itself is not particularly large and provides a reasonable scale of development with respect to its building footprint and provision of landscaped areas.

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

The revised design, as discussed earlier in this report, impacts upon the amenity of neighbouring properties to a far lesser degree than the original proposal. The external impact upon amenity likely to occur as a result of the development is considered to be an acceptable level for infill development.

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

The revised development provides for a high level of boundary setback. The main elements of the building are well sited with respect to neighbouring development, particularly in considering the relatively small site area, and the necessity in providing a rear setback of no less than 6metres to Sutherland Street.

04 To allow adequate natural light and ventilation between dwellings.

The proposed development provides good separation between neighbouring buildings that would permit satisfactory levels of natural light and ventilation.

4. Overshadowing

The development as originally proposed was identified as casting shadow during the winter period that would detrimentally impact upon the neighbouring residence to the east. The table below illustrates the extent of shadow coverage beyond the eastern property boundary during the most critical periods.

Table 1

Original Proposal				Revised Proposal			
Winter		Summer		Winter		Summer	
9.00	3.00	9.00	3.00	9.00	3.00	9.00	3.00
83m ²	388m ²	73m ²	Nil	27m ²	267m ²	51m ²	Nil
Shadow reduction				56m ²	121m ²	22m ²	-

The combination of a relatively small land area and large building resulted in a level of overshadowing over and above that which would ordinarily be anticipated from residential infill development, particularly if associated with a large single residence. As a result the architect has, as discussed earlier in this report, reduced the floor area of the building by 104.6m², increased building setbacks and made design revisions to the roof and balcony areas. The amended development is projected to cast significantly less shadow than previously. The most noticeable improvement is the winter period between 12noon and 3pm, although shadow will occur outside of these times. The benefit does not just rest solely in the overall reduced coverage but translates to mean that shadow will arrive later and pass through more quickly reducing the hourly period of effect, i.e. the true impact of shadow will not be incurred on the recreational areas of the neighbouring residence until an estimated 12.45pm to 3.30/4pm, whereas previously the time period is estimated at 11.30am to 4.40pm. The shadow cast during summer period is considered minimal. The cumulative impacts of overshadowing projected for the revised development are not considered likely to have a significant detrimental or adverse impact upon the outdoor recreational areas of the neighbouring residence to the east.

The duration of overshadow is estimated at being significantly reduced as a result of the revised development proposal, to the extent were the level of shadow would be comparable to a single dwelling house if one were to be erected in accordance with Council's building height limits and the Building Code of Australia setback provisions of 900mm to building 675mm to roof eaves.

In light of the above, the extent of shadow projected for the revised building design is considered acceptable and in accordance with the objectives of design element 3.3.6 *Energy Conservation* of Development Control Plan No.6 *Multi-Dwelling Housing*.

SITE DIAGRAM:



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

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

Tweed Local Environmental Plan 2000

The subject land is zoned Residential 2(b) Medium Density. Multi-Dwelling Housing, including 'dual occupancy', is identified in the primary objective of the zone as a preferred land-use. The objective states:

Primary Objective

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

The development as now proposed provides a high quality, modern, dual residential development that relates well to the existing urban environment. In this regard the development attains the objectives of the zone.

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

The development as proposed is not known to be inconsistent with any known Draft Environmental Planning Instrument.

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

As discussed in this report the main areas of concern are considered to be satisfactory with respect to the relevant development control plan.

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

The review of determination and assessment thereof is satisfactory with respect to compliance with Regulation 2000.

(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

Having regard to the issues raised in this report the development is not considered likely to have a significant detrimental or adverse impact upon the built or natural environment, socially or economically in the locality.

(c) Suitability of the site for the development

The suitability of the site for the proposed revised development is considered satisfactory.

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

The development application was publicly notified from 18 February to 4 March 2003. Four submissions were received. The review of determination, pursuant to cl.82A(4)(a) of the Act, was publicly notified from 12 to 26 March 2004. One submission was received. The issues raised in the submission are addressed in the following table.

Table 2 Points of issue raised in public submission

POINT OF ISSUE	IMPACT ASSESSMENT	COMMENT
Building exceed building plane envelope.	Point 3 of this report identifies the level of compliance in attaining the design objectives of DCP 6. The development in its amended form is considered satisfactory.	Does not warrant amendment or refusal of application.
FSR of 0.5:1 exceeded by 40%.	Point 1 of this report identifies the extent of variation to the DCP 6 acceptable solution parameters as it relates to floor space ratio. As discussed, the proposed amended development provides for a reduced floor area, which has improved the level of attainment of the DCP objectives to a satisfactory level.	Does not warrant amendment or refusal of application.
Does not maintain or enhance amenity of adjoining property	As discussed in this report the proposed development, as amended, provides for a high level of internal amenity and has been designed to limit the external impact of privacy, shadow and visual intrusion upon neighbouring residences, the local streetscape and the locality in general. Infill and renewal of existing residential areas can often provide many design challenges above that of new urban environments. The proposed amended building provides a well-balanced in-fill development that clearly demonstrates a fair compromise between density and scale relative to the	Does not warrant amendment or refusal of application

POINT OF ISSUE	IMPACT ASSESSMENT	COMMENT
Overshadowing will impact upon private open areas of neighbouring land.	existing urban context. Point 4 of this report identifies the extent of overshadowing and discusses its likely impact. The level of overshadowing likely to occur is not considered warranting of further amendment or refusal of the proposal.	Does not warrant amendment or refusal of application
The proposal includes excavation works within close proximity to the common boundary and will damage the existing fencing, and may cause damage to the building foundations.	Best practice building techniques exist to permit infill development of this nature without impacting upon neighbouring lands. The proposal does not include the use of external ground anchors. The proponent may opt for an alternative method of construction such as 'top down' construction and diaphragm walls. Detailed engineering information is required with a Construction Certificate.	Appropriate conditions imposed. Does not warrant amendment or refusal of application
Views to the beach will be lost (blocked-out) by the proposed building.	It is noted that the proposed new building will reduce visual amenity of neighbouring premises over and above that of the existing dwelling. However, as discussed in this report the proposed building is not considered excessively large, particularly for a duplex, and not dissimilar in size to many single residences being constructed in the locality and that could be erected upon the subject site without the need for achieving the same level of design parameters as required for dual occupancy development.	Does not warrant amendment or refusal of application
It is not clear whether the proposed louvring of windows will protect existing levels of privacy.	Fenestration on the eastern boundary has been designed and amended to minimise the visual interaction between neighbouring occupants and thus maintain the integrity of private areas.	Does not warrant amendment or refusal of application
It is not clear whether the planter box atop the basement level on the eastern boundary will	Water collected within the subject site will be required to be collected and disposed to Council's stormwater	Appropriate conditions imposed. Does not warrant

POINT OF ISSUE	IMPACT ASSESSMENT	COMMENT
discharge water under heavy rain to the neighbouring property.	network.	amendment or refusal of application
The details of the proposed landscaping species, in particular the sizes to which each species will grow, is incorrect and some species are not appropriate to the development.	A landscape plan prepared by a suitably qualified landscape architect is to be submitted to Council for approval. It is not uncommon for the final plan to be submitted prior to the release of the Construction Certificate.	Appropriate conditions imposed. Does not warrant amendment or refusal of application
Noise from pool filters may cause a nuisance.	The siting of ancillary pool electrical and mechanical devices will be required to be undertaken to minimise the impact upon neighbouring properties by way on noise.	Appropriate conditions imposed. Does not warrant amendment or refusal of application

(e) Public interest

The development as now proposed is not considered contrary to the public interest.

OPTIONS:

1. Approve the application and impose conditions of approval, as provided.
2. Confirm the refusal issued on 25 September 2003.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with the decision they have the right of appeal in the Land and Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The review of determination is based on a series of development plans that display a number of design modifications to the original development. The revisions, not all of which are significant in isolation, cumulatively serve to bring the development in-line with existing urban development in the locality and contribute in bringing about a more balanced and harmonious development. Impact upon neighbouring properties has been ameliorated to an extent that is considered acceptable for infill development and in the context of the site. The development is considered suitable for approval and as such the review of determination should succeed.

UNDER SEPARATE COVER:

1. Attachment (A) - Revised development Plans, for approval.
 2. Attachment (B) - Original development plans.
 3. Attachment (C) - Development Assessment Panel Report of 24 September 2003.
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6 [DS] Development Application D96/0229.01 for an Amendment to Development Consent D96/0229 for a Proposed Adult Escort Agency and Relaxation Centre including Prostitution (Brothel) at Lot 4 DP 800252 No. 76-78 Industry Drive, Tweed Heads South

ORIGIN:

Development Assessment

FILE NO: PF2620/110

SUMMARY OF REPORT:

Development Consent was granted by Council for an Escort Agency and Relaxation Centre including Prostitution (Brothel) in September 1996 - (although the premises had been allegedly operating as a brothel for several years prior to regulation). Condition 7 restricted the operating hours from 6pm to 6am in accordance with the Development Control Plan No. 31 Brothels Policy. The applicant now seeks to amend the consent under Section 96 to extend the hours to 10am to 6am which would be similar to the 24 hour operation of some other brothels within the Tweed Shire. Eight representations were received during the Public Notification period of which two "had no objection". There is no record of complaint on file regarding the past activities of the premises. The Land and Environment Court has also overturned Council's refusal of a request for a 24 hour operation in its judgement concerning the brothel at 31 Morton Street, Chinderah.

RECOMMENDATION:

That the Section 96 application in relation to Development Application D96/0229 for an amendment to the hours of operation for the adult escort agency and relaxation centre including prostitution (brothel) at Lot 4 DP 800252, No. 76-78 Industry Drive, Tweed Heads South be approved and Condition 7 be amended as follows: -

- "7. The establishment is permitted to operate between the hours of 10am and 6am seven days per week."

REPORT:

Applicant: Ms S Huish
Owner: A J Crowe
Location: Lot 4 DP 800252 No. 76-78 Industry Drive, Tweed Heads South
Zoning: 3(c) Commerce and Trade
Cost: Nil

BACKGROUND:

Development Consent was granted by Council for an Escort Agency and Relaxation Centre including Prostitution (Brothel) in September 1996 - (although the premises had been allegedly operating as a brothel for several years prior to regulation).

The establishment has continued to operate since that date with no particular record of complaint on file.

Proposal

Condition 7 of that Consent required that:

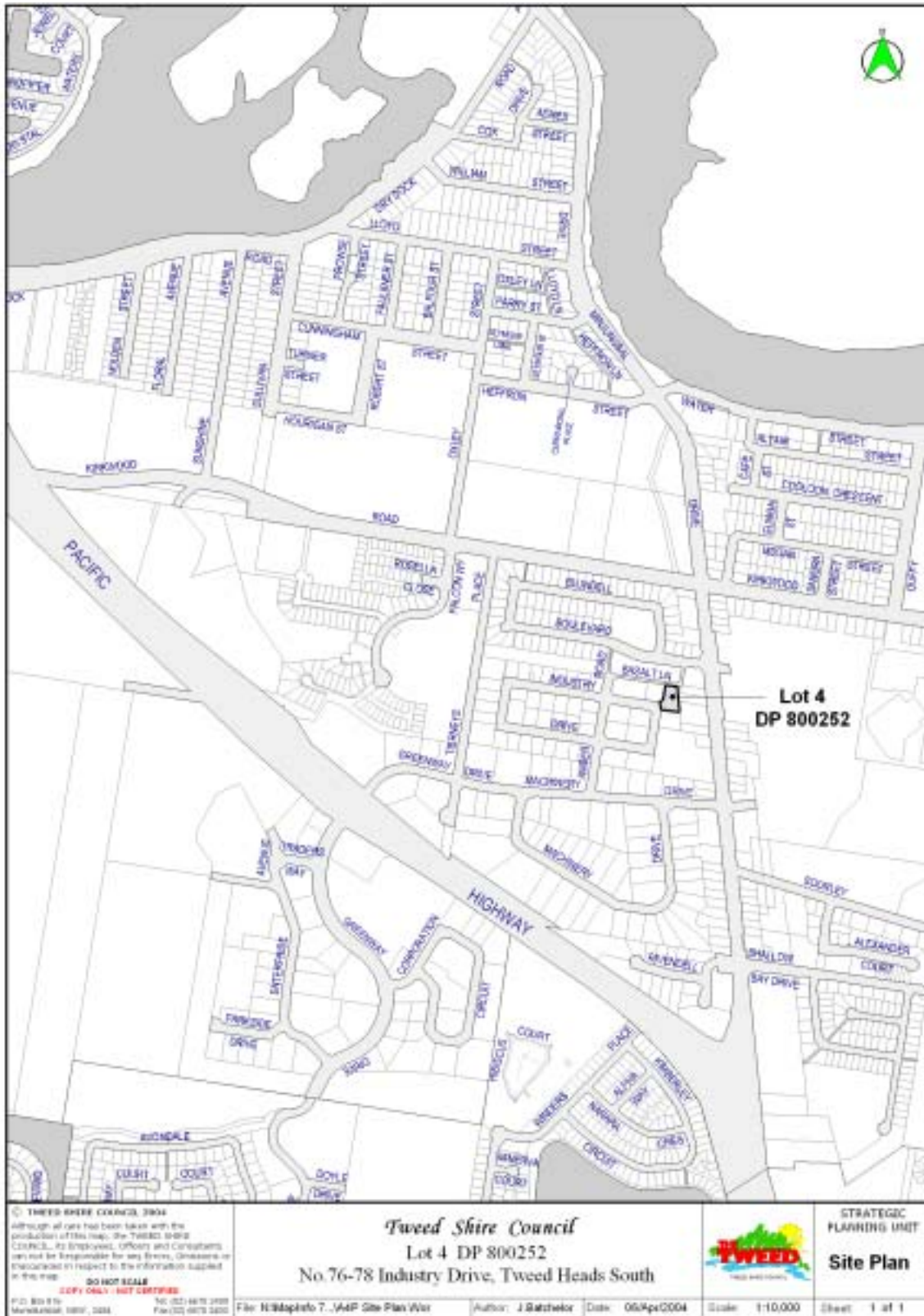
“the establishment shall only operate between the hours of 6pm and 6am.”

The applicant now seeks an extension of those hours from 10am to 6am to be consistent with other competitors (who have recently achieved consent to remain open 24 hours). Accordingly, a Section 96 application has been lodged to amend Condition 7 on DA96/0229.

In view of the changes to the legislation, brothels are now viewed as legitimate commercial activities. The applicant contends that the business is uncompetitive compared to other brothels which now legally operate 24 hours. She contends she offers an adult service which is currently disadvantaged economically by the unreasonable restriction on operating hours. The specific economic viability of any particular business is not normally a matter for planning consideration.

SITE DIAGRAM

The subject site is Lot 4 DP 800252 and situated between Industry Drive and Basalt Lane, Tweed Heads South. The site is occupied by a single 'factory' building divided into two tenancies with associated car parking accessed from Industry Drive



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 site is zoned 3(c) Commerce and Trade where brothels are now 'prohibited'. Brothels were 'Permissible with Consent' in 1996 when the Development Consent for the site was granted. The LEP has since been amended whereby brothels are now prohibited in all zones except within an industrial zone.

The use has not ceased since 1996 and therefore continues to enjoy Existing Use rights. Section 109(1) of the Environmental Planning and Assessment Act 1979 states that nothing shall prevent continuance of a lawfully established use. Although Section 109(2) generally disallows any "enlargement or expansion or intensification of the use...", this is qualified by Section 108(1) where the Regulations "may make provision for intensification" depending on the circumstances.

In this instance, the intensification is considered to be within acceptable levels. In a physical sense, the building would remain unaltered. There is likely to be an 'intensification' of activity over a 24 hour period, however the spreading of service opportunities to daytime between 10am and 6pm would in all likelihood be less intense than the existing after hours service.

There are considered to be no unacceptable impacts as a result of the amended hours.

- There are no other relevant provisions under the LEP.

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

None applicable.

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

DCP No.31 – Brothel Policy

Under the DCP, Council is required to have regard to matters such as separation distances (to churches, schools, any places regularly frequented by children, etc.); car parking; character of area; if other brothels are in proximity; access; disturbance due to hours and size; advertising signage and any general interference with the neighbourhood.

Any assessment should not appraise whether or not there should be a brothel, but rather should it offer its services for nearly 24 hours without restriction.

In view of the requirements of the DCP, the following assessment is made:

- The separation distances remain unaltered – there are no new schools, churches, playgrounds or similar within the 1 km radius, or other new land uses which may generally be at risk from the existing operation.
- Ample car parking is available on site and appears to be under utilised during business hours. There are 14 on site spaces which have been observed to be totally unoccupied during various inspections. In any case, the applicant states that most clients arrive either by cab or on foot. As there would be only 3 sex workers on site during business hours (compared to 6 after hours), no additional car parking is considered necessary.
- There are no new brothels within the immediate vicinity which may have altered the character of the area. The area continues to reflect a predominance of commercial and mixed industrial land use.
- There should be no undue disturbance as the rate of client activity has been observed to be much less than any of the surrounding factories or commercial activities.
- The existing entrance is reasonably discreet and opens onto the rear car park which is off Industry Drive. The business would continue to present a reasonably inconspicuous public profile, as it has only one access door which has no direct frontage onto a public road. The existing sign is almost illegible, as the paint/lettering has faded in time.

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

None applicable.

(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

As discussed earlier in the report, there appears to be no particular social detriment caused because of its obscure entrance, industrial/commercial context and conspicuous absence of passing pedestrian traffic. The limited level of written response during public notification confirms a general lack of concern by local businesses.

There is no evidence of any economic detriment created for local businesses. Only one local business has lodged a submission when invited to do so despite having had years of brothel operation to assess the situation (day time activity has apparently occurred illegally and informally for a number of years).

(c) Suitability of the site for the development

Given the commercial and industrial mix of surrounding land use, it is considered the site continues to be suitable for the use. On one side is a factory whose management is associated with the operation of the brothel and the other adjoining allotment is vacant.

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

The proposed S.96 amendment was advertised in accordance with DCP No.42. Over 1,700 Notification letters were sent out to property owners within a 1 km radius of the site and 8 written representations were received. A further two letters were received outside the Public Notification period and reflected the same issues as 6 of the 8 letters. Two letters stated "I have no objection to the proposed change of hours". The remaining 6 letters raised the following concerns:

- *"does not elevate or preserve moral values"*

This is a difficult factor to measure and is not generally a planning matter because of the subjective nature of any particular proposal. DCP 31 attempts to manage these issues by setting quantitative distances such as "Brothels will not be approved where...any points of access are.... within 50m of a bus stop or within direct view of a church, school or hospital. or a place frequented by children for recreational or cultural activities."

None of these circumstances are evident in this particular proposal as it has a discreet access/door onto a car park which relates to Industry Drive. The only abutting workshop is a fence/gate factory whose owner leases the tenancy to the management of the brothel. As the adjoining allotment is vacant (apart from the landlords workshop), the nearest factory/workshop is 90m away. The nearest retail outlet is orientated towards Minjungbal Drive and is a distance of 115m away. No commercial business has lodged a representation or expressed any concern regarding the existing operation.

- *"corresponds with opening hours of local businesses"*

The applicant contends that the clientele are not shoppers from the retail precinct over in Minjungbal Road, but drawn specifically from further afield. Their business is therefore not related to other local businesses and accordingly represents no commercial competition. No local business has responded with a complaint about loss of trade or financial penalty despite the brothel having operated for years during business hours.

- *“attraction to teenage school boys”*

This contention would be difficult to substantiate.

- *“12 hours is sufficient and provides adequate operational time”*

The operator contends her business is at a commercial disadvantage to those brothels permitted to operate 24 hours. Provided there is no threat to the social wellbeing of the immediate commercial area, there is no planning reason to restrict any particular business's operational practices.

- *“temptation to public using the retail area and local counselling facilities”*

The assessment criteria under Section 4 of DCP 31 are all satisfied (except for the hours of operation clause 6pm – 6am). The issue of 'temptation' is a personal matter and not generally one for consideration under planning assessment.

- *“generates additional traffic and parking”*

As the peak usage is after hours, the vacant car park (14 spaces) currently available during business hours, would be more than ample for any customers. As described earlier, it is contended that most clients currently walk or come by taxi. Given the capability of the local road system, traffic is not an issue.

It should be noted that the brothel operated without consent for a number of years prior to Development Consent in 1996 with no formal record of complaint evident on file.

The apparent absence of problems over the years and the minimal level of response relative to 1,700 letters being sent under public notification, are both factors which should be taken into account.

(e) Public interest

There will always be social resistance to such a land use, but under planning legislation, it is now recognised as a legitimate business. As to whether an extension of the activity may or may not be in the public interest is a matter for Council to determine.

The use may be in the public interest to the extent that it might be desirable to regulate the activity to ensure compliance with the law and relevant health standards.

OPTIONS:

The following options are open to Council: -

1. The application be approved
2. The application be refused.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

An appeal right to the Land and Environment Court exist for the applicant should she be dissatisfied with Council's determination.

Council has expended a considerable amount of money on legal fees on three cases. Council's decision to refuse a brothel at Wharf Street was overturned by the Court. That brothel's application to relocate to Ourimbah Road was again refused by Council but approved by the Court. The last case was a similar application to the current proposal, which sought an extension of hours to allow a 24 hour operation at an existing brothel in the industrial area at 31-33 Morton Street. Council refused the proposal and again this decision was overturned by the Court.

In view of these judgements and given the similar circumstances of this proposal, Council needs to carefully consider this request.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

In view of the minimal public response from both the general public and local businesses, and having regard to the past decisions of the Land and Environment Court, in relation to this matter, it is considered appropriate to amend condition 7 which restricts the hours of operation. This would allow the business to trade in a manner consistent with usual sex industry practices. The establishment has operated for a number of years without attracting any apparent complaint. Accordingly, the application is recommended for approval.

UNDER SEPARATE COVER:

Nil.

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7 [DS] Draft Tweed Local Environmental Plan 2000, Amendment No 7

ORIGIN:

Strategic Town Planning

FILE NO: GT1/LEP/2000/7

SUMMARY OF REPORT:

Draft Tweed Local Environmental Plan 2000, Amendment No 7, was exhibited for public comment between 21 January and 8 February 2004.

In 1989, Council resolved to proceed with the rezoning of the land indicated by Figure 1 from 1(d) Development Investigation to Part 2(c) Residential Tourist Zone and Part 2(a) Residential 'A' Zone. Because of delays in obtaining the funding for the project the LES was not finalised until April 2000.

Consultation with government agencies in relation to the Environmental Study raised a number of concerns to be further investigated.

Discussions with State Agencies concluded that there were significant issues which must be further investigated and resolved for Sites 3 and 4 as indicated by Figure 2. Sites 1 and 2 could be considered for rezoning. Council, at its meeting of 18 December 2002 considered a request from the proponent that the rezoning be divided into two parts, viz. Sites 1 & 2 and Sites 3 & 4.

On this basis Sites 1 and 2 were exhibited as draft Tweed LEP 2000, Amendment No 7.

The outstanding issue concerns the buffer around Sites 1 and 2. The Department of Environment and Conservation have required a 50m buffer in place of the nominated 10m buffer in the exhibited amendment. If Council wishes to maintain the exhibited 10m buffers it will be necessary to seek the agreement of the Department of Environment and Conservation.

RECOMMENDATION:

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

REPORT:

Background

Draft Tweed Local Environmental Plan 2000, Amendment No 7, was exhibited for public comment between 21 January and 8 February 2004. This report will analyse the submissions received before making a final recommendation.

Amendment No 7

In 1989, Council resolved to proceed with the rezoning of the land indicated by Figure 1 from 1(d) Development Investigation to Part 2(c) Residential Tourist Zone and Part 2(a) Residential 'A' Zone. Because of delays in obtaining the funding for the project the LES was not finalised until April 2000. Critical findings of the LES included:-

Flora and Fauna

- Three species of conservation significance use the subject land. They include the Wallum Froglet, Latham's Snipe and the Koala;
- Buffer zones are required to protect habitat, reduce the impact of weed invasion into the surrounding Cudgen Nature Reserve, reduce the impact of pollutants and sedimentation from future development and to act as a noise barrier from Clothiers Creek Road. In addition, management strategies should be adopted to educate future residents on fire hazard reduction and weed infestation.

Soils

- Acid sulphate soils are present on the site. Minimal disturbance is expected, due to the need to fill the site to achieve flood immunity. All fill should be imported onto the site from areas free of acid sulphate soils to achieve desired finished levels.

Flooding and Hydrology

- The site is flood prone and would require extensive filling to enable development in accordance with Council's requirements for flood prone land. Very conservative estimates have concluded that achieving a finished level of 3.4m AHD would lead to an increase in flood levels of approximately 40mm. Further assessment of the impacts on hydrology will be required once a development concept is finalised;
- In addition to filling the site, flood free access is required from Bogangar. As a result the road would need to be raised by 1.4m to the intersection of Kauri and Rosewood Avenues. If the Road were not raised, access to the

site would be denied for approximately two days in a 1 in 100 year flood event.

Water Quality

- Provided acid sulphate soils are managed and sediment and erosion controls are incorporated into future development, the potential impacts on water quality would be low.

Visual Impacts

- Vistas to Round Mountain should be retained;
- Cudgen Lake edge should remain undeveloped;
- A buffer should be maintained along Clothiers Creek Road to reduce visual impact of the development from road users.

Infrastructure

- Assessments of impacts on current infrastructure are based on estimated yield of 200 lots. Existing water and sewerage networks only have capacity for approximately 20 additional lots. The existing sewerage pump station at Willow Avenue may need to be upgraded and an additional pump station would be required for the western and southern side of the development. As such, upgrading of this infrastructure would need to be investigated;
- Electricity and telephone services will need to be extended to cater for the development;
- There will be little or no impact on community services in the area.

Conclusion

The LES concluded that potential environmental impacts could be satisfactorily managed by appropriate mitigation measures, including:

- Implementation of an Environmental Management Plan (EMP) as detailed in the LES;
- Hydraulic design to minimize the impact on the hydrology of Cudgen Lake;
- Incorporation and maintenance of the buffer zones and environmental corridors;
- Noise statement report including proposed noise mitigation measures;

- Best Practice stormwater management to reduce pollution loads into Cudgen Creek;
- Control of domestic dogs and cats;
- Traffic calming devices as detailed in the EMP;
- The adoption of a sediment and erosion control plan for the site;
- The retention and maintenance of the visual buffer along the Clothiers Creek Road;
- Education of construction staff regarding their responsibilities under the EMP;
- Provision of educational material, as described in the EMP, which would provide new residents with environmental information such as the protection of buffer vegetation, dumping of garden wastes, fires and living with native fauna.

Consultation With Government Agencies

Consultation with government agencies in relation to the Environmental Study raised a number of concerns to be further investigated, namely:-

- (i) Vehicular access to that portion of the land adjacent to Clothiers Creek Road;
- (ii) Water quality/stormwater controls;
- (iii) Potential contamination of groundwater;
- (iv) Likely disturbance of Acid Sulphate Soils from infrastructure works;
- (v) Flora and fauna (detailed survey required as per NPWS advice);
- (vi) Potential land contamination from prior landfilling;
- (vii) Source and quality of any proposed additional fill material;
- (viii) Fire management and buffers;
- (ix) Impact of widening Clothiers Creek Road on proposed buffer.

Based on the division of the study area into four (4) sites, (as indicated by Figure 1) and the issues raised by government agencies, a report to supplement the LES was subsequently briefed.

Sites 1 (1.7ha) and 2 (3.0ha) have been filled and, except for the canal edges, are clear of any vegetation. Sites 3 and 4 are located in the more sensitive southern and western area of the existing canal systems.

Discussions with State Agencies concluded that there were significant issues which must be further investigated and resolved for Sites 3 and 4. Sites 1 and 2 could be considered for rezoning. Council, at its meeting of 18 December 2002 considered a request from the proponent that the rezoning be divided into two parts, viz. Sites 1 & 2 and Sites 3 & 4.

At that meeting, it was resolved that Council:

1. Notes that exhibition of draft Tweed Local Environmental Plan 2000 (Amendment No.7) and an Environmental Study for Site 1 (2(c) Urban Expansion Zone) and Site 2 (2(a) Low Density Residential Zone) will proceed subject to any necessary further consultations with state agencies.
2. Defers preparation of a draft Local Environmental Plan for Sites 3 and 4 until flora and fauna issues have been resolved in consultation with the NSW National Parks and Wildlife Service.
3. Advises Planning NSW and NSW National Parks and Wildlife Service of 1 and 2 above.

On this basis Sites 1 and 2 were exhibited as draft Tweed LEP 2000, Amendment No 7.

Submissions

1. Local Residents

A number of objections were raised by nearby residents, for the following reasons:

- *There are homes already established adjacent to this land and it would be unthinkable to have these types of development possible under 2(c) zoning situated directly beside these homes.*
- *There are many young children in this vicinity and this type of development would be out of place other than Low Density Housing in a place in a quiet, no through road. Traffic is minimal through Tamarind and Willow Ave and this could change dramatically if the land was rezoned and then developed.*
- *As the land backs onto the canal, which in turn flows into Cudgen Lake, the development possible under 2(c) could be disastrous to this waterways. Local residents and their children use this canal and the lake on a regular basis for all manners of water activities.*
- *There have been many rumours surrounding the unwanted relocation of the Cabarita Hotel to the Cabarita Lake Resort and I am concerned that*

this sudden application for amendment to rezoning has a connection to this matter"

Responses

As exhibited the proposal was to zone the land at Tamarind Avenue to Urban Expansion 2(c). The local area is predominantly detached housing, therefore, if the subject land is to be considered for development, it would be more appropriate to zone the land Low Density Residential 2(a). This would meet the objections of residents.

2. Government Agencies

i. NSW Department of Infrastructure, Planning and Natural Resources

The Department has raised the following concerns:

- *"The LES fails to adequately examine the flooding issues resulting from development of the sites. The LES in fact states on p44 that "a more detailed analysis and modelling of the Cudgen Creek System and floodplain would be required to accurately calculate the effect of filling on flood levels" and p45 "More detailed analysis of drainage through the development site and through the canal is warranted at detailed design to ensure no impact on upstream flood levels". A large number of houses already occur on the floodplain to the east of the sites which are subject to flooding and any further development may severely impact on these houses".*

Response

The Environmental Study has concluded there are no basic flooding objections to the amendment. The detailed analysis is required for the design stage. The options for Council are to:

- Accept the argument and require it to be done as part of the development application, which would in any event be required by DCP 5. If there is any doubt about Council's ability to control the situation a clause could be considered for inclusion in the TLEP to the effect that:

'Council shall not consider a development application for the subject land unless it has considered a detailed flood impact study.'
- Require the detailed flooding analysis to be done prior to making a final determination.
- *"The development would require the raising of Clothiers Creek Road by at least 1.5 metres to maintain access in a 1:100 year flood (nb. It currently floods in a 1:20 year flood). The raising of this road would tend to act as a levee bank, which could result in significant flood impacts on the existing houses which are already flood prone".*

Response

In view of the limited amount of development it is not considered necessary to raise the level of Clothiers Creek Road.

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

Response

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

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

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

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

- *"The remainder of the area should not be developed because of the high groundwater table which varies from a maximum of 1600mm to the surface. These soils contain high levels of organic matter in the topsoil with Acid Sulfate Soils beneath and any disturbance of these soils may result in significant acidification with the resultant acid flows into Cudgen Lake".*

Response

Discussions with the relevant Agency have indicated that the 'remainder of the area' does refer to all land except the proposed two parcels of 2(a) and 2(c) land. The groundwater issues were most prohibitive.

With respect to acid sulfate soils and whether these soils are prohibitive, Council's Environment & Health Unit has indicated that *" identification and management of ASS is achievable, and therefore the presence of ASS is not considered a total impediment to the development"*.

Acid sulfate soils, particularly in close proximity to Cudgen Lake, require careful monitoring and management if the subject lands are to be developed. It seems that DIPNR were concerned about both groundwater and ASS issues, and therefore indicated the remainder of the land should not be developed.

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

Response

Not relevant to this draft Amendment.

- *"The Department is concerned that unauthorised filling of the proposed rezoned areas was carried out and that Council in turn has given development approval for the filling after the event".*

Response

The proponent's Consultant has indicated that:

"Sites 1 and 2 have been lawfully filled and only a small additional quantity of fill (estimated at 200m³) is required to achieve the minimum fill level contained in Tweed Shire Council's Development Control Plan No 5. The fill will be obtained from an approved source and will be of a suitable quality for residential filling purposes. In view of the small volumes involved it is submitted that this issue does not present a constraint to rezoning of the land".

ii. NSW Agriculture

The Department has raised the following:

"The only concern to this agency is the potential impact of the proposed filling on agriculture within this catchment. The explanatory note indicates that the site is flood prone and "would require extensive filling". The explanatory note indicates that conservative estimates are that a level of 3.4m AHD would create an increase in flood levels of about 40mm. It is requested that the expected change to flood heights be related to impacts on agricultural land uses."

iii. Roads & Traffic Authority

The RTA has raised objections to the Amendment unless the following are addressed:

"Proposed development has the potential to generate significant volumes of traffic. RTA is concerned that this type of development will indirectly impact on the new

section of the Pacific Highway between Yelgun and Chinderah with slower local trips.

Road Network

Existing section of Clothier's Creek Road between Bogangar and the Pacific Highway should be upgraded to cater for the impact of the additional traffic. Any intersection should be located where adequate Safe Intersection Sight Distances are available.

LEP should develop an internal road network to minimise the number of road junctions and to prevent direct access from individual lots to Clothiers Creek Road to maintain safety and traffic flow. RTA would recommend the use of AUSTRROADS standards for the design and upgrading of any existing or new intersection facilities. LEP should take into account the impact and location of commercial activities on the road network. They should not directly access arterial roads.

Overall planning should include a hierarchy of roads designed in accordance with current standards. Adequate widths should be provided for public transport routes. It should provide a self-enforcing speed environment and appropriate traffic calming devices at conflict points for different road users.

Where possible suitable road links should be established to adjoining development to reduce impact on major through roads. Off-road facilities should be constructed for pedestrians and cyclists to reduce vehicle usage and connections provided to existing routes.

Any community facilities such as schools should be located well away from major roads in a safer and lower speed environment. Provision should be made for both passenger and school bus servicing with circulating routes that have bus layby's and shelters.

Transport Infrastructure Contributions

Section 94 Plan should include the appropriate contributions for the provision of appropriate road and transport infrastructure as required.

Noise Impacts

Measures should be implemented to minimise the impact of noise on the proposed and existing development. The LEP should be supported by local policy or DCP that sets criteria through appropriate subdivision and building design."

Response

The RTA argued that no upgrade of Clothiers Creek Road (which is the responsibility of Council) was necessary as a consequence of the Pacific Motorway being constructed. The impact of the development of the subject land has been examined and concluded

that if Area 2 is to be developed, it must be serviced by a round-a-bout on Clothiers Creek Road to accommodate the development. This has been discussed with the proponent and accepted.

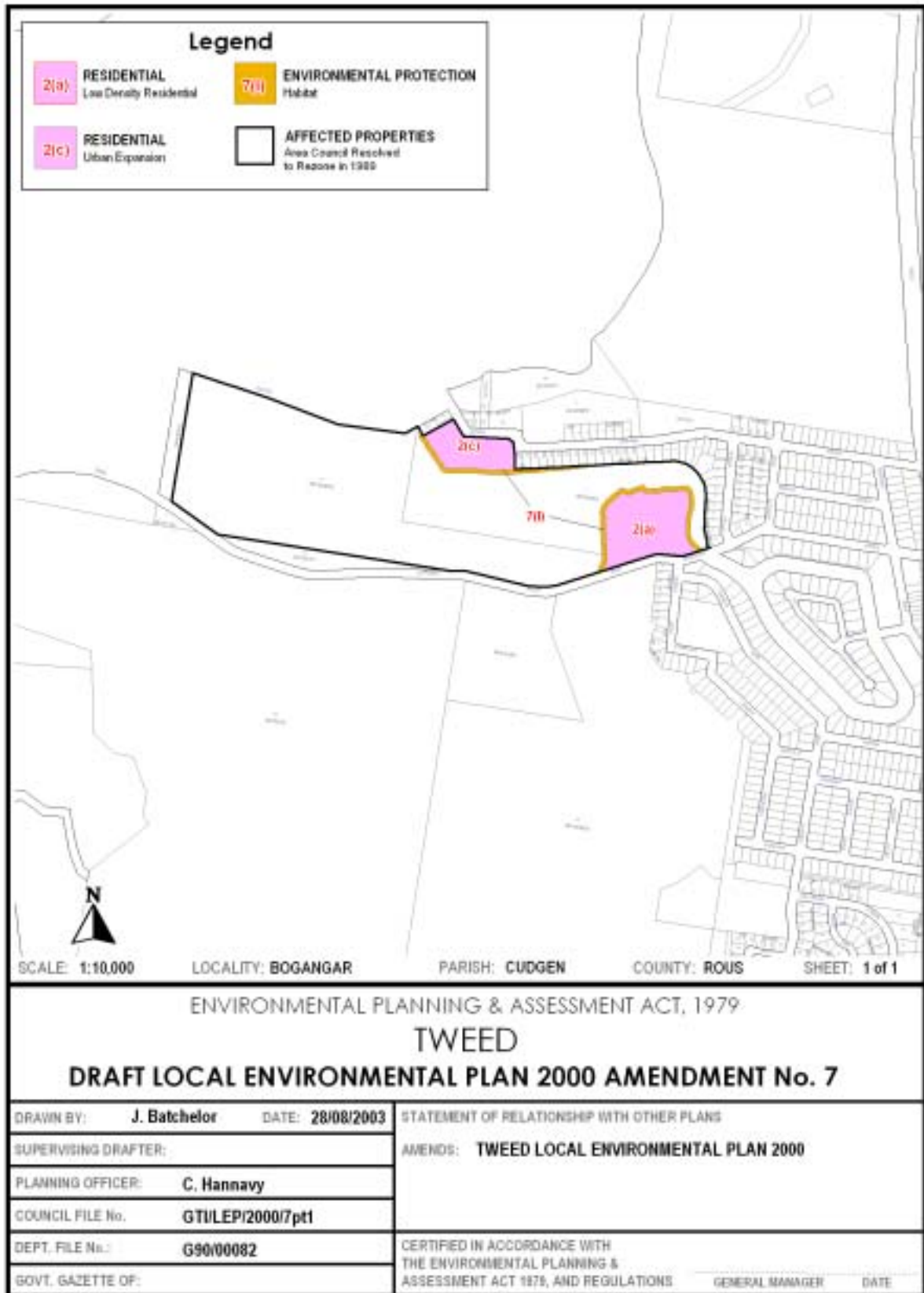
The only outstanding traffic issue for Council is the fact that a small section of Clothiers Creek Road is located within the proponent's land. Prior to submitting any LEP Amendment to the Minister, Council should secure the transfer of this land to Council at no cost.

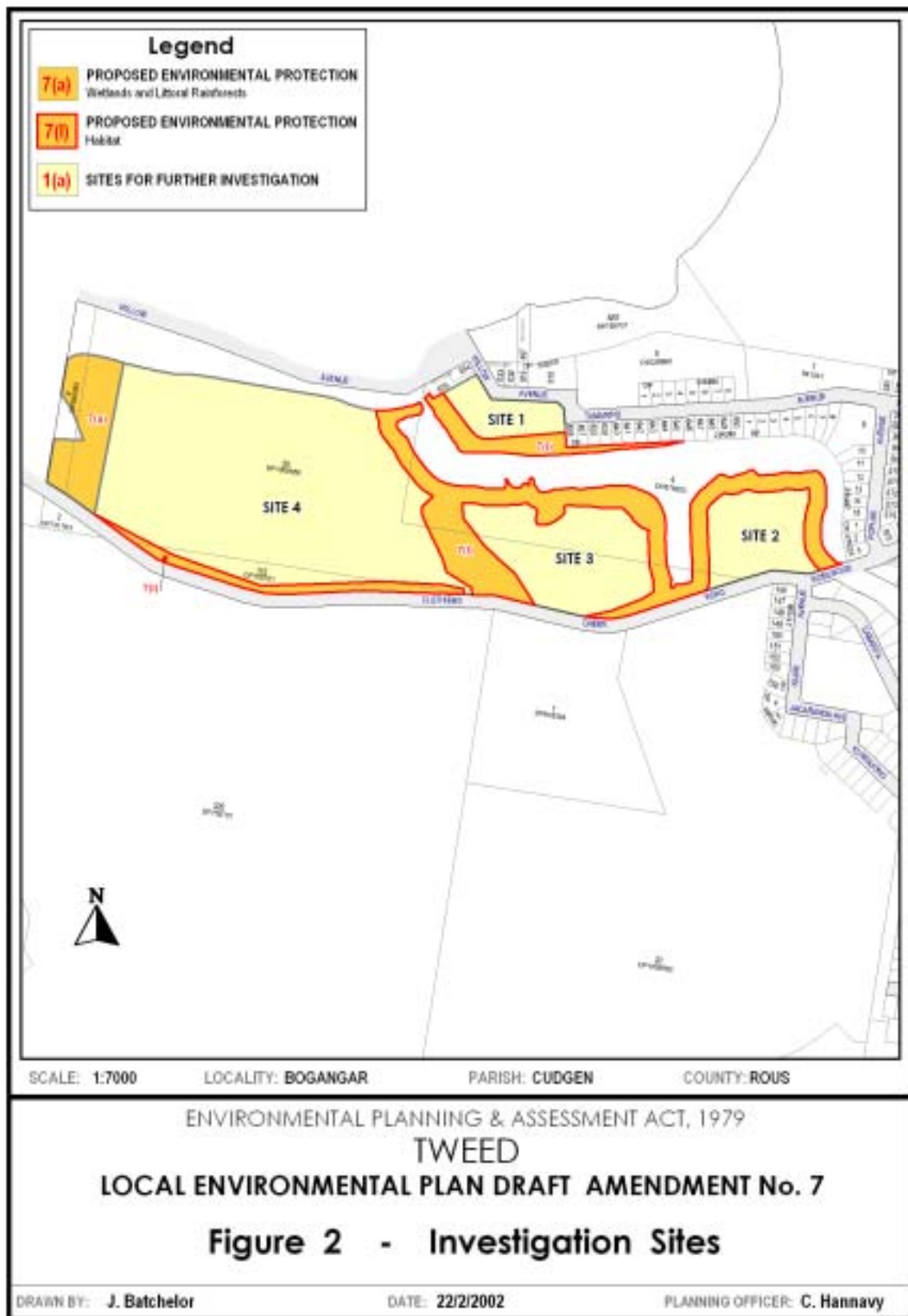
Conclusion

The crux of the issues with State Agencies may be summarised as follows:

- (i) The subject lands are within the coastal zone and therefore subject to SEPP 71. As the Minister will be the consent authority for any subdivision greater than 25 lots the Agencies wish to make sure there are no potential impediments to the granting of approval before rezoning is accepted. However, the necessary detail to achieve this is not a part of a rezoning.
- (ii) The location of the subject land close to Cudgen Nature Reserve.

The outstanding issue concerns the buffer around Sites 1 and 2. If Council wishes to maintain the exhibited 10m buffers it will be necessary to seek the agreement of the Department of Environment and Conservation.





LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER

8 [OGM] Proposed Northern Rivers Regional Organisation of Councils Workshops

ORIGIN:

Administration Services

SUMMARY OF REPORT:

Council on 24 March 2004 received a memorandum from the Northern Rivers Regional Organisation of Councils Inc (NOROC) advising of proposed workshops on:

1. Review of NOROC's Role, Operations and Resourcing,
2. Budget, Fees, Charges 2004/2005,
3. Appointment of Delegates, Executive Managers and Standing Committee Membership.

RECOMMENDATION:

That this report be received and noted.

REPORT:

Council on 24 March 2004 received a memorandum from the Northern Rivers Regional Organisation of Councils Inc (NOROC) advising of proposed workshops on:

1. Review of NOROC's Role, Operations and Resourcing,
2. Budget, Fees, Charges 2004/2005,
3. Appointment of Delegates, Executive Managers and Standing Committee Membership.

The following is a copy of the memorandum.

NOROC

Northern Rivers Regional Organisation of Councils Inc

MEMO

TO General Managers

FROM Brian Martin

RE Proposed Workshop

1. Review of NOROC's Role, Operations & Resourcing
2. Budget, Fees, Charges 2004/2005,
3. Appointment of Delegates, Executive Members & Standing Committee Membership

TWEED SHIRE COUNCIL	
FILE No	NOROC
DOCUMENT No	
RECD	24 MAR 2004
BOX No	
ASSIGNED TO	GRIFFIN J
HARD COPY	<input type="checkbox"/>
IMAGE	<input checked="" type="checkbox"/>

March 22, 2004

1. Review of NOROC's Role, Operations & Resourcing

At the NOROC meeting held 12th March 2004, it was resolved to conduct a workshop on this matter. A proposed date for the workshop is Friday 30th April 2004 – 9.30am to approximately 1pm at Casino. (venue to be determined)

Conduct of the workshop will be assisted by an independent facilitator. NOROC Mayor's, Councillors and General Managers will be invited to participate in the workshop.

In view of the importance of having as many NOROC members as possible in attendance, could you advise if the proposed workshop date of 30th April 2004 is not suitable and an alternative date can be considered.

2. Budget, Fees & Charges 2004/2005

The draft budget with a proposed increase in fees of 3% was tabled at the meeting based on the current resourcing of NOROC's operations, but this could be affected by the review of operations and additional resourcing considered necessary.

3. Appointment of Delegates, Executive Members & Standing Committee Members

I would appreciate the appointment of Delegates, Executive members and Standing Committee members as soon as possible after the 27th March Local Government Elections, keeping in mind that the structure of NOROC meetings and representations could be affected by the outcome of the workshop.

Yours faithfully,



Brian Martin
Executive Officer

C:\Active\NOROC\Memo Workshop on Review of NOROC.doc

186 Molesworth Street LISMORE 2480

Ph. 02 6622 2650 Fax: 02 6622 2638

Email: noroc@nor.com.au

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

9 [OGM] Election of Officers to the Local Government Shires Association of NSW

ORIGIN:

Administration Services

SUMMARY OF REPORT:

Advice has been received from the State Electoral Office informing Council of nominations for the 2004 election of the Executive Council of the Local Government Shires Association.

Councillors who would like to nominate for such positions can do so by obtaining the forms held by the Manager Administration Services/Public Officer.

RECOMMENDATION:

That this report be received and noted.

REPORT:

Advice has been received from the State Electoral Office informing Council of nominations for the 2004 election of the Executive Council of the Local Government Shires Association.

Councillors who would like to nominate for such positions can do so by obtaining the forms held by the Manager Administration Services/Public Officer.

Following is a copy of the notice relating to the 2004 election of the Executive Council.



SHIRES ASSOCIATION OF NSW

2004 ELECTION OF THE EXECUTIVE COUNCIL

Pursuant to the Industrial Relations Act 1996 and the Regulation thereunder, the Electoral Commissioner for New South Wales will be the Returning Officer for the election of the Executive Council of the Shires Association of NSW.

Nominations

Nominations are hereby invited for the position of PRESIDENT for a 1 year term.

(Nominations for 9 Executive Councillors, one to represent each of the electoral divisions, will be invited at the Annual Conference. Nominations for 2 Vice Presidents and 1 Treasurer from the elected Executive Councillors will also be invited at the Conference. Ballots for all positions will be conducted at the Conference.)

Nominations must be in writing, signed by the candidate and at least two nominators other than the candidate. No person may nominate more candidates than the number to be elected.

Candidates and nominators for the position of President must be elected councillors of financial ordinary member councils.

(Candidates and nominators for the positions of Executive Councillor must be elected councillors of financial ordinary member councils within the electoral division for which the nomination is made. Candidates for the positions of Vice President and Treasurer must be elected Executive Councillors, their nominators must be delegates to the Annual Conference.)

Nomination forms may be obtained from the State Electoral Office, phone (02) 9200 5923, fax (02) 9241 6011.

Close of Nominations

Nominations for the position of **PRESIDENT** must be received by the Returning Officer, State Electoral Office, not later than **NOON, TUESDAY 18 MAY 2004**. They may be hand delivered to the State Electoral Office, Level 20, 207 Kent Street, Sydney, posted to PO Box 693, Grosvenor Place NSW 1220 or faxed to (02) 9241 6011. (The original of a faxed nomination must be received by the Returning Officer by Wednesday 28 May 2003.)

Nominations for the positions of **EXECUTIVE COUNCILLOR** will be invited at the Annual Conference and will close at the Annual Conference at **12.30pm, TUESDAY 1 JUNE 2004**.

Nominations for the positions of **VICE PRESIDENT** will be invited at the Annual Conference and will close at the Annual Conference at **9.30am WEDNESDAY 2 JUNE 2004**.

Nominations for the position of **TREASURER** will be invited at the Annual Conference and will close at the Annual Conference at **10.00am WEDNESDAY 2 JUNE 2004**.

Any defect in a nomination must be rectified by the candidate prior to the close of nominations. A candidate may only withdraw his/her nomination in writing so as to be received by the Returning Officer prior to the close of nominations.

Should more than the required number of nominations be received for any position a draw will be conducted to determine the order of candidates' names on the ballot paper. The draw for the position of President will be conducted at the State Electoral Office at 2.00pm, Tuesday 18 May 2004 and for the positions of Executive Councillor, Vice President and Treasurer at the Annual Conference. Candidates or their representatives are invited to witness the draws.

Voting

Voting will be conducted at the Annual Conference of the Shires Association of NSW. The election of President and Executive Councillors will be held on Tuesday, 1 June 2004. The election of Vice-Presidents and Treasurer will be held on Wednesday, 2 June 2004. The method of voting to be observed for this election will be full preferential.

Any enquiries concerning this election should be directed to the State Electoral Office telephone (02) 9200 5929.

Brian DeCels
Acting Electoral Commissioner for NSW and Returning Officer
for the 2004 Election of the Shires Association of NSW

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

10 [OGM] Monthly Investment Report for Period Ending 31 March 2004

ORIGIN:

Financial Services

SUMMARY OF REPORT:

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

RECOMMENDATION:

That this report be received and noted.

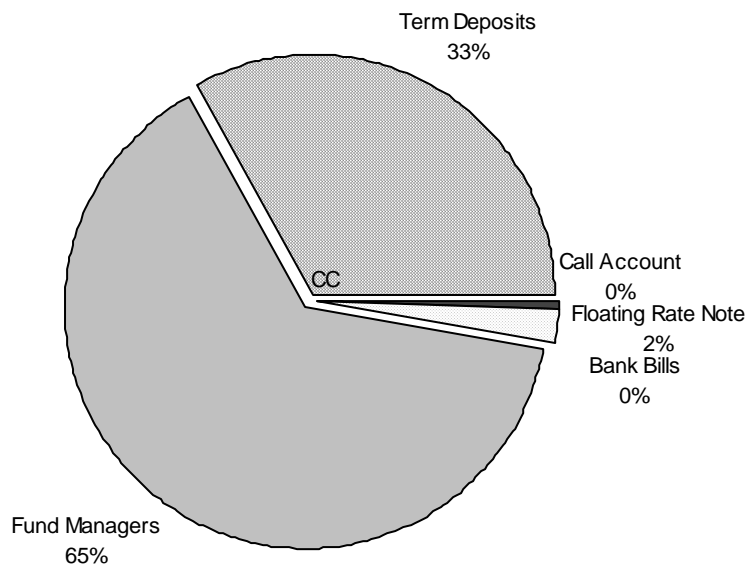
REPORT:

Report for Period Ending 31 March 2004

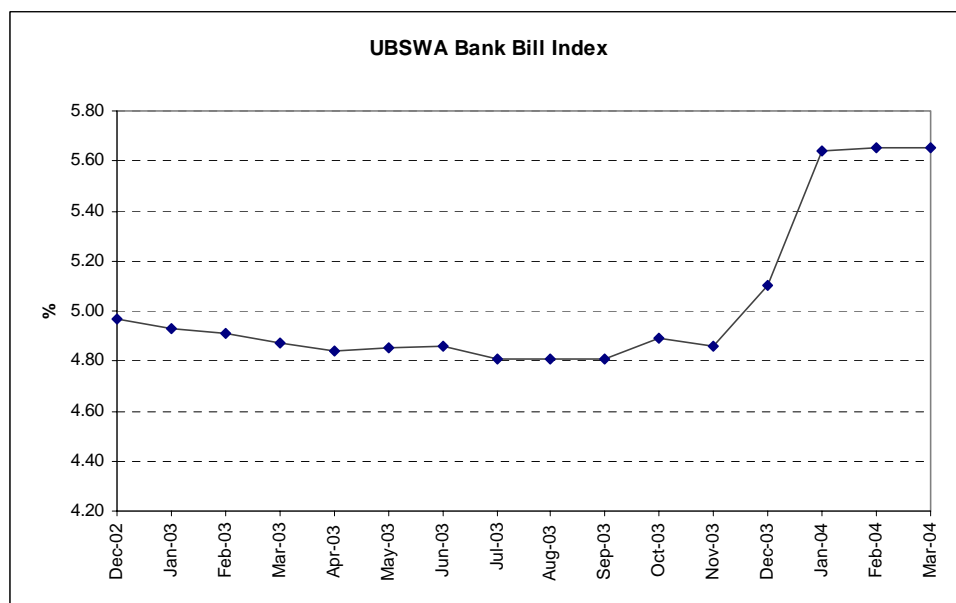
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with the Local Government Act (1993), the Regulations and Council policies.

1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY

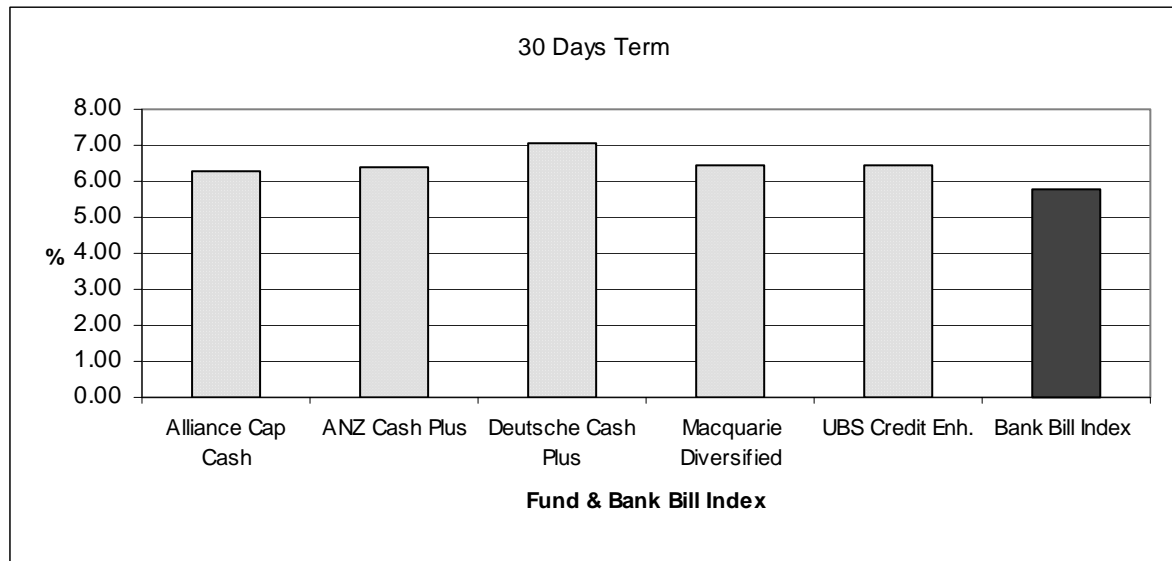
% of Funds Invested by Category



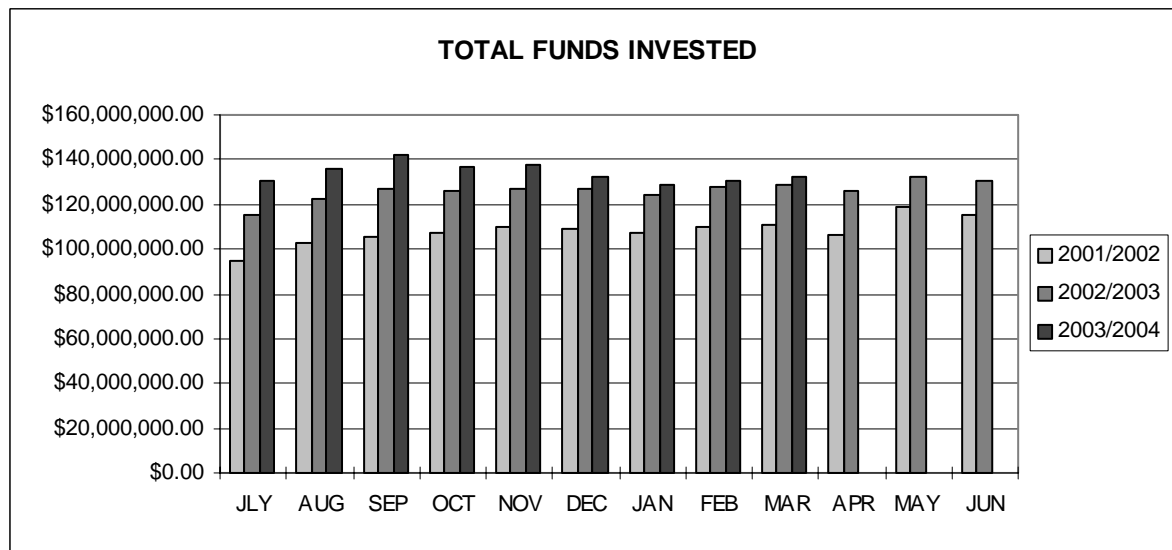
2. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)



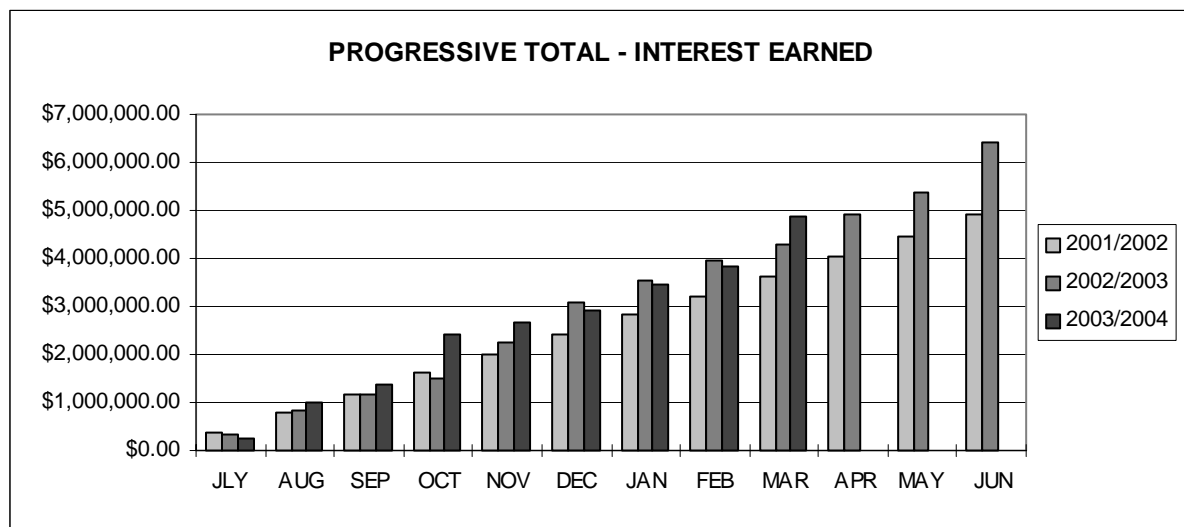
3. ANNUALISED RATE OF RETURN FOR FUNDS MANAGERS - NET OF FEES



4. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED



5. ANNUAL PROGRESSIVE TOTAL OF INTEREST ON TOTAL FUNDS INVESTED



6. MARKET COMMENTARY

The Australian economy looks set to soften over the period ahead. Both housing finance approvals and dwelling construction are well below mid-2003 highs, a direct result of higher interest rates. Domestic demand is expected to slow markedly as the year unfolds which could prompt the Reserve Bank of Australia to keep short-term rates on hold.

Current Consensus Economics Forecasts, indicate that Australian GDP is expected to grow by 3.9% this year and by 3.3% in 2005. The outlook for consumer spending, business investment and housing approvals is for further falls.

Unemployment should remain steady at 5.8% and CPI is predicted to increase from 2.1% to 2.5% next year.

International economic prospects look encouraging with real global GDP growth in 2004 expected to be around 4.5%. Strong global growth is currently being driven by the US and Asia.

The US economic recovery appears more sustainable now with signs that the labour market may be starting to turnaround. It has also increased the likelihood of an increase in interest rates in the coming months, as wage pressures begin to build.

In Europe, the prospect of another interest rate cut is mounting. Economic growth has been very disappointing but market expectations of gradual recovery remain.

The Reserve Bank of New Zealand (RBNZ) and the Bank of England both kept interest rates unchanged at their respective March meetings. The RBNZ cited its expectations of slower growth this year due to a stronger currency and falling immigration levels for its decision.

7. INVESTMENT SUMMARY AS AT 31 MARCH 2004

GENERAL FUND

TERM DEPOSITS	24,865,375.00	
FUND MANAGERS	19,710,252.48	
FLOATING RATE NOTE	0.00	
CALL	500,000.00	45,075,627.48

WATER FUND

TERM DEPOSITS	3,000,000.00	
FUND MANAGERS	38,337,035.34	41,337,035.34

SEWERAGE FUND

TERM DEPOSITS	16,000,000.00	
FUND MANAGERS	27,202,381.03	
FLOATING RATE NOTE	3,000,000.00	46,202,381.03

TOTAL INVESTMENTS **132,615,043.85**

It should be noted that the General Funds investments of \$41 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

Statutory Statement - Local Govt Financial Management Regulations (Sect.16)

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



Responsible Accounting Officer
TWEED SHIRE COUNCIL

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

REPORTS FROM DIRECTOR ENGINEERING SERVICES

11 [ES] Road Naming - Birds Bay Drive

ORIGIN:

Design

FILE NO: GS5/1 Pt 3

SUMMARY OF REPORT:

At its meeting held on 19 November, 2003 Council resolved to publicise its intention to name a Crown Public Road off Scenic Drive at Terranora as "*Birds Bay Drive*" following its transfer to Council.

The name was advertised in the Tweed Link on 9 March, 2004 and the NSW Government Gazette on 5 March, 2004, allowing one month for submissions and/or objections to the name. No submissions have been received.

It is now necessary to resolve to formally adopt and gazette the name of the road in the Government Gazette and Tweed Link.

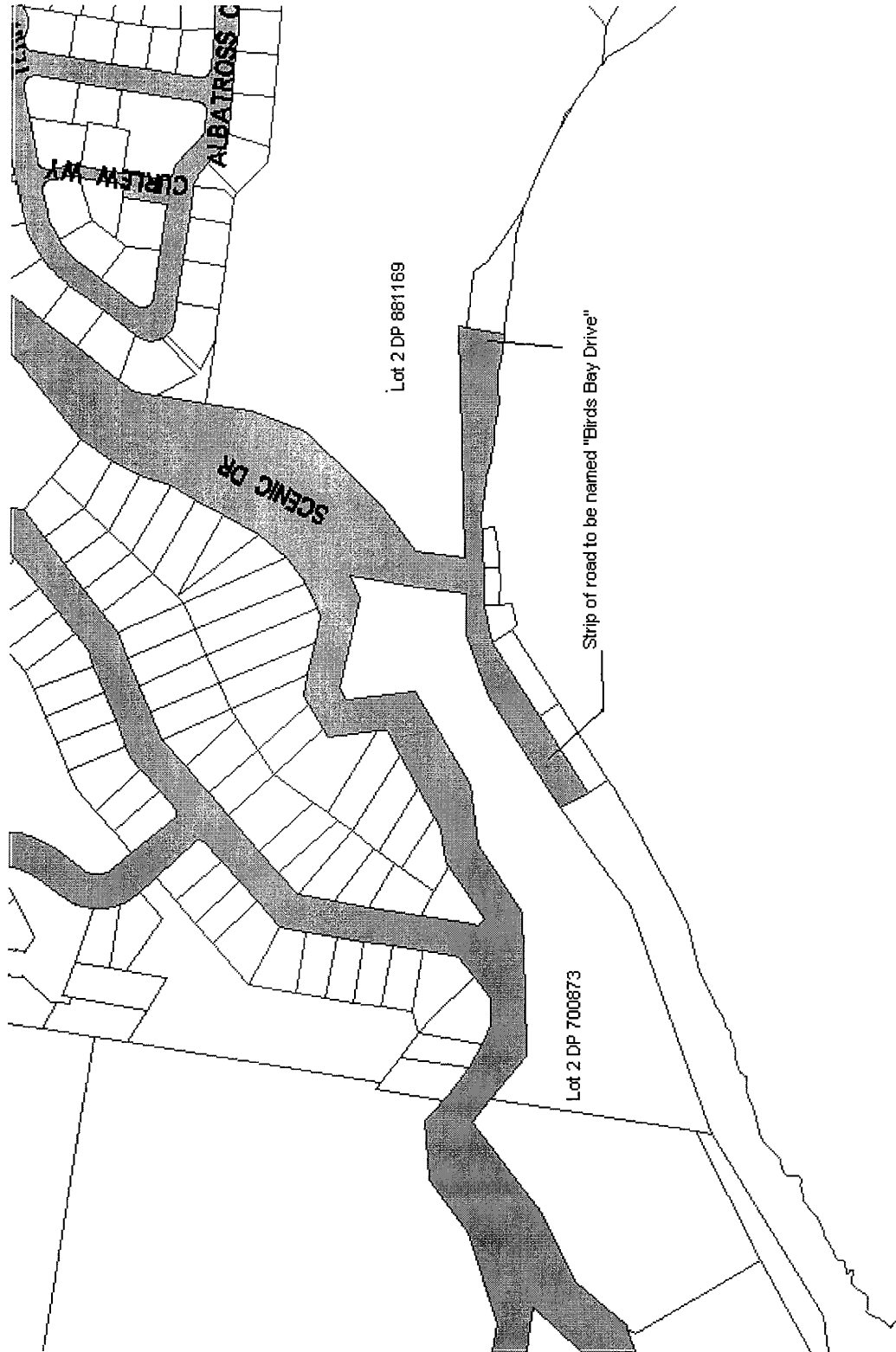
RECOMMENDATION:

That:-

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

REPORT:

As per summary



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil

POLICY IMPLICATIONS:

Nil

UNDER SEPARATE COVER:

Nil.

12 [ES] Tweed Road Contribution Plan, McAllisters Road Deviation Amendment

ORIGIN:

Planning & Infrastructure

SUMMARY OF REPORT:

Draft version 4.8 of the Tweed Road Contribution Plan No. 4 contains an amendment to replace the McAllisters Road Deviation with upgrading of McAllisters Road on its current alignment. It is proposed to publicly exhibit the amended plan in accordance with statutory requirements.

RECOMMENDATION:

That:-

1. Council adopts draft version 4.8 of the Tweed Road Contribution Plan (Contributions Plan No. 4) as a basis for exhibition and community discussion.
2. Draft plan Version 4.8 of the Tweed Roads Contribution Plan be exhibited as required by the Environmental Planning and Assessment Regulations to repeal and replace existing Version 4.6.

REPORT:**1. Background**

The current version of Tweed Road Contribution Plan No 4 - *Version 4.6* (TRCP) was adopted by Council to include additional works at Leisure Drive and the Machinery Drive/Minjungbal Drive intersection. It was adopted by Council on 22 January 2003.

Draft version 4.7 was exhibited to add the Kingscliff Bridge over Cudgen Creek to the Works Program and finance it through a local area levy. Version 4.7 did not proceed due to objections from the major landowner. As an alternative a condition was placed on the SALT development consent that required upgrading of the existing bridge and adding a pathway/cycleway to the structure.

This version (4.8) proposes to delete the McAllisters Road Deviation from the Works Program and substitute it with upgrading of McAllisters Road on its existing alignment.

2. Billambil Heights Urban Release Area and Arterial Road Works on McAllisters Road

McAllisters Road (in an extended form) is planned as the arterial road access for the Bilambil Heights urban release area (potential population 8,000). The major northern access for the release area is to be via an extension of McAllisters Road to junction with the proposed Scenic Road Diversion which in turn leads to Piggabeen Road, Cobaki Parkway and the planned Tugun Bypass. A southern access for the release area is planned to utilise McAllisters Road (back to the McAllisters Road/Scenic Drive/Simpsons Drive/Bilambil Road intersection) as a direct neighbourhood connection to the existing Bilambil Heights urban area. The northern access is estimated to carry an ultimate 10,000 vehicles per day (vpd). The southern connection is estimated to carry 2,700 vpd.

The TRCP works program contains a number of items for the upgrading part of McAllisters Road to function as the southern road access for the release area. These works items include:-

20.	i/s – Scenic Dr, Simpson, McAllisters Rd and Bilambil Rd	299,750
21.	Upgrade b/n Scenic Dr to west of Buenavista Dr	97,419
22.	i/s – realign (T junction) old McAllisters Rd to new deviation	310,650
23.	Const. McAllisters Rd on new Alignment (downhill)	1,439,600

Item 23 is for construction of a deviation of McAllisters Road to the north of the existing alignment (between Number 23 and Number 111 McAllisters Road), with the deviation to carry through traffic and the existing alignment of McAllisters Road to be retained for local access to adjoining lots. Item 22 is for construction of the associated intersection between the new and existing roads.

Item 21 is for upgrading of McAllisters between Scenic Drive and the start of the deviation, on its existing road alignment. The proposed width of both the deviated and upgraded sections of road is 11m kerb to kerb.

The southern side of McAllisters Road between Numbers 23 and 111 is already developed into residential lots and dwellings. The northern side of this section of road is zoned 2(c) urban expansion (generally between the existing and deviated alignment of McAllisters Road), but, is not subdivided into small urban lots and is still mostly used for rural and rural/residential purposes.

The owner of a substantial part of this undeveloped 2(c) land, part of which contains the alignment of the proposed deviation, wishes to submit a development application to subdivide the land into residential lots.

In normal circumstances the development consent would require dedication of the road reserve for the proposed deviation.

Preliminary investigations however, have revealed a number of concerns relating to the feasibility of the proposed McAllisters Road deviation which have prompted a review of this project.

3. Review of McAllisters Road Deviation

The TRCP Works Program proposes a 1km long deviation to the north of the existing alignment. The precise alignment of the deviation has not been determined, but, is indicatively shown on some concept plans for the Bilambil Heights release area. See diagram at the end of this report.

Preliminary investigations of the route have revealed:-

- The alignment of the deviation is along very difficult country. The general route is from east to west and its natural surface has a steep cross fall and it is cut by a number of gullies. The landform is such that large scale cut and fill earthworks will be required and because of the side slope fill embankments and consequently the underlying road reserve will be very wide.
- There is a significant risk that the route of the deviation may contain geotechnically unstable land.
- The gullies bisected by the route are likely to contain threatened species.

Having regard to these difficulties it is considered that the construction of a road along this route will be uneconomic and that environmental approval may not be achievable.

The route is an essential part of the infrastructure for the Bilambil Heights release area. If the deviation does not proceed then through traffic will default to the existing alignment of McAllisters Road.

The ultimate traffic volume along this section of road when the Bilambil Heights release area is fully developed is expected to be 2,700 vpd.

If the deviation is abandoned, the traffic volume on the existing alignment will ultimately increase by this amount.

Whilst it would be desirable to route this through traffic away from existing houses, the traffic volumes on this section are below the threshold requiring acoustic protection for adjacent residences, and traffic volumes would be no higher than for the section of McAllisters Road further east which is lined with existing houses and has no planned deviation.

Owners of land through which the proposed deviation is to pass have requested an amendment to the TRCP to delete the deviation.

If the deviation is abandoned, then funding would be required to upgrade the adjacent section of existing McAllisters Road to a suitable standard. The standard proposed is 11m sealed road kerb to kerb which is consistent with the proposed upgrade of McAllisters Road to the east (Item 21 in the TRCP).

The current TRCP works schedule estimated cost for McAllisters Road Deviation and the associated intersection with the existing road is:-

Item 22 intersection	310,650
Item 23 deviation	1,439,600
Total	1,750,350

The estimated cost for upgrading McAllisters Road on its existing alignment is: \$856,300

4. Conclusion

As there are pending development applications for residential subdivisions in the area of the proposed McAllisters Road Deviation, the future of this road needs to be resolved. Given the practical difficulties in constructing the McAllisters Road deviation, an amendment to the TRCP should be exhibited that deletes the deviation and substitutes it with upgrading McAllisters Road on its present alignment.

5. Draft Version 4.8 Amendments to Section 94 Contribution Plan No. 4 - Tweed Road Contribution Plan

The following amendments are proposed for draft version 4.8 of the above plan:-

(a) Amend Section 5.1 "Works" by inserting the following paragraph at the end of existing text:-

"Version 4.8 of this plan amends Table 5.1(a) "Works Schedule" and Schedule 6 "TRDS Project Costings" by deleting item 22 and substituting existing item 23 with:-

"23 Const McAllisters Rd on existing alignment Total Cost \$856,300"

(b) Amend "CONTRIBUTION PLAN No 4 VERSIONS/EDITIONS" by adding:-

"Draft Version 4.8 amends the works programme by the deletion of the McAllisters Road deviation and substituting with upgrading McAllisters Road on its existing alignment."

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

13 [ES] Subdivision - Reserve Creek Road

ORIGIN:

Works

FILE NO: GS4/98/8

SUMMARY OF REPORT:

In 1998 Mr R Pike had a two lot subdivision approved on Lot 172 DP 755698 Reserve Creek Road. One of the conditions was that the then Crown Road providing access to the development was to be upgraded to a 4 metre wide gravel standard. When the design was being prepared for the road it was found that the existing formation was in part on private property. Mr Pike approached the then owner Mr Cattuzzo to gain a right of carriageway over the encroachment. While verbal agreement was reached this was never formalised and the land has now passed onto Mr Catuzzo's daughter who is not in favour of granting access.

To construct the road on the correct alignment would create increased scouring of the creek that traverses the road.

Mr Pike has indicated his agreement to pay any costs involved in the acquisition of the land for road purposes.

RECOMMENDATION:

That Council again contacts the owner of Lot 6 DP 800189 with a view to amicable acquisition of the encroachment of the road onto the land and failing agreement that Council pursue compulsory acquisition all at Mr Pike's cost.

REPORT:

In 1998 Mr R Pike had a two lot subdivision approved on Lot 172 DP 755698 Reserve Creek Road. One of the conditions was that the then Crown Road providing access to the development was to be upgraded to a 4 metre wide gravel standard. When the design was being prepared for the road it was found that the existing formation was in part on private property. Mr Pike approached the then owner Mr Cattuzzo to gain a right of carriageway over the encroachment. While verbal agreement was reached this was never formalised and the land has now passed onto Mr Catuzzo's daughter who is not in favour of granting access.

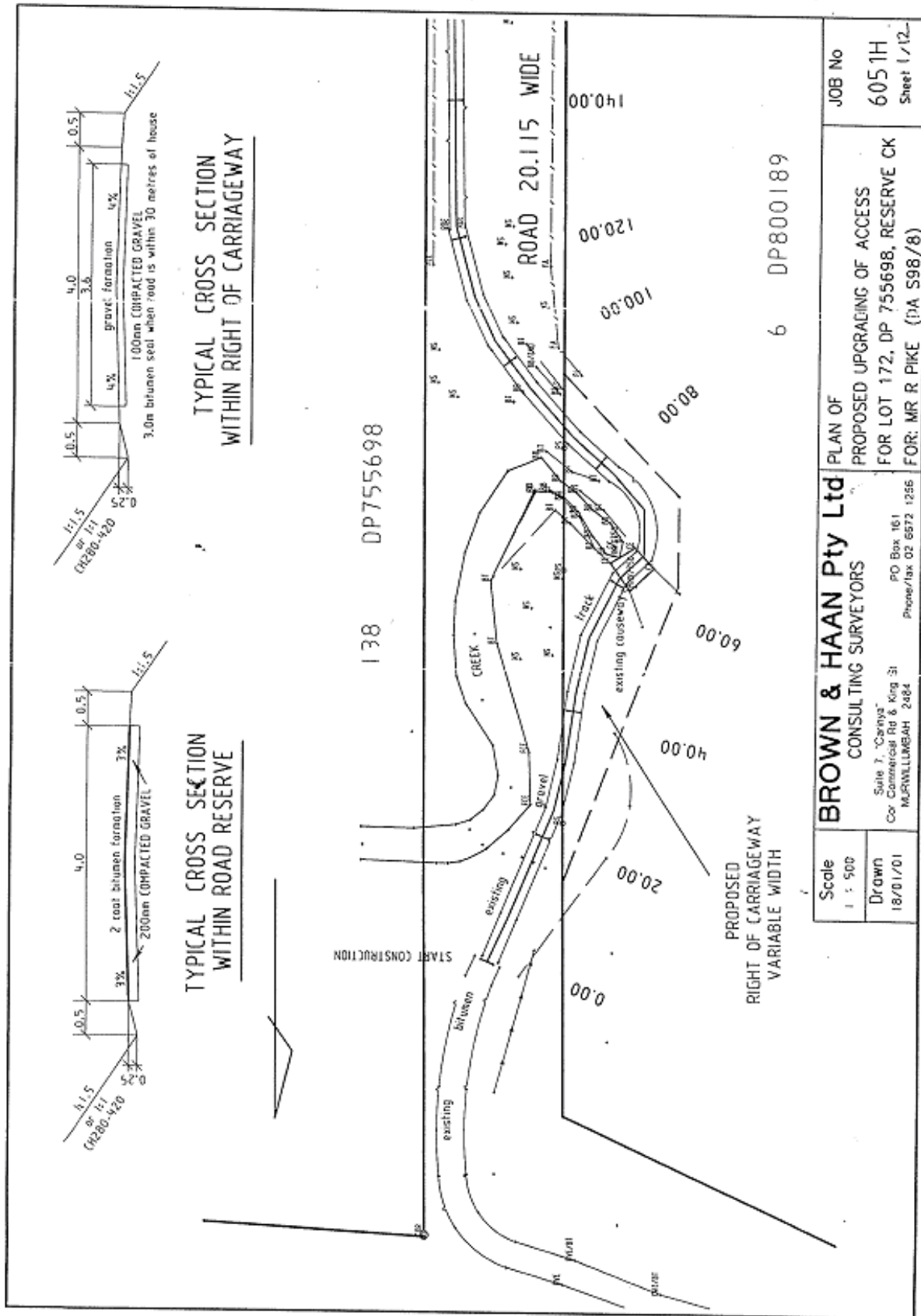
The Crown Road has now been declared as a Public Road.

While Council do not maintain the section of road there are concerns that if the road were to be constructed on its correct alignment there would be increased scouring of the creek both upstream and downstream.

The better solution to the problem is for the encroachment to be dedicated as road reserve. This would require Council completing the acquisition at Mr Pike's full cost. Mr Pike has indicated his agreement to these costs.

It is recommended that Council again contact the owner with a view to amicable acquisition of the land and failing agreement that Council pursue compulsory acquisition.

A copy of the survey showing the existing encroachment and the position of the creek follows.



Scale 1 : 500	BROWN & HAAN Pty Ltd CONSULTING SURVEYORS Suite 7, 'Carnya' Cor Commercial Rd & King St MURWILLUMBAH 2484 Phone/fax 02 6572 1256	PLAN OF	JOB No
Drawn 18/01/01		PROPOSED UPGRADING OF ACCESS FOR LOT 172, DP 755698, RESERVE CK FOR: MR R PIKE (DA 598/8)	6051H Sheet 1/12

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

That Council only proceed subject to Mr Pike confirming he will bear all costs

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

14 [ES] Temporary Road Closure—Sandy Lane Piggabeen

ORIGIN:

Works Unit

FILE NO: DA03/1775 Pt2

SUMMARY OF REPORT:

Council has been requested to approve a temporary road closure of Sandy Lane Piggabeen within the Cobaki Lakes Development to allow cut and fill operations to be completed in a safer manner.

The section to be closed for a period of 4 months only affects land owned by Leda Manorstead Pty Ltd and the Crown.

The crown land can be accessed from the northern section of Sandy Lane.

As no other owners have access on the section to be closed no objections are raised to the proposal.

RECOMMENDATION:

That Council approves the temporary closure of part of Sandy Lane Piggabeen for a period of 4 months to allow safer earthworks to be completed. The area to be closed is not to affect access to the Crown land at the northern end of the road.

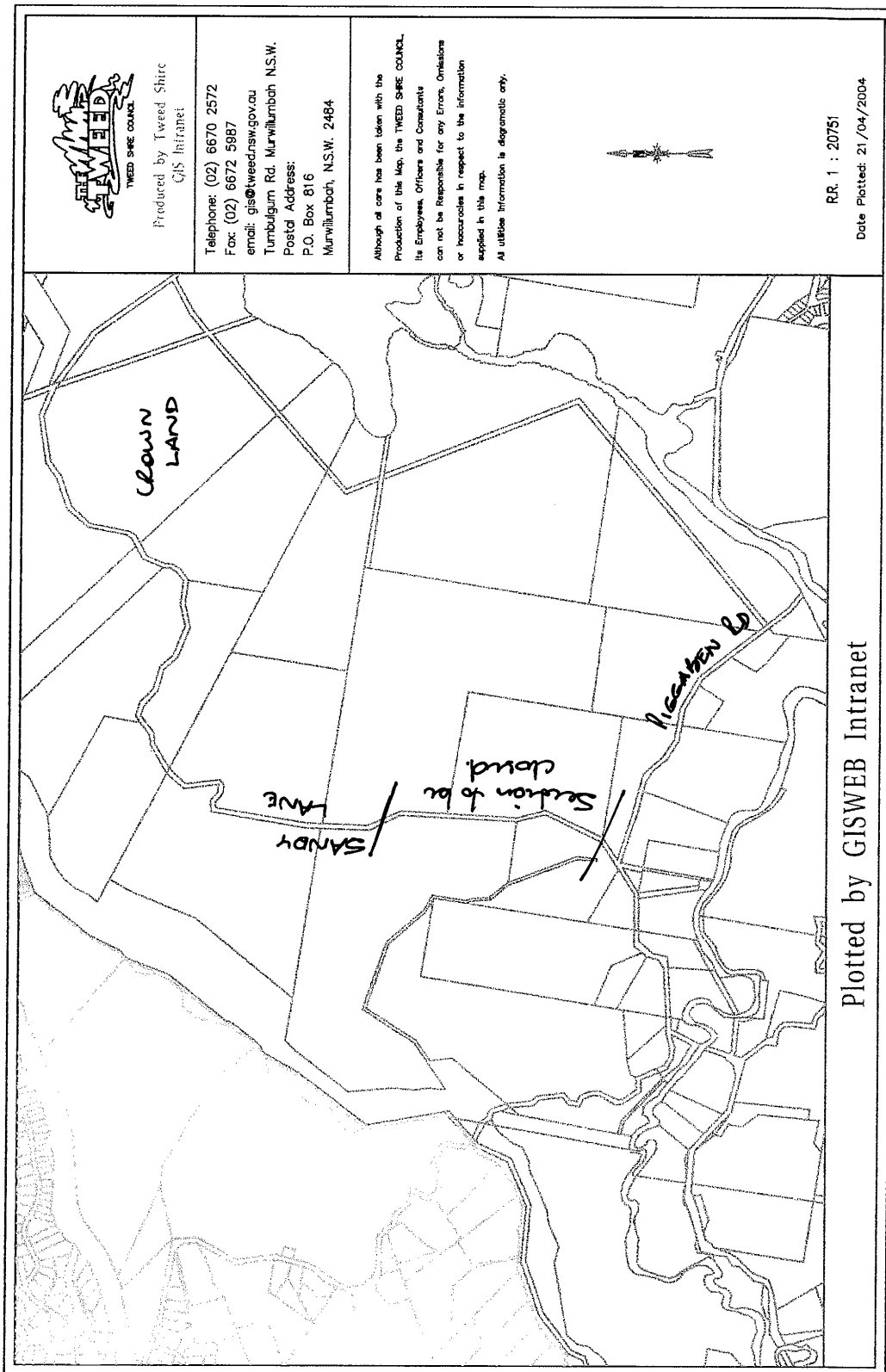
REPORT:

Council has been requested to approve a temporary road closure of Sandy Lane Piggabeen within the Cobaki Lakes Development to allow cut and fill operations to be completed in a safer manner. The section to be closed is identified on the attached plan. The section to be closed for a period of 4 months only affects land owned by Leda Manorstead Pty Ltd and the Crown.

The crown land can be accessed from the northern section of Sandy Lane.

As no other owners have access on the section to be closed no objections are raised to the proposal.

The section of road to be closed temporarily will not affect access to the Crown land at the northern end of the road.



Produced by Tweed Shire
GIS Intranet

Telephone: (02) 6670 2572
Fax: (02) 6672 5987
email: gis@tweed.nsw.gov.au
Tumbulgum Rd. Murwillumbah N.S.W.
Postal Address:
P.O. Box 816
Murwillumbah, N.S.W. 2484

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.
All Utilities Information is diagrammatic only.

RR: 1 : 20751

Date Plotted: 21 / 04 / 2004

Plotted by GISWEB Intranet

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

15 [ES] Tweed River Estuary Management Plan Funding 2003/2004

ORIGIN:

Water

SUMMARY OF REPORT:

Tweed Shire Council has received financial support from the NSW State Government since 1993 for implementation of the Tweed River Estuary Management Plan at a 100% subsidy level. An offer was made in February 2003 by the then Minister for Land & Water Conservation of \$500,000 per year for three years based on a 2 to 1 NSW Government to Council basis for the first two years and 50:50 for the third year.

This offer was to commence in the 2003/04 financial year with Council allocating \$250,000 in the budget to match the contribution required. Tweed River Estuary Management funding was not provided to Council for the 2002/2003 financial year.

There are ten weeks of this financial year left and Council is yet to receive confirmation of the 2003/04 grant offer from the NSW Government. This is despite a public offer being made in February 2003 and Council formally requesting this current financial years funding allocation in July 2003.

RECOMMENDATION:

That Council makes urgent representations to the Local Member, Neville Newell and the Minister for Natural Resources, Craig Knowles seeking confirmation of grant funds of \$1.5 million over the next three years, of which \$500,000 was to be allocated in this current financial year.

REPORT:

Tweed Shire Council has received financial support from the NSW State Government since 1993 for implementation of the Tweed River Estuary Management Plan at a 100% subsidy level. In early 2003 Council was notified by the then Minister for Land and Water Conservation, John Aquilina MP, that Council would no longer receive 100% funding and that funding should be sought through the Estuary Management Program on a 50% subsidy level.

Subsequent to this, an offer was made by the Minister of \$500,000 per year for three years based on a 2 to 1 NSW Government to Council basis for the first two years and 50:50 after that. A media release was circulated 18 February 2003 reiterating the \$1.5M commitment over three years.

This offer was to commence in the 2003/04 financial year with Council allocating \$250,000 in the budget to match the contribution required. No Estuary Management funding was provided to Council for the 2002/2003 financial year.

Council forwarded the program of works for 2003/04 (attached) to the NSW Department of Infrastructure, Planning and Natural Resources on 17 July 2003 for confirmation of the funding through the NSW Government's Estuary Management Program. This program is now under the Minister for Natural Resources, Craig Knowles. A draft implementation program for 2004/2005 and 2005/2006 was also forwarded.

There are ten weeks of this financial year left and Council is yet to receive confirmation of the 2003/04 grant offer from the NSW Government. This is despite a public offer being made in February 2003 and Council formally requesting this current financial years funding allocation in July 2003.

TWEED RIVER ESTUARY MANAGEMENT PLAN IMPLEMENTATION 2003-2004

Project Area	Description	Budget
Riparian Revegetation	Riparian vegetation rehabilitation and maintenance in conjunction with Work for the Dole Program.	\$30,000
	Wobul Creek, restoration of high conservation value flood plain rainforest on Council Land.	\$30,000
	Rous River Riparian Rehabilitation – management plan/design required to implement innovative vegetative bank erosion management technique at a high priority revegetation site.	\$10,000
	Oxley Cove Riparian Rehabilitation - prepare design and management plan for enhancement and restoration of forest and saltmarsh areas at Oxley Cove / Chinderah Bay.	\$10,000
Bank Management	Support for implementation of high priority Integrated Catchment Management Plan Projects.	\$30,000
	Ongoing works on priority sites in public ownership identified in the Bank Erosion Management Plan including Oxley Cove riverbank.	\$100,000
Stotts Channel Dredging	Investigation complete 2002/2003, implement minor dredging works for increased tidal flow.	\$40,000
Acid Sulfate Soil	Continued support of research, monitoring and improved farm management practices.	\$60,000
Urban Stormwater Quality Management	Construct a GPT on main stormwater line from Tweed CBD leading to the Jack Evans Boat Harbour.	\$30,000
	Support for stormwater management project at Knox Park Pond, Murwillumbah.	\$30,000
Monitoring Performance Indicators	Ongoing ecological health, biological and water quality monitoring.	\$45,000
Education	Continuation of Waters of the Tweed Series and support of education resource centre. Dissemination of educational materials and information including Tweed River Festival activities.	\$30,000
Wetland enhancement	Support for wetland enhancement projects in conjunction with Wetland Care Australia and local landholders.	\$10,000
Sea Grass Mapping	Update of seagrass mapping in the lower Tweed River estuary.	\$10,000
Foreshore Recreation	• Terranora Foreshore Walkway – continuation of walkway under the Work for the Dole Program.	\$60,000
	• Pontoon installation on public jetties at two sites on Terranora Creek.	\$25,000
	• Tumbulgum foreshore – formalisation of beach areas and protection of existing aquatic vegetation.	\$80,000
	• Heritage Wharf at Tumbulgum as part of River Link concept.	\$60,000
Coordination	Project coordination and administration.	\$60,000
Total		\$750,000

Note: approximately \$490,000 of the total is allocated to on-ground outcomes.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council and the Tweed River Committee have developed a three year program for implementation of the river management plan. Loss of State Government funding would require Council to allocate further funding from general revenue to continue projects, abandon the program or reduce the program significantly.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

1. Tweed River Estuary Management Plan Implementation 2003-2004; (DW 929437)
 2. Letter from Minister for Land & Water Conservation, John Aquilina; (DW 721821)
 3. Media Release, Neville Newell, State Member for Tweed; (DW 723143)
 4. Council report Wednesday 22 January 2003; (DW 718076)
 5. Council report Wednesday 19 February 2003; (DW 722901)
 6. Council report Wednesday 5 March 2003; (DW 881485)
-

16 [ES] Re-Naming of Road at Koala Beach - Lomandra Avenue

ORIGIN:

Design

FILE NO: GS5/1 Pt 3 & DA03/0087

SUMMARY OF REPORT:

In February, 2004 the names for Stages 5 and 6 of Koala Beach at Pottsville were submitted for approval under the statutory requirements for road naming pursuant to the Roads Act and Regulations. These names were to be attributed to roads to be dedicated in the plan of subdivision of Lot 909 in DP 1052079. The proposed names were advertised in both the Tweed Link and Government Gazette. No submissions were received and the names were gazetted on 12 March, 2004.

One of the names submitted was "Lomanda Avenue", although no objections to the name was raised, several calls were made to Council officers enquiring as to whether the name should have been "*Lomandra Avenue*".

These enquiries arose in response to the community awareness that the Koala Beach Estate were utilising a native flora theme for the streets dedicated in the Koala Beach Estate. "*Lomandra*" being a native plant that occurs in the area.

A written request has been received from the Koala Beach Wildlife & Habitat Management Committee, who have been consulting with the developers for Koala Beach in relation to the naming of the roads in the Estate, to re-name "Lomanda" to "Lomandra".

Written confirmation from the developer has been received to the effect that "Lomanda:" was in fact a spelling error and it was always the intention to name the road as "Lomandra Avenue". On this basis it is recommended that Council approve the re-naming and proceed with the statutory requirements under the Roads Act and Regulations.

RECOMMENDATION:

That Council:-

1. Adopts the name "***Lomandra Avenue***" in lieu of the current name of "Lomanda Avenue" for the road to be dedicated in the plan of subdivision of Lot 909 in DP 1052079;
2. Publicises its intention allowing one month for objections to the proposal; and

3. Notifies the relevant authorities under the provisions of the Roads (General) Regulation 1994.

REPORT:

AS per summary

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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17 [ES] Main Street, Murwillumbah Linemarking at Pedestrian Crossings

ORIGIN:

Works

FILE NO: R3640 Pt4

SUMMARY OF REPORT:

The pedestrian crossings in Main Street, Murwillumbah do not currently comply with RTA linemarking specifications. For the safety of pedestrians 50 metres of double centrelines is required on each approach to a crossing. This action will have a secondary impact being it will make the practice of eastbound drivers turning 'right' into the angle car spaces illegal as specified by the Australian Road Rules.

RECOMMENDATION:

That:-

1. Double centre lines be installed in Main Street, Murwillumbah from Queensland Road to Commercial Road in accordance with RTA standards.
2. The change in (1) be advertised in the Tweed link prior to installation.

REPORT:

Main Street, Murwillumbah between Commercial Road and Queensland Road has four marked pedestrian crossings (see Figure 1). The linemarking and setout details associated with pedestrian crossings are regulated by the New South Wales Roads & Traffic Authority through Technical Directions which require compliance by Road authorities such as Councils.

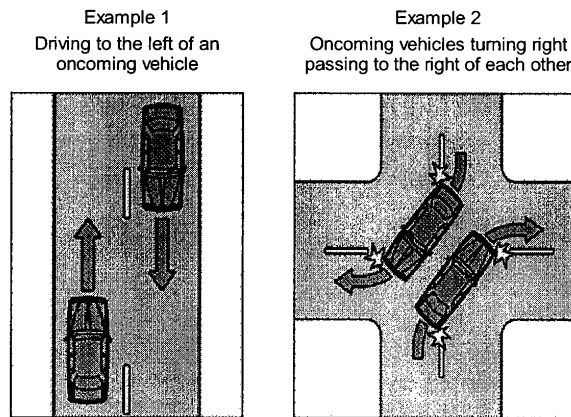
These regulations specify that 50metres of double centrelines need to be provided on the approaches to pedestrian crossings. The reason being that if motorists overtake on or near the pedestrian crossings, people on the crossing are at great risk of being injured. This requirement has been confirmed with the RTA which advises the linemarking must be provided for the safety of pedestrians.

Whilst this is straight forward it creates a significant issue for drivers heading east bound making 'right turns' into the angle parking spaces on the southern side of Main Street. The problem being that this manoeuvre become illegal under the Australian Road rules (NSW Regulations) as crossing double centrelines is only permissible to enter or leave the roadway or another street. The Rules and Regulations state the following:-

Part 11 Keeping left, overtaking and other driving rules
Division 2 Keeping to the left

Rule 132

Examples



132 Keeping to the left of the centre of a road or the dividing line

- (1) A driver on a two-way road without a dividing line or median strip must drive to the left of the centre of the road, except as permitted under rule 133 or 139 (1).

Offence provision.

Note 1 Centre of the road, dividing line, median strip and two-way road are defined in the dictionary.

Note 2 For the meaning of driving to the left of something, see rule 351 (3).

Note 3 Rule 133 deals with driving to the right of the centre of the road to overtake another vehicle, to enter or leave a road, to move from one part of the road to another, or because of the width or condition of the road. Rule 139 (1) deals with driving to the right of the centre of the road to avoid an obstruction.

Rule 132

- (2) A driver on a road with a dividing line must drive to the left of the dividing line, except as permitted under rule 134 or 139 (2).

Offence provision.

Note Rule 134 deals with driving to the right of the dividing line to overtake another vehicle, to enter or leave a road, or to move from one part of the road to another. Rule 139 (2) deals with driving to the right of the dividing line to avoid an obstruction.

- (3) This rule, and rules 133, 134 and 139 (1) and (2), apply to a service road to which a *two-way sign* applies as if it were a separate road, but do not apply to any other service road.

Note 1 *Service road* is defined in the dictionary.

Note 2 Rule 136 deals with driving on a service road without a *two-way sign*.

Two-way sign



Note for diagram There is another permitted version of the *two-way sign* — see the diagram in Schedule 3.

Part 2 Application of the Australian Road Rules

Division 1 Roads and road-related areas

11 Australian Road Rules apply to vehicles and road users on roads and road-related areas

- (1) The Australian Road Rules apply to vehicles and road users on roads and road-related areas.

Note **Road** is defined in rule 12, **road-related area** is defined in rule 13, **road user** is defined in rule 14, and **vehicle** is defined in rule 15.

- (2) Each reference in the Australian Road Rules (except in this Division) to a **road** includes a reference to a **road-related area**, unless otherwise expressly stated in the Rules.

Examples for subrule (2)

1 A reference in rule 146 (which deals with driving within a single marked lane or line of traffic) to the road includes a reference to the road-related area of the road.

2 A reference in rule 200 (1) (which deals with certain heavy or long vehicles stopping on roads) to a length of road includes a reference to the road-related area of the length of road.

3 A reference in rule 31 (which deals with starting a right turn from a road, except a multi-lane road) to a road does not include a reference to a road-related area, because of the definition in subrule (5) of that rule.

12 What is a road

- (1) A **road** is an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.

Note **Motor vehicle** is defined in the dictionary.

By implementing the double centre lines the drivers that currently undertake the above manoeuvre will be liable for infringement notices. It should be noted that Council has received several complaints from the community regarding this practice as it often causes extensive delays as drivers waiting to turn across oncoming traffic into a space have to wait for appropriate gaps. Many start the manoeuvre and find insufficient space and have to reverse which causes even greater delays in both directions.

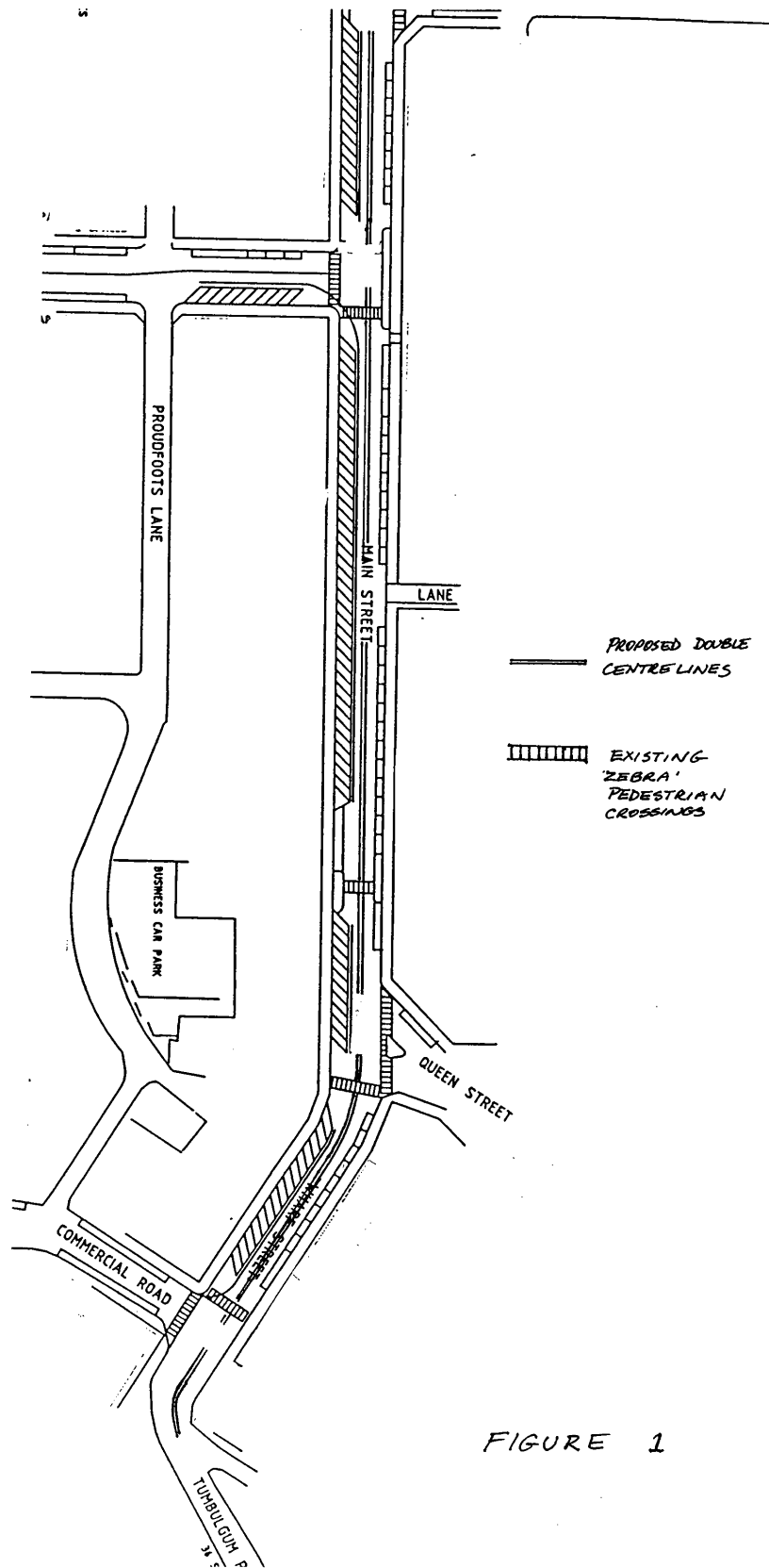
Therefore in terms of traffic flow, the banning of these manoeuvres by double centre lines will be a significant benefit. It should also be noted that drivers can easily enter Main Street westbound by simply using Brisbane Street, Wollumbin Street and

Commercial Road and then have the entire length of angle parking to source and park without obstructing traffic flow, or alternatively make 'U' turns at the Queen Street clock.

If the double centre lines are installed to minimum standards (50m on each approach) only one section of Main Street of about 60 metres near the Police Station would permit the right turns (see Figure 1). This is effectively too short to enable overtaking and is considered inappropriate. The most appropriate action being to install double centrelines in Main Street from Queensland Road to Commercial Road.

Given the RTA requirements for double centre lines on approaches to marked crossings it is considered essential that these markings be provided as soon as possible for the safety of pedestrians.

Figure 1:



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

18 [ES] Re-Naming of Roads at Koala Beach, Pottsville

ORIGIN:

Design

FILE NO: Street - Naming

SUMMARY OF REPORT:

At its meeting held on 3 March, 2004 Council resolved to publicise its intention to re-name four roads dedicated in Stage 3B of the Koala Beach Estate at Pottsville. The four names to be replaced were:

Robina Drive, Hollyhock Court, Bluebell Avenue and Frangipani Close

The new names "Hovea Drive, Hibbertia Court, Euodia Avenue and Endiandra Close" were advertised pursuant to the Roads Act and Regulations requirements, the submission period has now expired.

One objection was received in relation to the name "Euodia Avenue" which will replace "Bluebell Avenue". The objection relates to the name being difficult to pronounce and the name being considered "inappropriate". The objection came from owners of a parcel of land affected by the re-naming and state that they have advised several people and businesses that their future address will be on Bluebell Avenue.

The report of 3 March justified the re-naming of the roads to bring the naming of the dedicated roads closer to the names dedicated in earlier and subsequent stages of Koala Beach where the road names have utilised the names of native flora occurring in the area.

RECOMMENDATION:

That:

1. Council adopts the renaming of the public roads dedicated in Stage 3B of the Koala Beach Estate at Pottsville as "**Hovea Drive, Hibbertia Court, Euodia Avenue and Endiandra Close**" in lieu of the current names of "Robina Drive, Hollyhock Court, Bluebell Avenue and Frangipani Close"
2. The renaming of the public roads be gazetted under the provisions of the Roads (General) Regulation, 1994 and the Roads Act, 1993.

REPORT:

At its meeting held on 3 March, 2004 Council resolved to publicise its intention to re-name four roads dedicated in Stage 3B in the Koala Beach Estate at Pottsville. The four names to be replaced were:

Robina Drive, Hollyhock Court, Bluebell Avenue and Frangipani Close

The new names " Hovea Drive, Hibbertia Court, Euodia Avenue and Endiandra Close" were advertised pursuant to the Roads Act requirements and the submission period has now expired.

One objection was received in relation to the name "Euodia Avenue" which will replace "Bluebell Avenue". The objection relates to the name being difficult to pronounce and the name being considered "inappropriate". The objection came from owners of a parcel of land affected by the re-naming and state that they have advised several people and businesses that their future address will be on Bluebell Avenue.

The report of 3 March justified the re-naming of the roads to bring the naming of the dedicated roads closer to the names dedicated in earlier and subsequent stages of Koala Beach where the road names utilised the names of native flora occurring in the area.

It is recommended that Council pursue the name "Euodia Avenue" to replace "Bluebell Avenue" to retain the theme of native and endemic flora of the area.

Should Council wish to consider an alternative name other than "Euodia", the name "Callistemon" may be also be considered, this was another name offered by the original applicants for the re-naming. If Council pursues the alternative name it will be necessary to re-advertise "Callistemon" in lieu of "Euodia".

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

19 [EC] Appointment of Council as Corporate Manager of a Reserve Trust

ORIGIN:

Recreation Services

FILE NO: DA02/1422 Pt18

SUMMARY OF REPORT:

The Department of Lands has requested Council consider being appointed as Corporate Manager of a reserve trust to be established to manage a corridor of riverine Crown Land adjoining the riverine side of the Salt development.

RECOMMENDATION:

That Council notifies the Department of lands:

1. That it concurs to being appointed Corporate Manager of the corridor of riverine Crown land adjoining the riverine side of the Salt development.
2. That it is Council's preference that the above referred to lands be incorporated into the single coastal reserve as opposed to creating a new reserve trust.

REPORT:

The Ray Group has requested the Department of Lands to grant a licence to authorise the construction of a cycleway on part of the Crown land adjoining the riverine side of the development to undertake the construction of a cycleway, landscaping and to allow part of the fill from their development to be battered onto this Crown land. These elements are identified in the approved master plan.

As the Department is not an operational land management authority with staff and resources to undertake ongoing management of the proposed infrastructure, the Department has sought the support of Council in the following:

“Tweed Shire Council to concur in being appointed as Corporate Manager of a Reserve Trust to be established to manage this corridor of riverine Crown land” (map attached).

Upon advise of Council's concurrence to the above, the Department is prepared to grant to the Ray Group an interim licence permitting them to undertake and maintain the proposed works. The proposed licence to operate until administrative actions are completed by the Department in having the area reserved and Council appointed as Corporate Manager of a Reserve Trust to be established for the reserve.

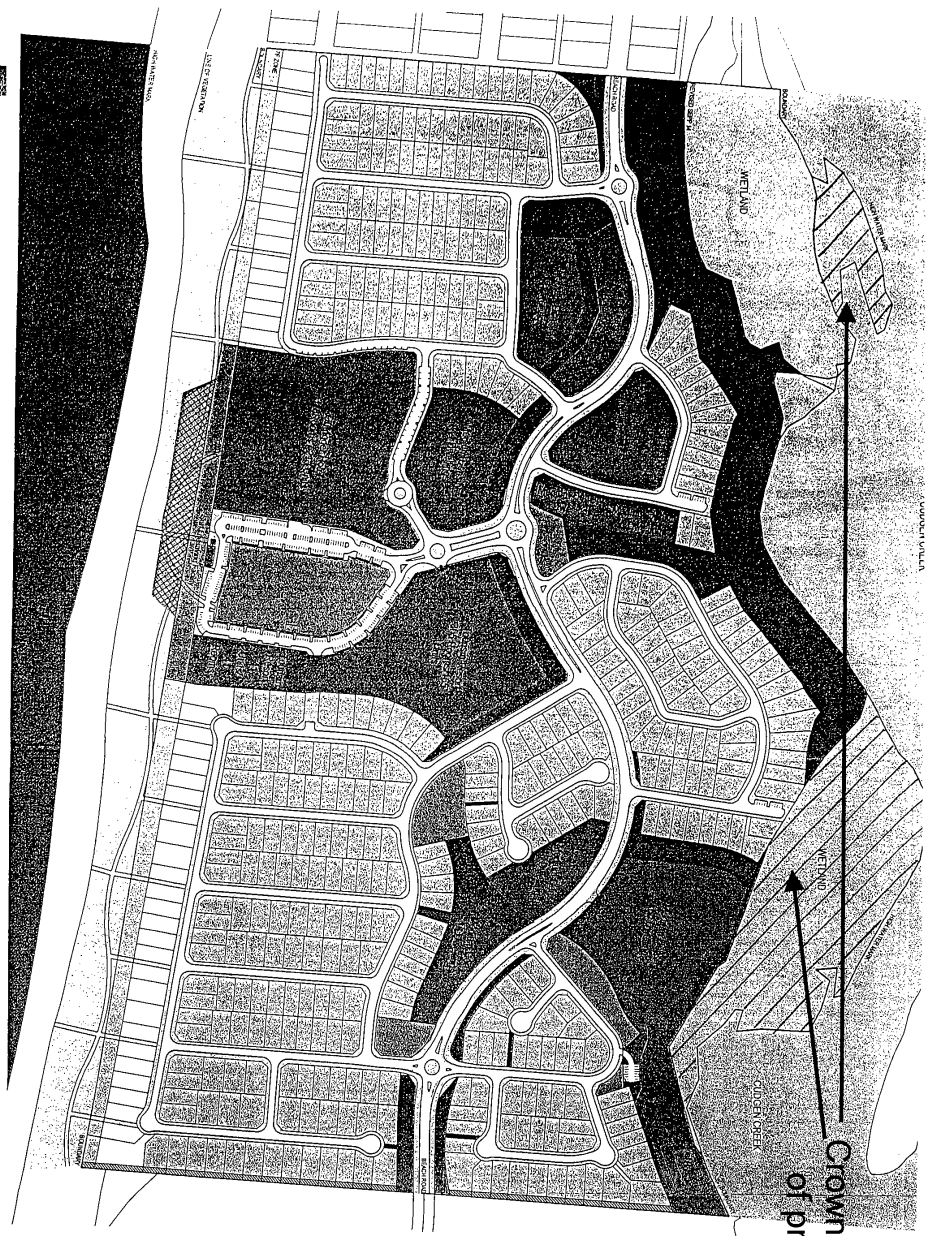
Council's concurrence to this request will allow the cycleway link-up to take place along Cudgen Creek in addition to providing addition to the lands required to be dedicated to Council by the Developers. It can be reasonably expected that Council will be responsible for maintenance of the cycleway and associated landscaping.

Whilst the Department is suggesting a separate reserve trust be established for the area, it may be feasible to suggest these lands be added to the Single Coastal Reserve, thereby negating the need to form another trust and the associate administration.

MI Design
mckerrall jynch

RAYgroup

salt
A Village Plan by the sea
Product Key Plan



Crown lands subject
of proposal

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

20 [EC] Sports Advisory Committee Community Representatives

ORIGIN:

Recreation Services

SUMMARY OF REPORT:

Council's Sports Advisory Committee comprises of four Councillors, Director of Environment and Community Services, Manager Recreation Services and 8 community representatives. Through the last term of the committee (2 years), three of the community representatives withdrew from the committee for various personal reasons.

At its meeting held 3 march 2004, Council resolved to invite the five (5) remaining community representatives to serve another term, and invited applications for the remaining (3) community positions.

Applications were invited and are presented for Council's consideration.

RECOMMENDATION:

That Council appoints the following people as community representatives on the Sports Advisory Committee:

Allana Brims
Dr Barry Rigby
Rob Neinhuis

Name	Area	Main sports/Affiliations	Comments
Ray Jarret	Banora Point	Cricket	
Linda Thelfro	Tweed	Softball	
Peter Mochianus	Tweed	Softball	
Glennys Kenny	Tweed	Soccer	
Merve Edwards	Kingscliff	Representative of Kingscliff Sports Association. Main sports Cricket and Hockey	

REPORT:

Council's Sports Advisory Committee comprises of four Councillors, Director of Environment and Community Services, Manager Recreation Services and 8 community representatives. Through the last term of the committee (2 years), three of the community representatives withdrew from the committee for various personal reasons.

At its meeting held 3 march 2004, Council resolved to invite the five (5) remaining community representatives to serve another term, and invited applications for the remaining (3) community positions.

The considerations in selecting community representatives to the committee have generally focused on achieving a geographic spread, representation from various sports and a variety of skills and experience.

The following table outlines the current committee members and nominees for the three vacant places.

EXISTING COMMITTEE COMMUNITY REPRESENTATIVES

COMMUNITY REPRESENTATIVE NOMINATIONS

Name	Area	Main sports/affiliations	Background	Comments/ Recommendation
Allana Brims	Murwillumbah	Hockey	Nominated by Tweed Border Hockey Association.	As Allana is the only representative nominated from the Murwillumbah area and is nominated by a sporting association, it is recommended Allana be considered for the committee. RECOMMENDED
Rob Neinhuis	Bilambil	Tennis	Nominated by Tennis Terranora Inc. President of Terranora Tennis. County Director Far North Coast Country Tennis NSW. Owns project management and project direction consultancy.	Mr Neinhuis's involvement as a director of Country Tennis and project management skills would be beneficial to the committee. The committee, currently or in the past has never had representation from the tennis community. Additionally, it may be advantageous to have representation from the Bilambil area. RECOMMENDED
Dr Barry Rigby	Tweed	Sports Medicine	Currently Director Intensive Care Unit, Tweed Heads Hospital. Previous positions include: Queensland Rugby Union Doctor Medical consultant to Australian Wallabies Rugby side Doctor to Gold Coast NRL side and Seagulls Group 18 Rugby league side. Foundation President on Gold Coast Australian Sports Medicine Federation.	Dr Rigby's vast experience in sports medicine would offer the committee expertise and experience beyond that offered by any current or potential members. RECOMMENDED

Name	Area	Main sports/affiliations	Background	Comments/ Recommendation
			Served on Qld board of Federation. Played grade cricket and Rugby. Hold level 1 coaching and umpiring certificates. President of Lindisfarne Sports Council	
Graham Lawrence	Kingscliff	Cricket/rugby league	Nominated by Kingscliff Sports Association.	Mr Lawrence is a highly respected member of the Kingscliff community and sporting community and would prove an asset to the committee. However, The Kingscliff Sports Association already has a nominated representative on the committee (Merve Edwards)
Grahame Murphy	Tweed	Rugby League	Vice President of Seagulls Old Boys. Advisory position to Seagulls Committee and Club Management. Involved in Intra-Club committee.	Demonstrated interest in sport, particularly Rugby League. Note that Mr Murphy and Mr Douglas (below) are currently associated with the same organisations
Neville Douglas	Banora point	Various	Currently on Executive Committee of Seagulls Old Boys supporters club. Representative on inter sports club. Involved in admin and coaching of various sports including surf life saving, cricket and soccer.	Demonstrates experience in sport administration and coaching. Would prove an asset to the committee. Note that Mr Douglas and Mr Murphy (above) are currently associated with the same organisations

Name	Area	Main sports/affiliations	Background	Comments/ Recommendation
Cherie Aston	Bilambil	Rugby League	Secretary Bilambil Jets Junior Rugby League Club.	In dealings with Council representing Bilambil Junior Rugby Leagues Club, Cherie has always proven to have a positive approach intent on achieving the fairest possible outcome. Cherie would be an asset to the committee. Additionally, representation from Bilambil would be beneficial. Cherie is recommended as an alternative option should Council wish to change the recommendation.

Recommendations

As noted from the above table, it is recommended that Council appoint Dr Barry Rigby, Allana Brims and Rob Neinhuis as community representatives on the Sports Advisory Committee

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

1. Copies of individual applications. (DW 1025976; 1025012; 1024751; 1025013; 1025011; 1024541; 1025257)

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21 [EC] Naming of Parks - Salt

ORIGIN:

Recreation Services

SUMMARY OF REPORT:

At its meeting held 21 January 2004, Council resolved to call for comment regarding the naming of the parks within the Salt development.

At the close of comment, no submissions were received.

RECOMMENDATION:

That Council name the parks within the Salt development as follows:

Saltwater Park	Norfolk Park
Cylinders Park	Plomer Park
Daleys Park	Central Park

REPORT:

As per summary.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

22 [EC] Draft Plans of Management - Recreation Street Public Reserve & Banora Point Community Reserve

ORIGIN:

Recreation Services

SUMMARY OF REPORT:

Under the provisions of Section 36 of the Local Government Act 1993, a Plan of Management must be prepared for all Community Land. The processes undertaken in the preparation of a Plan of Management are as follows:

- Prepare a draft plan of management
- The draft plan is to be exhibited for at least 28 days and a submission period of at least 42 days during which submissions must be made to Council.
- Hold a public meeting in respect of the plan of the plan if the proposed plan categorises community land under Section 36 (4) or (5) of the Local Government Amended Act 1998.
- Consider all submissions made to the public hearing and any written submissions made to Council on the draft plan during the period of public exhibition. Council may then choose to amend the draft plan or to adopt the plan without amendment.
- Should the draft plan require amendment then the public consultation process (exhibition and submission period) must be re-held. Another public hearing is not required.
- Subject to no further amendments being required the Plan of Management is then formally adopted by Council.

Draft Plans of Management for the Recreation Street Public Reserve and the Banora Point Community Reserve have been produced in readiness for the public consultation process.

RECOMMENDATION:

That under the provisions of Section 36 of the Local Government Act 1993:-

1. The Draft Plan of Management for Recreation Street Public Reserve be placed on exhibition for 28 days allowing a submission period of 42 days. During the exhibition and submission period, a public meeting is to be held in respect of the plan.
2. The Draft Plan of Management for the Banora Point Community Reserve be placed on exhibition for 28 days allowing a submission period of 42

days. During the exhibition and submission period, a public meeting is to be held in respect of the plan.

REPORT:

Background

The Local Government Act 1993 (the Act) determined that plans of management were to be produced for all Community Land. Consequently, in 1995, Tweed Shire Council produced two generic plans of management being for sports fields and rural, urban and modified parks. Additionally, specific plans were produced for Knox Park and Pottsville Environment Park.

The Local Government Amended Act 2000 introduced further requirements on the management of community land and the production of management plans. Section 44 of the Act states "*Pending the adoption of a plan of management for community land, the nature and use of the land must not be changed.*" The effect of Section 44 is that no construction or issuing of leases or licences can proceed on community land unless specified in an existing plan of management until a new plan of management is produced allowing for such activities.

Within the Recreation Street Public Reserve, it is proposed to utilise a section of the reserve to construct a building for the Tweed Day Care. However, under the provisions of section 44 of the Act, this cannot proceed until a plan of management produced in accordance with the Act is adopted allowing for the proposed use.

Similarly, the construction of the Banora Point Community centre or proposed Pre School within the Banora Point Community Reserve cannot proceed until a Plan of Management for the Reserve is adopted under the Act allowing for the proposed use.

Requirements of a Plan of Management

Under the provisions of Section 36 of the Local Government Act 1993, a Plan of Management must be prepared for all Community Land.

Section 36 of the Local Government Act, 1993 sets out the relevant criteria pertaining to the both the need to prepare Plans of Management for public land and also the required form and content of such plans.

Section 36 of the Local Government Act, 1993 states, inter alia:-

Section 36.

- (1) *A council must prepare a draft plan of management for community land.*
- (2) *A draft plan of management may apply to one or more areas of community land, except provided by this division.*
- (3) *A plan of management for community land must identify the following:*

- (a) the category of the land;*
- (b) the objectives and performance targets of the plan with respect to the land;*
- (c) the means by which the council proposes to achieve the plans objectives and performance targets;*
- (d) the manner in which the council proposes to assess its performance with respect to the plans objectives and performance targets, and may require the prior approval of council to the carrying out of any specified activity on the land.*

(3A) A plan of management that applies to just one area of community land:

(a) must include a description of:

- (i) the condition of the land, and of any buildings or other improvements on the land, as at the date of adoption of the plan of management, and*
- (ii) the use of the land and any such buildings or improvements as at that date, and*

(b) must:

- (i) specify the purposes for which the land, and any such buildings or improvements, will be permitted to be used, and*
- (ii) specify the purposes for which any further development of the land will be permitted, whether under lease or license or otherwise, and*
- (iii) describe the scale and intensity of any such permitted use or development.*

(4) For the purposes of this section, land is to be categorised as one or more of the following:

- (a) a natural area;*
- (b) a sportsground;*
- (c) a park;*
- (d) an area of cultural significance;*
- (e) general community use.*

Once a draft Plan of Management has been produced, a consultation process is required prior to final adoption of the plan by Council. The consultation process is as follows:

- The draft plan is to be exhibited for at least 28 days and a submission period of at least 42 days during which submissions must be made to Council.
- Hold a public meeting in respect of the plan of the plan if the proposed plan categorises community land under Section 36 (4) or (5) of the Local Government Amended Act 1998.
- Consider all submissions made to the public hearing and any written submissions made to Council on the draft plan during the period of public

exhibition. Council may then choose to amend the draft plan or to adopt the plan without amendment.

- Should the draft plan require amendment then the public consultation process (exhibition and submission period) must be re-held. Another public hearing is not required.
- Subject to no further amendments being required the Plan of Management is then formally adopted by Council.

Draft management plans have been produced for the Recreation Street Public Reserve and Banora Point Community Reserve in readiness for the public consultation process.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

1. Draft Plan of Management, Recreation Street Public Reserve
 2. Draft Plan of Management, Banora Point Community Reserve (to be handed out at meeting)
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23 [EC] Tweed Coolangatta Community Safety Action Plan

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

Council at its meeting on 6 August 2003 resolved to adopt the Tweed Coolangatta Community Safety Action Plan and to forward the plan to the Attorney General for endorsement as a Safer Community Compact.

Advice has now been received that such application was successful. This allows Council to be able to apply to the Attorney General Department for funding to implement strategies and activities as set out in the Plan.

The process of applying for funding is currently underway.

RECOMMENDATION:

That this report be received and noted.

REPORT:

Council at its meeting on 6 August 2003 resolved to adopt the Tweed Coolangatta Community Safety Action Plan and to forward the plan to the Attorney General for endorsement as a Safer Community Compact.

Advice as set out below has now been received that such application was successful. This allows Council to be able to apply to the Attorney General Department for funding to implement strategies and activities as set out in the Plan.

The process of applying for funding is currently underway.

RECORDS Please register
a book to REG NCV/111



ATTORNEY GENERAL

YOUTH MATTERS

TWEED SHIRE COUNCIL
FILE NO: CRIME PREVENTION
DOCUMENT No: []
REC'D 11 MAR 2004
BOOK No: []
ASSIGNED TO: [Signature]
HARD COPY <input type="checkbox"/> IMAGE <input checked="" type="checkbox"/>

FILE No.
SUBJECT No.
DOCUMENT No. []
REC'D 10 MAR 2004
DOCUMENT TYPE []
LOCATION CODE []
E.D.P. PROCESSED []

Mr Warren Polglase
Mayor
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2429

Your Ref G J Edwards
Our Ref 01/0463/3

Dear Councillor Polglase

I refer to Tweed Shire Council's application for a Safer Community Compact under the *Children (Protection and Parental Responsibility) Act 1997*.

I am pleased to advise that the application has been successful. I have made an Order approving the Tweed Coolangatta Community Safety Action Plan as a Safer Community Compact under Part 4 of the Act, effective 15 March 2004 remaining in force until 14 March 2007.

As part of the assessment process Council's plan was referred to the Minister for Police and the Minister for Community Services for consideration and comment. Both Ministers have indicated support for the endorsement of the Plan.

I bring to your attention that Council should be able to provide a report on the implementation of the Crime Prevention Plan particularly, in relation to the achievement of the outputs and outcomes identified, as and when required.

Prior to the commencement date the Attorney General's Department will arrange for the Order to be published in the Government Gazette and a paper circulating in the NSW north coast area.

If you have any further queries, please contact Mr Steven Drew, Acting Director, Crime Prevention Division on telephone 9228 7620.

Yours sincerely


BOB DEBUS

Debus to forward
11/10/3

Level 36, Governor Macquarie Tower,
1 Farrer Place, Sydney NSW 2000
Telephone: (02) 9228 3071

Postal: PO Box A290, Sydney South NSW 1232

Facsimile: (02) 9228 3166

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council is now able to apply for funding to implement action within the plan.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

Minutes of the Public Transport Working Group Committee Meeting held Friday 27 February 2004

FOR THE CONSIDERATION OF COUNCIL:

VENUE:

Tweed Heads Civic Centre

TIME:

10.00am

PRESENT:

Committee Members: Bill McKenniarey, Garry McDougall (Surfside Buslines)

Informal: Shauna McIntyre (PTDP), Robin Spragg (TSC).

APOLOGIES:

Nil

CORRESPONDENCE:

Outwards: CPTIGS Submission, 9 January.

MINUTES OF PREVIOUS MEETING:

Moved: Bill McKenniarey

Seconded: Shauna McIntyre

RESOLVED that the Public Transport Working Group Committee meeting held Friday 23 January 2004 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

1. Policy Document Review

(a) Sustainable Local Transport Plan

A further meeting of the officer steering committee is planned to wrap up the proposals for integrating with existing transport policies and consider how they might be implemented. A report will then be made to EMT.

A copy of the Herbert Girardet report on a sustainable Adelaide, referred to at the last meeting, was circulated for information.

Brochures from VicUrban setting out sustainable development projects under way in Melbourne, including the Docklands area, were also circulated.

(b) Strategic Plan Review

Transport was included as an issue in the Community section of the Tweed Futures Issue Paper - community feedback from the series of forums is being received. Transport is a high priority in most submissions to Tweed Futures, both transport services and road issues. The Access Committee has made a submission.

2. Major Development Review

In a presentation by Terry Watson of TACTIC it has been estimated that current proposals in the pipeline for tourist accommodation amount to 1500 additional rooms in the Shire, compared to 1200 existing rooms. More than doubling the capacity will have significant effects, one of which may be an increased market for public transport from tourists arriving in the area by air and having no ground transport.

In discussion it was suggested there was a need for Access Guides for resort visitors, to highlight transport services for getting around in Tweed. It was agreed to raise this idea with Terry Watson.

3. Studies and Submissions

(a) Parry Inquiry - Interim Report

CountryLink has been given a 12 month reprieve for review of organisations, but there is not yet any information about progress of the review.

(b) Northern Rivers Trains for the Future

NRTF has proposed a meeting with the PTWG with a view to organising a public meeting in Murwillumbah. This can be arranged at the March meeting. Paul Waters of Murwillumbah Chamber of Commerce may be a contact who would assist with any public meeting.

Regarding a proposal for Wollongbar TAFE students to assist NTRF as part of their training in community work, it was commented that Murwillumbah TAFE College may also be interested.

(c) Unsworth Review of Bus Services - Interim Report

The final report is due to be released at the end of February.

As well as general recommendations on contracting, fares and concessions, certain recommendations apply to Regional NSW:

- Introduce Integrated Regional Transport Planning, including Transport Working Groups and regionally-based Transport Development Officers;
- New regulatory model with flexible arrangements for procuring a package of services in each area, and an option for competitive tendering;
- Regional Transport Budgets through pooling existing funds.

(d) Country Public Transport Infrastructure Grants Scheme

A submission for infrastructure projects was completed before the February 10 deadline. It included further shelters, mainly for the 602 route (Banora Point). The proposal for bus traffic signals at Tweed City northbound was not included; Shauna related that she had experienced the difficulty bus drivers have in turning right into Kirkwood Road. This situation may tend to discourage Surfside from using the stop in Minjungbal Drive, or to consider pulling out of Tweed City.

There was discussion of student interchanges, which are not eligible under CPTIGS guidelines, but are an urgent need in certain areas. Garry showed photos of the Chinderah interchange which takes place between four buses (70 students) daily at the bus stop in Waugh Street, and a similar but larger interchange at Nerang. There is a shelter at Waugh Street, but nowhere for buses to pull off the road, and there is a risk from parents' vehicles parking on the opposite side of the road. Waugh St is a preferred location because it enables buses from north and south to meet, park on the same side of the road, and return both northwards and southwards. A possible alternative location might be the boat ramp car park at Chinderah.

RECOMMENDATION:

That Council give priority consideration to developing a safe student interchange at Chinderah to improve safety for students (see attached photos).

4. Circular Route - Tourism Links

As discussed in January, Surfside is investigating which parts of the Pottsville route are within its area, and will report further.

GENERAL BUSINESS:

5. Banora Point Community Centre - Bus Stop Facilities

Surfside is investigating whether there is likely to be any service along Leisure Drive. At present the 605 Murwillumbah Route uses Covent Gardens Way, where the existing stop with seat is located.

6. Casuarina Town Hall

No response has yet been received to a memo raising the possibility of negotiation of an early road connection through the Casuarina development between south and north which a scheduled bus could use. It was mentioned that a school bus now picks up in the estate.

7. Requested Stop in Florence Street

A response suggesting alternatives is being prepared.

8. Transport Needs of People in Residential Aged Care - NCOSS

A summary of the research was circulated. Public transport was the least preferred means of transport, but Community Transport cannot meet the need and many residents do not have family who can transport them. There is a policy vacuum in this area, and the study suggested specific funds be allocated for transport. It was appropriate for the PTDP to respond supporting the NCOSS recommendations.

OTHER ITEMS RAISED:

Victorian Taxi Transport Scheme Changes

Following representations, wheelchair users, blind & visually impaired people, and Veterans Affairs clients are to be exempt in Victoria: more people will be allowed to go over the \$550 cap, but most will be subject to a means test and medical test.

CPTIGS - Timetable Holders

Surfside is putting metal holders in existing shelters using screws, but they would be more secure if welded onto future shelters ie, specified in the order to construct the shelters (2 or more holders per shelter).

NSW Transport Alliance

Comprising NCOSS, Unions, Pensioners and Superannuants Association, Disability groups etc, are calling on the Government to hold a Transport Summit, similar to the Health Summit (see attached press release).

RECOMMENDATION:

That Council applies to join the Alliance to strengthen the focus on changes required in transport policies.



NSW TRANSPORT ALLIANCE CALLS FOR TRANSPORT SUMMIT

This week a new peak group consisting of transport unions, community groups and local Government launched the NSW Transport Alliance and called on the Carr Government to convene an urgent summit to deal with the state's public transport needs.

The NSW Transport Alliance recognises the current issues are symptomatic of broader public transport problems in NSW that require a concerted effort from all stakeholders to improve the transport network, identified in the report *"Our Public Transport: A Community View"* – released late last year.

The NSW Transport Alliance believes the successful model used by Government to address both community drug and alcohol issues is the only way to cut through the current logjam of issues and provide practical solutions.

The NSW Transport Alliance believes the summit should address the following principles:

- **Investment** - The Government needs to increase the level of investment to provide a sustainable public transport system
- **Planning** - The Government must develop a long-term plan that provides an integrated public transport network that has a core aim of reducing reliance on private motor vehicles in our cities and regions. The plan should actively encourage commuters to use public transport with the incentive for commuters being that no matter what form of public transport they use it will be safe, reliable and clean.
- **Environment** - The quality of public transport is fundamental to the health of our society and moving commuters from cars to mass transit is an environmental imperative.
- **Fair Access** – there should be fair access to public transport for everyone.

A summit will provide the Government with an opportunity to hear from key stakeholders, experts and transport users that will provide the platform for the development of a shared vision that will deliver a sustainable public transport system for the people of NSW.

Contacts:

Nick Lewocki, Secretary, Rail, Tram and Bus Union, (mob) 0415 661 881

Alex Gooding, Executive Officer, Western Sydney Regional Organisation of Councils, (mob) 0418 164 759

Kristyn Thompson, Secretary, Australian Services Union (mob) 0414 996 336

Mark Morey, Research Director, Labor Council of NSW (mob) 0425 231 812

Alliance Members include: Labor Council of NSW, Nature Conservation Council, The Productive Edge, People With Disability, Rail Tram and Bus Union, Transport Workers Union, Australian Services Union, New South Wales Council of Social Services, Institute for Sustainable Futures, Rockdale City Council, Western Sydney Regional Organisation of Council, Combined Pensioners and Superannuants.

A copy of *"Our Public Transport: A Community View"* can be found on the Labor Council Website at: <http://www.council.labor.net.au/community/public/Transport20031118.html>

NEXT MEETING:

The next meeting of Public Transport Working Group Committee will be held on Friday, 26 March 2004 at 10.00am at the Tweed Heads Civic Centre.

The meeting closed at 12 noon.

DIRECTOR'S COMMENTS:

Nil.

DIRECTOR'S RECOMMENDATIONS:

As per the Committee's recommendations.

Minutes of the Local Traffic Committee Meeting held Thursday 18 March 2004

FOR THE CONSIDERATION OF COUNCIL:

VENUE:

Peter Border Room

TIME:

Commencing at 9.00am.

PRESENT:

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

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

APOLOGIES:

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

MINUTES OF PREVIOUS MEETING:

RESOLVED that the Minutes of the Local Traffic Committee Meeting held Thursday 19 February 2004 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

BUSINESS ARISING:

8. Coast Road, Bogangar

R1181 Pt13; Traffic - Speed Zones

This item has been brought forward from the meetings held 11 December 2003 (item 8) and 19 February 2004 as Council has resolved to defer this matter so that the issue can be addressed in detail. The item is reproduced below:-

"Request received for defining speed limits on the Coast Road from south of Hastings Road to Round Mountain Road with the relocation of the 80kph zone to south of Sandalwood Drive it leaves an 80kph zone of only 700m. Request to convert all of this area to 60kph from south of Hastings Road to Round Mountain Road.

The Committee noted that the 60kph zone north of Hastings Point is located north of Round Mountain road which does not comply strictly with RTA Policy. It was noted that the 60kph zone was placed in this location prior to the off road cycleway / walkway being constructed. The Committee considered that this zone should be reduced southward to the "Gateway" traffic calming device at the northern side of Hastings Point.

RECOMMENDATION:

That the speed zone signage between Sandalwood Drive and Hastings Point be adjusted in terms of the locations of the 60 / 80 signs to comply with RTA policy and located at the calming device."

"To be deferred to the March 2004 meeting.

For Council's information."

The Committee noted that after the review of signs only one sign had to be moved. The 60kph sign has been moved to the 'slow point' north of Hastings Point Village.

For Council's information.

12. Proudfoots Lane, Murwillumbah

R4455 Pt1; DW981151; 1000088; Traffic - Committee; Traffic - Parking Zones; Loading Zones

This item is brought forward from the meeting held 19 February 2004 (item 12) and is reproduced below:-

"Parking issues at the rear of Budds Mitre 10 and Bridglands. Both businesses have requested loading zones.

The Committee decided that this matter be deferred to the March 2004 meeting so that more information could be obtained regarding the legal uses of loading zones as opposed to 'No Parking' zones.

For Council's information."

The Road Safety Officer advised that station wagons may park for a 15 minute duration and small trucks for 30 minutes unless signage indicates otherwise. All other vehicles can pick up and drop off passengers.

RECOMMENDATION:

That loading zones be installed on both sides of Proudfoots Lane adjacent to Retravision and Mitre 10 covering the frontages of the respective properties.

14. Terranora Road, Terranora

R5431 Pt5; Traffic - Weight of Vehicles

This item is brought forward from the meeting held 19 February 2004 (item 14) and is reproduced below:-

"The Police Representative requested a 4.5GVM load be placed on Terranora Road.

Item deferred to the March 2004 meeting to allow further information to be obtained.

For Council's information."

The request for a load limit on Terranora Road was made by the Roads & Traffic Authority (RTA) as they advise interstate trucks are using it to avoid the truck safety camera and weight stations at Chinderah. The issue has been discussed extensively before including the ability of RTA Inspectors to stop trucks on Terranora Road regardless of signage and even if signage is installed they will have to enforce it in any case. Traffic count data previously tabled did not indicate a significant problem with semi-trailers using Terranora Road. The Police requested a 4.5 tonne limit as it made enforcement easy but was rejected due to the impact it would have on commercial traffic, especially as Terranora Road is a distributor road and is expected to carry such traffic.

At a meeting with RTA Weights Inspectors and the heavy vehicle driver trainer it was agreed that a 12 tonne limit on Terranora Road from south of Bilambil Road to north of Dulguigan Road could be accommodated.

The Committee noted that other locations should be changed from 14.5 tonne to 12 tonne limits for consistency.

The Committee noted that deliveries in the area are exempt from these limits.

RECOMMENDATION:

That:-

1. The weight limit on Terranora Road be changed to a 12 tonne limit from south of Bilambil Road to north of Dulguigan Road.
2. All other 14.5 tonne limits in the Shire be changed to 12 tonne limits.
3. Signs advising of the load limit be placed at the Terranora Road / Pacific Highway junction and an additional sign be placed on the Pacific Highway at the start of the southbound right turn lanes onto Terranora Road.

GENERAL BUSINESS:

PART A

1. Powell Street

R4430Pt1; DW1003813; Traffic - Parking Zones; Traffic - Safety

Request received for Local Traffic Advice in relation to people double parking while they attend the Post Box in Powell Street adjacent to the water valve controls for Tweed

Heads Hospital. It is also reported that vehicles are being parked for very lengthy periods adjacent to the Post Box. It was noted that the Australian Road Rules are quite specific in this regard and it was therefore decided to forward this matter to the Rangers for enforcement.

For Council's information.

**2. 40 km/h High Pedestrian Areas
DW983171; Traffic - Local Area Traffic Management; Speed Zones; R3640 Pt4;
R3340 Pt5**

The Roads and Traffic Authority has requested Council identify high pedestrian areas that may be suitable for the installation of a 40km/h area zone. It is put forward that this may be suitable for Murwillumbah CBD, Coronation Drive, Pottsville and upgrade of the existing zone on Marine Parade, Kingscliff

RECOMMENDATION:

That subject to RTA funding Council supports the 40kph area zones in Murwillumbah Street Murwillumbah and converting the existing 40kph area zone in Marine Parade Kingscliff to comply with the new draft standards.

**3. Marine Parade, Kingscliff
R3340 Pt5; DW1011500; Traffic - Taxi Stands**

Request received in relation to the taxi rank in Marine Parade, Kingscliff.

At present there are two taxi spaces. Adjacent to one of these spaces there are dining tables, chairs and pot plants. When chairs are occupied it is reported that they are so close to the kerbside that passenger doors are unable to be opened which means that the taxi behind has to reverse to allow for the passenger doors to be opened.

It is requested that:-

1. This taxi rank be relocated to the northern side of Seaview Street between the two roundabouts.
2. A bench seat with roof over be installed in the new area in Seaview Street.

It was noted that these facilities are being designed and funded by Public Transport Grants from the NSW Government.

The Committee noted Mr McKennarney's comments that if the taxi rank was relocated to Seaview Street it would have a dramatic impact on pedestrians, however it was determined that whilst some people may need to walk further others would be closer and

given the area is serviced by footpaving and pedestrian refuges the location is considered acceptable.

RECOMMENDATION:

That given the support of the Business Corporation and the owner of the four taxis that service Kingscliff the Committee endorses the relocation of the taxi rank to the location on the northern side of Seaview Street between Marine Parade and Pearl Street.

4. Scenic Drive, West Tweed Heads

R4930 Pt3; DW996402; Traffic - Safety; Directional Signs

Request received for the installation of a mirror to increase visibility for vehicles exiting the slip road on to Scenic Drive. It is reported that vehicles coming down Scenic Drive from Bilambil Heights often travel very quickly. Such a mirror would be utilised by 5 homes on the slip road and funded by the respective owners.

RECOMMENDATION:

That permission be given for a safety mirror to be installed on Scenic Drive by the residents of the 5 homes utilising the mirror subject to the owners covering all costs.

5. Laura Street, Banora Point East and Pacific Highway

R3020 Pt1; Traffic - Committee; Linemarking

Lane 1 (kerbside) of the southbound section of the Pacific Highway has an arrow giving the option to turn left into Laura Street or straight ahead. This is creating problems for motorists exiting Laura Street turning left to travel south on the Highway as they pull out in front of traffic that does not turn into Laura Street.

The RTA Representative advised that the matter has been considered but due to insufficient lane lengths for merging and accelerating traffic it is not possible to change the lane markings.

For Council's information.

6. Tweed Terrace, Point Danger (Carlin Park area), Tweed Heads

R5640 Pt1' Traffic - Committee; Local Area Traffic Management; Linemarking

Currently this section of road is two-way. This is perceived to be causing problems for parked vehicles and for motorists travelling through the area. There is sufficient room to construct another lane using the large pine tree as a centre median strip area and possibly constructing additional car parking spaces.

The Committee noted that the area is not wide enough for centre linemarking and that it is a low speed area with excellent sight distance and clearly sign posted. The requested works would cost at least \$200,000 and would have a very low priority in Council's Works Program.

For Council's information.

7. The Anchorage (Mariners Drive East), Tweed Heads

R3346; Traffic - Speed Zones; DW1014239

Request received in relation to reducing the speed of traffic in Mariners Drive East at The Anchorage. It is reported that presently the area is 50kph but there are many elderly pedestrians and a 40kph speed zone is being requested.

The Road Safety Officer advised that he had met with the residents on site and had suggested a safety campaign be conducted with the locals and that a speed survey be carried out to determine the extent of the perceived speeding issue. If the traffic counts indicate a problem the matter will be referred back to the Committee.

The Committee noted that the provision of a footpath along Mariners Drive would be considered in the next financial year.

For Council's information.

8. Coronation Avenue, Pottsville

R1360 Pt1; Traffic - Committee; Zones - Speed

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.

9. Cudgen Road & Crescent Street, Cudgen

R1460 Pt4 and R1435 Pt3; DW1008436; Traffic - Committee; Zones - Speed

Request received in relation to the speed of traffic on Cudgen Road and Crescent Street, Cudgen.

The Committee noted speed readings taken in the area. Generally the traffic count data indicates that there is not a speeding problem as the 85th percentile speed on Crescent Street is 51.5kph and Cudgen Road 60.8kph which reflects the speed zones on these streets.

For Council's information.

PART B

Nil

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held on Thursday 15 April 2004 in the Peter Border Room commencing at 9.00am.

The meeting closed at 11:00am.

DIRECTOR'S COMMENTS:

Business Arising:

14. Terranora Road, Terranora

R5431 Pt5; Traffic - Weight of Vehicles

This recommendation will have a significant cost impact on Council's operations. For Council to service the Bilambil / Carool / Piggabeen areas all heavy plant will be forced to take a much longer route via Sextons Hill and then through residential areas which is considered to be unacceptable when a more direct route exists. The alternate route in many cases would involve Terranora Road from the Pacific Highway to Bilambil Road.

The extent of the problem as advised by the RTA was not reflected in traffic counts undertaken by Council. If indeed heavy vehicles are bypassing the Pacific Highway when the heavy vehicle weigh station is operating the RTA have the option of setting up a mobile station on Terranora Road north of the Tweed River at Tumbulgum.

DIRECTOR'S RECOMMENDATIONS:

Business Arising:

14. Terranora Road, Terranora

R5431 Pt5; Traffic - Weight of Vehicles

That Council does not accede to the Road & Traffic Authority's request for a weight limit on Terranora Road from Bilambil Road to Tumbulgum.

Minutes Circulated with this Agenda not requiring Council Resolution

FOR THE CONSIDERATION OF COUNCIL:

UNDER SEPARATE COVER:

1. Minutes of the Tweed Shire Council Occupational Health and Safety Committee Meeting held Thursday 11 March 2004.
 2. Minutes of the Regional Companion Animal Committee Meeting held Thursday 11 March 2004.
 3. Minutes of the Tweed Shire Council Consultative Committee Meeting held Thursday 25 March 2004.
 4. Minutes of the Public Transport Working Group Committee Meeting held Friday 26 March 2004.
 5. Minutes of the Tweed Shire Council Occupational Health and Safety Committee Meeting held Thursday 8 April 2004.
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CONFIDENTIAL MATTERS

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT SERVICES IN COMMITTEE

1 [DS] Terranora Village Shopping Centre

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

2 [DS] Complaints - 82 Avondale Drive, Banora Point

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)
-

REPORTS FROM DIRECTOR ENGINEERING SERVICES IN COMMITTEE

3 [ES] EC2003-209 Dredging and Reuse of Biosolids - Tweed Heads Sewage Treatment Plant

REASON FOR CONFIDENTIALITY:

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

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

4 [ES] EC2003-142 Construction of Boat Ramps - Chinderah Bay and Tweed Heads South (Dry Dock Road)

REASON FOR CONFIDENTIALITY:

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

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

5 [ES] Tweed Heads / Banora Point STP Effluent Disposal EIS Consultancy

REASON FOR CONFIDENTIALITY:

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

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

6 [ES] EQ2004-54 and EQ2004-55 for the Relining of Stormwater Pipes at Botany Crescent and Wyuna Road, Tweed Heads

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

7 [ES] EC2003-218 Rehabilitation of Sewer Reticulation

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

8 [ES] Sale & Lease of Council Owned Land at Chinderah Bay

REASON FOR CONFIDENTIALITY:

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

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

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

9 [EC] Tweed Regional Botanic Gardens Logo Competition

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)

10 [EC] HC2004-056 Proposed Earthworks for the Capping of the Cudgen Landfill Site - Depot Road, Cudgen

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