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MAYORAL MINUTE

Mayoral Minute

Councillors,

1. Tweed Bowls Club

22 April – Farewell Function for players in Australia/England Test Match

2. Tweed Theatre Company

23 April – attendance at Tweed Theatre Company presentation “Daylight Saving” at Tweed Heads

3. Anzac Remembrance

24 April – Anzac Remembrance Night Function at Murwillumbah Masonic Centre

4. Anzac Day Ceremonies

25 April – attendance and wreath laying at ceremonies at Pottsville and Tweed Heads

5. St Cuthberts Church

26 April – attended men’s meeting and BBQ

6. Mirvac Constructions

27 April – meeting with executives Mirvac Constructions

7. Citizenship Ceremony

28 April – Private Citizenship Ceremony for Dr. Brian Clarke at Murwillumbah

INVITATIONS ACCEPTED:

- 29/30 April – Regional Arts Meeting in Sydney
- 3 May – dinner with Board of Country Energy
- 4 May – Citizenship Ceremony THCC
- 4 May – meeting with Board of Country Energy
- 4 May – Tweed Futures Workshop
- 5 May – Launch Red Shield Appeal

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

- Australian Local Government Women's Association (NSW) 51st Annual Conference
17-20 June 2004 Parramatta

ABSENCES FROM SHIRE BY EXECUTIVE, AND COUNCILLORS:

Executive

Name	From	To	Location	Details
DES	6 May 2004	7 June 2004	Sydney	Water Directorate Meetings
EM	17 May 2004	18 May 2004	Homebush	NSW LG Finance Professionals Annual Conference
GM	30 April 2004		Casino	NOROC Meeting & Workshop
GM	23 May 2004	26 May 2004	Melbourne	LGMA National Congress
GM	31 May 2004		Sydney	LGMA Forum "The Hitchhiker's Guide to Local Government"
GM	1 June 2004	3 June 2004	Sydney	Shires Association Annual Conference

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.

ITEM DEFERRED FROM MEETING HELD 28 APRIL 2004

Councillor G J Lawrie

Councillor J F Murray

RESOLVED that this matter be deferred to the next meeting of Council.

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.

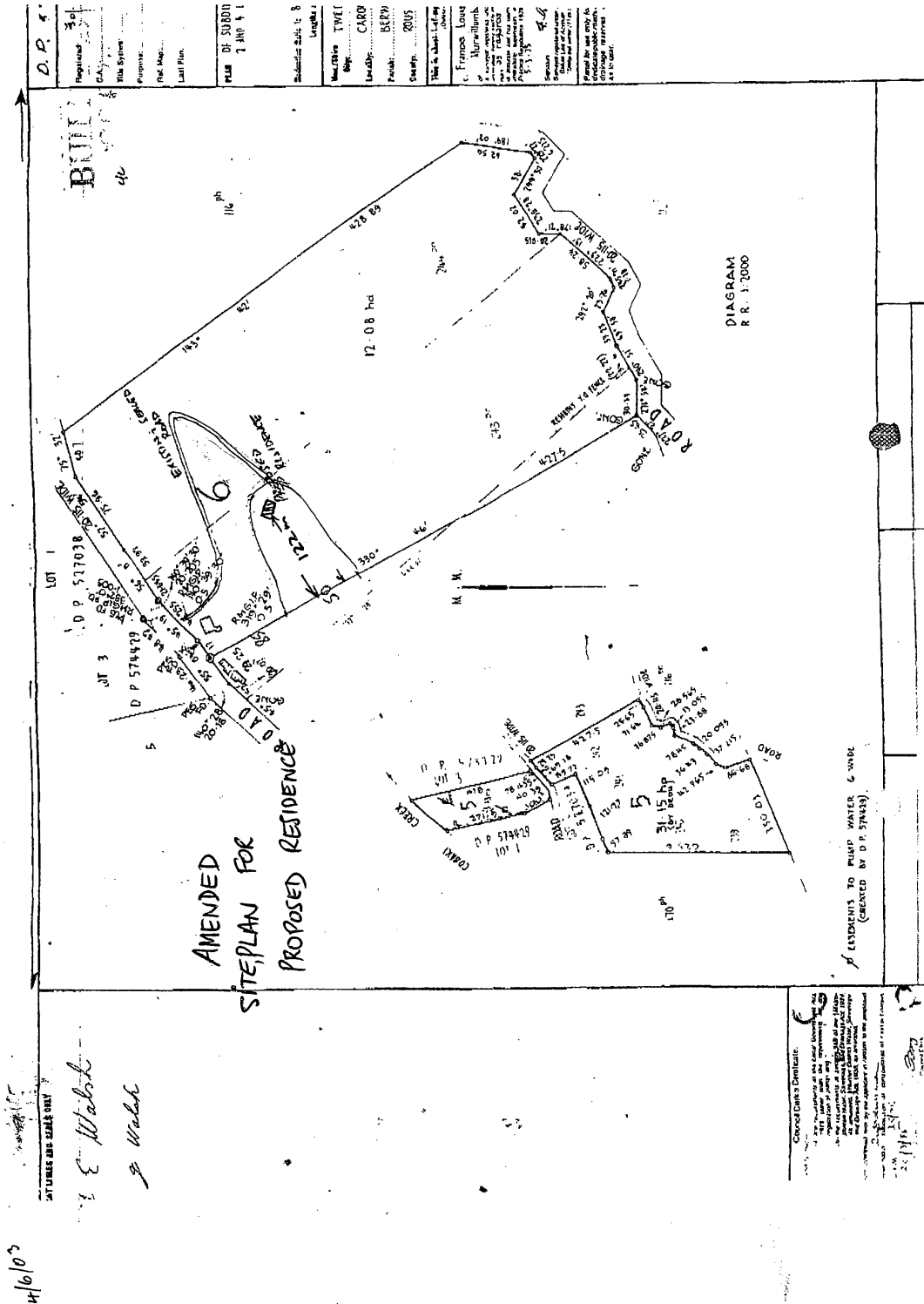
The kennel has development consent to operate and has recently had extensions carried out with Council approval.

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.

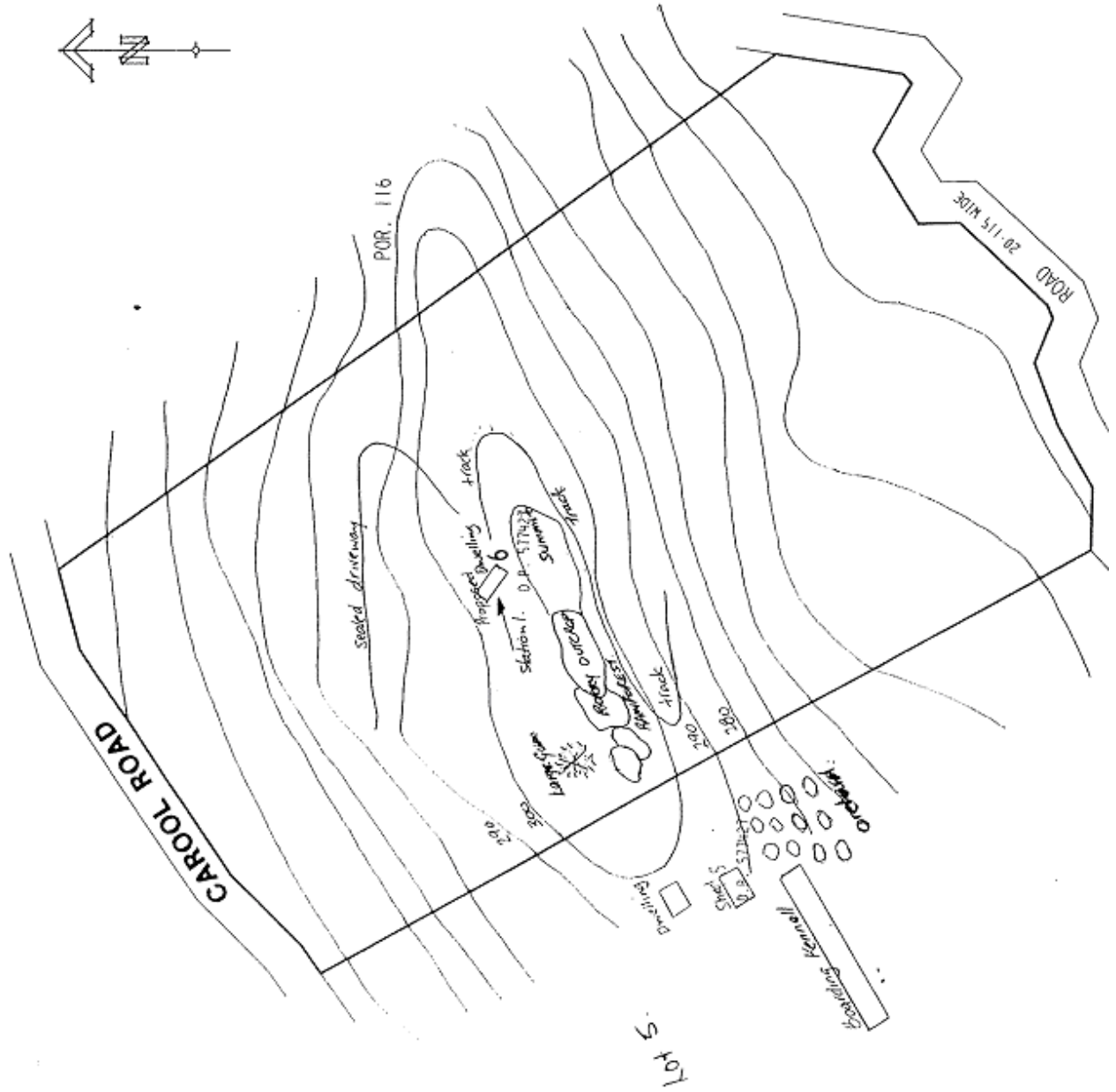
It is strongly recommended that you object to the proposal and urge the Tweed Shire Council to reject the development application at the proposed site.

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.*

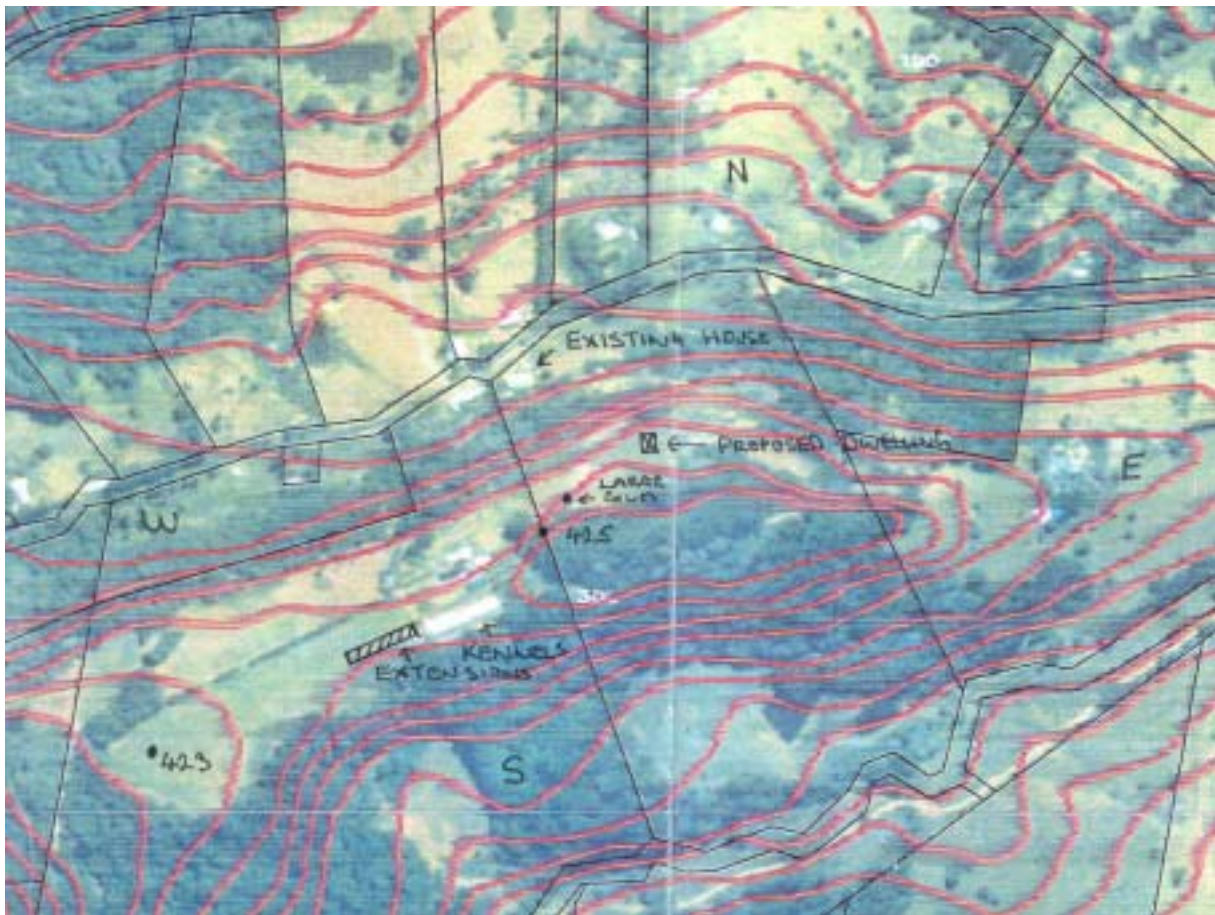
Overall, the noise impact from the dog kennel should be assessed with the NSW EPA Industrial Noise Policy. The comments above should be addressed. At this stage, we cannot give a preference in the decision making process until these issues are addressed."

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.

PARTNERS:
Paul Bolster
Mark Bolster LL.B.



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BOLSTER & CO.
SOLICITORS
NEW SOUTH WALES & QUEENSLAND
A Solicitor Corporation under the Legal Profession Act

Your Ref: DA03/0080
Our Ref: PAB:JM:20034404

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TWEED SHIRE COUNCIL	
FILE No.	DA03/0080
DOCUMENT No.	21/42/32
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2 June 2003

Tweed Shire Council
Po Box 816
MURWILLUMBAH NSW 2484

FAX: 02 6670 2590

FAXED

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.

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

ITEM DEFERRED FROM MEETING HELD:

28 April 2004

226 RESOLUTION:

*Councillor W J Polglase
Councillor G B Bell*

***RESOLVED** that this matter be deferred to the next meeting of Council.*

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 Nat hers 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</p>

		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.
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.

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] Development Application DA03/1851 for a construction of a public road and relocation of a water main at Lot 490 DP 47021, Lot 500 DP 727420, Lot 312 DP 755701, Tweed Coast Road, Kingscliff

ORIGIN:

Development Assessment Unit

FILE NO: DA03/1851

SUMMARY OF REPORT:

An application has been received for the permanent realignment of Casuarina Way through Lot 490 and relocation of the watermain in Lot 312. The proposal involves realigning Casuarina Way so that it bisects Lot 490. Roadworks will also be undertaken within Lots 312 and 500. Works within Lot 312 and 500 are required so that the road is correctly aligned through Lot 490. An intersection at the northern end of the proposed realignment with the existing Casuarina Way (former Coast Road) is required so access to this area is maintained for future use as a car park, beach access and cycleway. The existing watermain is located within Lot 312 and is to be relocated to the rear of the future lots within the SALT development.

Lot 490 is Crown Land reserved for Tourist Facilities and Services. The land is under the care, control and management of Council.

A draft development control plan (DCP) and draft Plan of Management (PoM) have been prepared for the site and Council has called for tenders for the development of the land.

Council is awaiting advice from the Department of Lands regarding the draft DCP and draft PoM.

It is considered that approval of the road through Lot 490 as proposed is premature as the DCP and PoM and tendering process should be finalised prior to consenting to the location of the road.

RECOMMENDATION:

That Development Application DA03/1851 for a construction of a public road and relocation of watermain at Lot 490 DP 47021, Lot 500 DP 727420, Lot 312 DP 755701, Tweed Coast Road Kingscliff be refused for the following reasons: -

1. The relocation of Casuarina Way is premature given that draft DCP 46 and the draft Plan of Management and the tendering process for Lot 490 have not been finalised.

2. The Department of Environment and Conservation are not satisfied that the proposed location of the road will minimise the fragmentation of the native vegetation and fauna habitat values of Lot 490 or maximise the riparian buffer to Cudgen Creek.
3. The Department of Environment and Conservation are not satisfied that the Aboriginal heritage issues have been addressed adequately.

REPORT:

Applicant: South Kingscliff Developments Pty Ltd
Owner: Conservation & Land Management, South Kingscliff Developments Pty Ltd and Tweed Shire Council
Location: Lot 490 DP 47021, Lot 500 DP 727420, Lot 312 DP 755701, Tweed Coast Road Kingscliff
Zoning: 2(f) Tourism, 7(a) Environmental Protection (Wetland and Littoral Rainforest) & 7(f) Environmental Protection (Coastal Lands)
Cost: \$500,000.00

BACKGROUND:

On 8 October 2003 Council considered a report regarding the draft DCP and draft PoM for Lot 490. The report related development standards for the DCP and a request from the Ray Group regarding the realignment of Casuarina Road.

The following recommendation was made to Council: -

"That Council: -

- 1. Seeks the support of the Department of Infrastructure, Planning and Natural Resources to finalise the joint Development Control Plan and Plan of Management for Lot 490 DP 47021 to allow for habitable floorspace of 15% of total site area subject to appropriate environmental controls to achieve the stated vision and objectives of the draft Development Control Plan.*
- 2. Subject to that formal support, places the draft Development Control Plan and Plan of Management on public exhibition for twenty-eight days.*
- 3. The determination of the road connection through Lot 490 is deferred until the outcomes of the tendering processes and any interim realignment of the Tweed Coast Road within Lot 490 to be a temporary road - constructed and potentially rehabilitated at the total cost of the Ray Group."*

Council resolved as follows: -

- "1. Seeks the support of the Department of Infrastructure, Planning and Natural Resources to finalise the joint Development Control Plan and Plan of Management for Lot 490 DP 47021 to allow for habitable floorspace of 15% of total site area subject to appropriate environmental controls to achieve the stated vision and objectives of the draft Development Control Plan.*
- 2. Subject to that formal support, places the draft Development Control Plan and Plan of Management on public exhibition for twenty-eight days.*

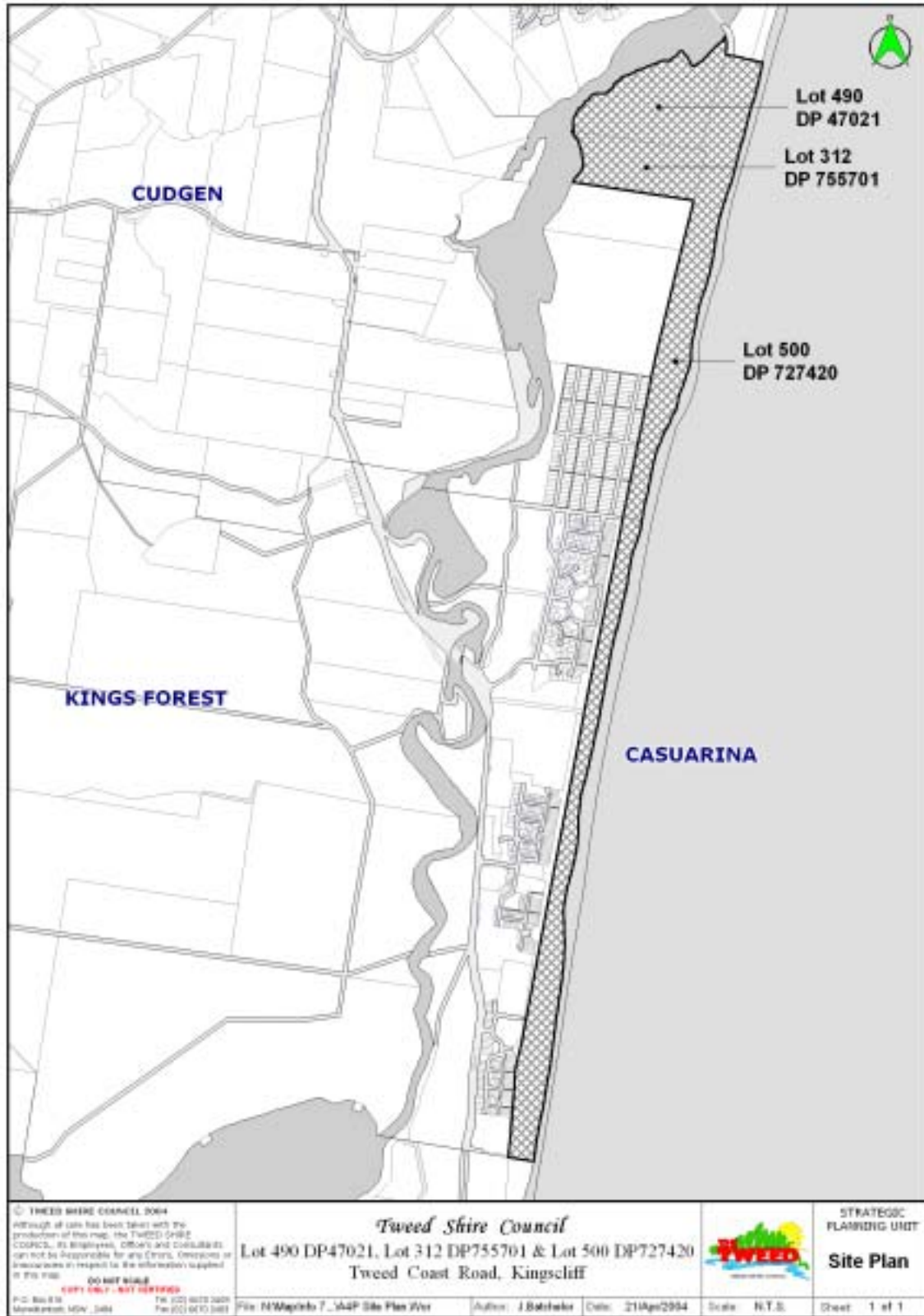
3. *Accommodates the re-alignment proposed by the Ray Group as indicated in Figure 1 subject to the Ray Group funding the road, on the condition that the Ray Group be reimbursed by the successful tenderer of Lot 490 via Tweed Shire Council."*

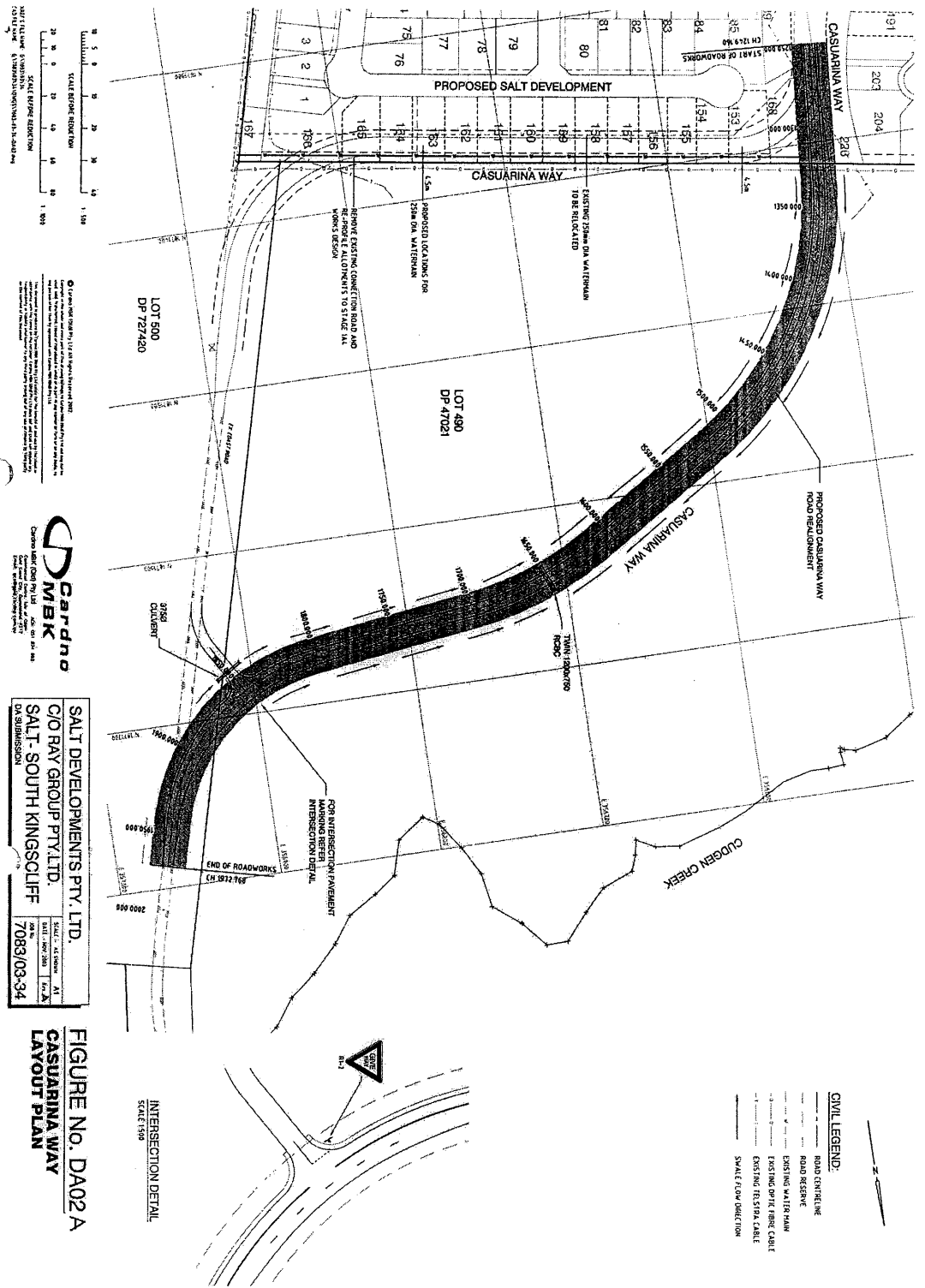
It should be noted that changes have occurred to the Department of Infrastructure, Planning and Natural Resources and the Department of Lands are now the relevant Government Authority.

The re-alignment indicated in Figure 1 mentioned in item 3 of Council's resolution accords with the alignment proposed in the development application.

To date Council has not received support from the Department of Lands for the draft DCP and PoM and accordingly they have not been exhibited.

SITE DIAGRAM:





SALT DEVELOPMENTS PTY. LTD.
C/O RAY GROUP PTY. LTD.
SALT - SOUTH KINGSCLIFF
 DA SUBMISSION

DATE	SCALE	BY
2003/07/28	1:500	AT
2003/08/01	1:500	AT

7/083/03-34

FIGURE No. DA02A
CASUARINA WAY
LAYOUT PLAN

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 proposed realignment is to provide for a cleared road reservation of approximately 22m containing a sealed carriageway of 7.0m, a sealed break down lane of 1.5m either side and shoulders of 1m either side. The remainder of the reservation will contain the associated drainage and batters required to construct the road. The existing water main is also to be relocated approximately 20m to the north so as to parallel the northern boundary of Lot 312 and allow completion of subdivision works in accordance with Consent 02/1422.

The subject site is partly zoned 2(f) Tourism, 7(a) Environmental Protection (Wetlands and Littoral Rainforests) and 7(f) Environmental Protection (Coastal Lands). The proposed works do not traverse land zoned 7(a). Roads are permissible with consent from Council in the 2(f) and 7(f) zones. Development in the 7(f) zone requires the concurrence of the Director of the Department of Infrastructure, Planning and Natural Resources. The concurrence has been received.

The objectives of the 2(f) zone are as follows: -

Primary objectives

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

Secondary objective

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

The objectives of the 7(f) zone are as follows: -

Primary objectives

- to identify land susceptible to coastal erosion and protect it from inappropriate development.

- to protect and enhance the scenic and environmental values of the land.

Secondary objective

- to allow for other development that is compatible with the primary function of the zone.

The proposal is not specifically contrary to the objective of the zones. The location of the road however is considered to be a key strategic issue for the Tweed Coast, as such the development planning for Lot 490 should be finalised so that the future development of Lot 490 is not compromised or the attainment of the objectives of the zones is not hindered.

North Coast Regional Environmental Plan 1988

Clause 32B of the NCREP is required to be taken into consideration. The application has addressed the matters contained in the REP satisfactorily.

State Environmental Planning Policies

The site is located in the Coastal Zone and SEPP71 Coastal Protection applies. The matters contained in Clause 8 of the SEPP have been satisfied.

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

N/A.

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

Draft DCP46 has not been finalised and adopted by Council. The location of the road is an important part of the draft DCP. It is considered that approval of a road prior to completion of the DCP is premature.

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

N/A.

(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

Stormwater

Road drainage network

The applicant proposes to grade the table drains to a low point of RL 2.90m AHD at ch 1644.11. It is proposed to provide twin cell, 1200mm x 600mm culverts under Casuarina Way at this point. These culverts have been sized to cater for a 1 in 100 event for stormwater discharging from the south eastern catchment.

Trunk drainage/downstream discharge

The land generally falls from the south eastern portion of Lot 490 in a northerly direction towards Cudgen Creek. The construction of Casuarina Way will create a barrier for the overland flow draining from the south. The applicants propose to install twin 1200 x 600 RCBC under Casuarina Way at chainage 1650. The culverts have been designed to cater for a Q100 event. This is considered satisfactory.

Stormwater quality management

Construction phase

The applicants have estimated that the soil loss rate is 51.2 tonnes/ha/year. They have advised that after bulk earthworks exposed areas will be mulched and seeded to manage soil loss. Furthermore, a sedimentation basin will be installed on the downstream side of the twin 1200x 600 RCBC. This basin has been sized for a disturbed catchment of 1.59ha and has a volume of 103m³.

In addition, the applicants propose to provide a shake down area at the southern end of Casuarina Way. Other management devices include sediment fences, catch drains and check dams.

It is considered that the stormwater management for the construction phase is satisfactory.

Operational phase

Runoff from Casuarina Way will be captured in grassed lined swales lining the roadway before draining to four infiltration basins located at the low points of the proposed roadway alignment. The infiltration basins will be designed to cater for Q3 months events. The provision of infiltration basins is considered satisfactory.

Acid Sulfate Soils

An ASSMP has been submitted for consideration. It requires that testing be undertaken on any material disturbed below 5m AHD. This is consistent with other ASS management in adjacent subdivisions.

Contamination

The site has also been surveyed for radioactive residues from sand mining. The action limit is 2.5uGy/hr. The measured levels were 0.1-0.2 uGy/hr. This reasonably demonstrates that radiation levels are currently at or near background. To ensure that radioactive material is not exposed during works a post earth work validation requirement will be applied.

Flooding

The 1 in 100 year flood level of the site is RL 2.51m AHD. The existing surface level of the proposed road route varies from RL 1.6m AHD to RL 7.2m AHD. The finished level of the proposed road ranges from RL 2.9m AHD to RL 7.3m AHD. The road will be above the design flood level.

Development of Land adjacent to Land Zoned 7(a)

The Tweed LEP requires a Management Plan to be prepared for development adjacent to the 7(a) zone. A plan has been prepared and is considered acceptable. Council is required to consider representations made by NSW Fisheries and the Department of Environment and Conservation prior to granting consent. NSW Fisheries have raised no objection to the proposal. The matters raised by DEC are outlined in the submissions section of this report.

Social Impact

The application has considered the social and economic impact assessment and identifies some positive impacts - construction employment, improved road safety and efficiency.

Development adjoining water bodies

Clause 31 of the LEP requires consideration of a number of issues regarding development that adjoins water bodies. The proposed road is unlikely to adversely affect Cudgen Creek given the distance from the Creek.

Coastal Erosion

Clause 36 of the LEP requires Council to consider coastal erosion. The proposed road is unlikely to impact on coastal erosion processes or be affected by coastal erosion processes. The majority of the road will be located to the west of the hazard line.

The Tweed Coast Hazard Study indicates that the 1 in 100 year hazard is seaward of all properties in this location.

Threatened Species

A flora and fauna assessment was undertaken and concluded that the site is unlikely to have a significant impact on threatened species. A recording of the Little Bent-wing Bat is classified as vulnerable however the assessment indicates the bat would have been using the site for occasional foraging and not roosting.

Mitigation Measures

The application lists the following measures to mitigate potential adverse impacts.

- Alignment of the proposed road to optimise the future development of the land in accordance with the draft DCP and Plan of Management.
- Construction in April/May 2004 to minimise impact on holiday traffic.
- Substantial compliance with all relevant Council instruments, codes and policies.
- Limiting the construction period to 8-10 weeks.
- Compliance with Council's normal construction phase requirements in relation to work hours, noise, dust, etc.
- Adoption of a construction methodology, which will limit disruption to traffic.
- Adoption of a Plan of Management to mitigate any potential impacts upon the adjacent 7(a) land.
- Provision of appropriate signage and public notification (through the Tweed Link) will be provided to advise the travelling public of changes to traffic conditions.

(c) Suitability of the site for the development

The site is considered suitable for a road. The location of the road requires further assessment through the DCP and PoM process and further management through the tender process.

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

The application was exhibited and four submissions were received. The submissions are summarised below with comment following: -

1. Relocation will prevent public access to the beach.

Comment

The existing Casuarina Way will remain open to provide for car parking, beach access and a cycleway.

2. Lot 490 earmarked for low cost tourist designation.

Comment

A variety of tourist accommodation forms have been identified for the site in the draft DCP.

3. Public land should not become an extension of the SALT development.

Comment

The land is not part of the SALT site or development.

4. Drainage not adequately planned for.

Comment

Stormwater has been addressed adequately in the application.

5. Road should not be built through the centre of Lot 490.

Comment

The DCP and PoM should be finalised prior to approval of the road through Lot 490.

6. Lot 490 should be retained as green space and as a recreational and picnic area in public ownership.

Comment

As above.

7. The road should be moved in an easterly direction from the point of entry along the southern boundary of Lot 490.

Comment

See comment 5 above.

8. As public land Lot 490 should be used to provide accommodation for those unable to afford upmarket resort accommodation provided to the south.

Comment

See comment 2 above.

9. The 8 October 2003 resolution disregards public rights in regard to public land. No action in regard to the road should be taken until exhibition (of draft DCP and PoM takes place)

Comment

See comment 5 above.

Council is required to consult the Department of Environment and Conservation and NSW Fisheries. NSW Fisheries raised no objections to the proposal.

The DEC submission is summarised as follows: -

- DEC is keen to comment on the draft DCP and PoM as Lot 490 has significant conservation values.
- It is recommended that the road alignment would be for the road to be located further eastward of the current location minimising the fragmentation of the native vegetation and fauna habitat values of Lot 490. Locating the road further east would also maximise the riparian buffer to Cudgen Creek.
- The Plan prepared by Cardno MBK dated 1 December 2003 (Job No. 7083/03-34) identifies two roundabouts with exit roads marked "possible future access locations for the beachside and creekside resorts". The inclusion of roundabouts and exit roads is not supported. These should be considered in line with the draft DCP 46 and PoM for the future development of the Lot 490.

- The Plan of Management (PoM) for the 7(a) lands identifies that the proposed road will be no closer than 80 metres from the 7(a) lands. The performance criteria, general management measures and environmental management measures are supported, with the exception of point one and two of Section 8 - Environmental Management Measures.

Point One states "Disturbance of the land to the north of the proposed road reserve is to be avoided wherever practical". It is considered that a more appropriate management measure would be to require, prior to any construction works, the fencing of native vegetation to be protected. Likewise with Point Two which relates to erosion and sedimentation control measures, measures should be in place prior to the implementation of works.

- In relation to archaeological sites, it is noted that Statement of Environmental Effects states that it is likely that any such site would be present as the lands were previously subject to extensive sandmining during the 1960's and 1970's.

It appears that no Aboriginal heritage assessment of the site has been undertaken and the above conclusion is based on supposition. It is therefore recommended that an Aboriginal heritage assessment be prepared in relation to the site to ensure the site does not support Aboriginal cultural values. This assessment should include: -

- A desktop assessment of the Aboriginal heritage values of the subject lands;
- Consultation with the Aboriginal community and the Tweed Byron Local Aboriginal Land Council; and
- A field assessment of these lands by an appropriately qualified Aboriginal heritage specialist.

The proponents don't agree that the site has significant conservation values or Aboriginal Heritage significance given the previous sand mining operations.

The proponents do agree with protecting existing vegetation clear of the proposed road prior to commencement of construction.

(e) Public interest

Lot 490 is a key Tweed Coast site. It is considered to be in the public interest to finalise the strategic planning for the site prior to consenting to the location of the realigned Casuarina Way.

OPTIONS:

1. Refuse the application.
2. Approve the application.
3. Defer determination of the application for a specified period of time.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If the applicant is dissatisfied with the determination, a right of appeal exists in the Land and Environment Court.

POLICY IMPLICATIONS:

It is considered that the proposal pre-empts the policy making process carried out by Council. The DCP and Plan of Management should be finalised prior to granting consent to the road location.

CONCLUSION:

The successful development of Lot 490 in accordance with its reserve designation and management status relies significantly on the location of the road. The strategic planning process should be finalised prior to approval of this application.

UNDER SEPARATE COVER:

Nil.

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2 [DS] Development Application DA03/1348 for a Subdivision into 17 Lots at Lot 2 DP 871171, Lot 731 DP 48275, Lot 515 DP 755740 No. 4A Oyster Point Road, Banora Point

ORIGIN:

Development Assessment

FILE NO: DA03/1348

SUMMARY OF REPORT:

Council is in receipt of a development application for a 17 lot residential subdivision on the subject land. The site is located on the eastern side of the Pacific Highway and is a prominent site. The land is zoned for residential purposes and forms part of the residential precinct of East Banora.

The development application was identified as integrated development and required referral to the NSW Rural Fire Service for General Terms of Approval. The applicant provided the necessary information to satisfy the requirements of the NSW Rural Fire Service.

As the subject land adjoins land in the ownership of the Roads and Traffic Authority consultation was undertaken with the Roads and Traffic Authority for their requirements. However as the Sextons Hill Bypass alignment and design is still in preliminary stages the applicant has not been able to design acoustic barriers to meet the requirements for a road way that is unknown in design, speed and vertical alignment.

The proposed subdivision complies with Council's requirements for residential subdivision and it is considered that the noise attenuation devices and their design may be finalised prior to the issue of a construction certificate for Stage 2 thereby enabling the applicant to finalise the development lot boundaries with adjoining property owners.

RECOMMENDATION:

That Development Application DA03/1348 for a subdivision into 17 lots at Lot 2 DP 871171, Lot 731 DP 48275 & Lot 515 DP 755740 into two stages at No. 4A Oyster Point Road, Banora Point be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plans Nos 0358IBN-S02 prepared by Stewart McIntyre & Associates and dated 24/11/2003, and Plan No.0358IBN-S05 prepared by Stewart McIntyre & Associates and dated 12/3/2004 except where varied by these conditions.

[GEN0010]

2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.

[GEN0030]

3. The subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.

[GEN0040]

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

[GEN0090]

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
- acoustic barrier
- 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]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. A detailed plan of landscaping is to be submitted and approved by Council's Director Planning and Environment prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to release of subdivision certificate.

[PCC0010]

7. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.

[PCC0040]

8. **Prior** to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

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

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

[PCC0080]

9. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.

All fill and cut batters shall be obtained wholly within the subject land.

[PCC0090]

10. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-
- i. Construction along the full length of the proposed subdivision roll top kerb and gutter/vertical face kerb and gutter on an approved alignment along with associated sub-surface and over-land stormwater drainage systems and 9 metre wide road pavement from the lip of the new kerb and gutter to the edge of the existing bitumen pavement including tapers.
 - ii. The road reserve in the subdivision shall be generally in accordance with drawing 0358IBN-S02 prepared by Stewart McIntyre & Associates dated 24/11/2003.

- iii. Construction of a stormwater drainage system that will convey all waters through the site to a legal point of discharge. The sub-surface and over-land drainage systems shall convey the respective flows from minor and major storm events. Clearly defined upstream catchment areas and supporting stormwater calculations shall accompany the engineering design plans.
 - iv. The proponent shall submit detailed plans and specification with an application for Construction Certificate for, but is not limited to, the proposed link road, associated services, subsurface overland flow and piped stormwater drainage structures designed in accordance with DCP16.

[PCC0180]
11. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCC0190]

12. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.

- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Permanent stormwater treatment shall be in general accordance with the Stormwater Management Plan prepared by Cozens Regan Williams Prove (August 2003) attached to the development application. [PCC0230]
13. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

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

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee. [PCC0240]

14. 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]

15. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17⁰ or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- i) Contours and terraces where the height exceeds 1m.
- ii) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- iii) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- iv) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.
- v) The landscaping shall be completed to the satisfaction of the Director Planning and Environment **PRIOR** to the issue of a Subdivision Certificate.
- vi) A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.

[PCC0330]

16. Construction Certificate drawings shall make provision for the design of earthworks, land forming and site regarding in accordance with "Development Design Specification - Site Regrading" or to the satisfaction of the Director Engineering Services.

[PCCNS01]

17. All retaining walls are to be designed by a suitably qualified geotechnical/structural engineer in accordance with AS4678-2002- Earth Retaining Structures. A report that details compliance with the design provisions of this standard is to accompany the Construction certificate Drawings.

[PCCNS01]

18. Details of the proposed roof water disposal for dwellings on Lots 6 - 15 inclusive, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.

All roof water shall be discharged to infiltration pits located wholly within the subject allotment.

The infiltration rate for sizing infiltration devices shall be 3m per day:

- As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24-hour period, before surcharging occurs.

Surcharge overflow from the infiltration area must be directed into the proposed inter-allotment drainage (IAD) as shown on Cozens Regan Williams Prove engineering drawing M.20.0vSK1 by visible surface flow, not piped.

Runoff is to be pre-treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).

If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).

All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.

All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.

All infiltration devices are to be located clear of stormwater or sewer easements.

The IAD line is to discharge to a level spreader in proposed Lot 6 to distribute flows across the full width of Lot 6.

An easement favouring all benefiting properties is to be obtained over the IAD system, discharge structures and level spreader and over all of Lot 6 downstream of the level spreader.

[PCCNS02]

19. Prior to the issue of a construction certificate for stage 2 the applicant shall satisfy the requirements of the NSW Roads and Traffic Authority and Tweed Shire Council in terms of the design of any acoustic barriers required for the subdivision.
20. Prior to the issue of a construction certificate for stage 2 the applicant shall submit to Council an acoustic report providing the design measures required for future residences in stage 2 of the subdivision. The acoustic report for the design measures for the future residences shall have regard to the acoustic barrier referred to in condition 19 above.

[PCCNS03]

PRIOR TO COMMENCEMENT OF WORK

21. Subdivision work in accordance with a development consent must not be commenced until:-
- (a) a construction certificate for the subdivision work has been issued by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority, and
 - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
 - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

[PCW0020]

22. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director Planning and Environment. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0030]

23. 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]

24. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the Director Planning and Environment.

[PCW0140]

25. 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]

26. Where water is required to be drawn from Council's water reticulation system it shall be the applicants responsibility to notify the Engineering Services Division prior to taking water.

All drawn water shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[PCW0260]

27. **Prior** to the commencement of work the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-

- a. Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
- b. AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

[PCW0270]

DURING CONSTRUCTION

28. All engineering works required to be approved prior to the issue of a construction certificate are to be constructed in accordance with the approval.

[DUR0020]

29. No soil, sand, gravel, clay or other material shall be disposed of off the site.

[DUR0030]

30. 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]

31. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[DUR0150]

32. Prior to the application for a **Subdivision Certificate** a Compliance Certificate or Certificates shall be obtained from Council **OR** an accredited certifier for the following:-

- (i) Compliance Certificate - Roads
- (ii) Compliance Certificate - Water Reticulation
- (iii) Compliance Certificate - Sewerage Reticulation
- (iv) Compliance Certificate - Sewerage Pump Station
- (v) Compliance Certificate - Drainage

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

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

Roadworks

- a. Pre-construction commencement erosion and sedimentation control measures
- b. Completion of earthworks
- c. Excavation of subgrade
- d. Pavement - sub-base
- e. Pavement - pre kerb
- f. Pavement - pre seal
- g. Pathways, footways, bikeways - formwork/reinforcement
- h. Final inspections - on maintenance
- i. Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- a. Excavation
- b. Bedding
- c. Laying/jointing
- d. Manholes/pits
- e. Backfilling
- f. Permanent erosion and sedimentation control measures
- g. Drainage channels
- h. Final inspection - on maintenance
- i. Off maintenance

Sewer Pump Station

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

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

3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR0360]

33. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.

- a. That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
- b. That the pavement materials used comply with the specifications in RTA Form Q3051 (June 1998)
- c. That the pavement layers have been compacted to RTA specifications.
- d. That site fill areas have been compacted to the specified standard.
- e. That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
- f. That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR0370]

34. All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans **AND** the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.

[DUR0400]

35. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering Services Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR0430]

36. The footpath area is to be graded to the kerb and turfed for the full frontage of the site.

[DUR0510]

37. On completion of the filling work, all topsoil to be respread and the site revegetated.

[DUR0550]

38. Inter allotment drainage shall be provided to **all** lots where roof water for dwellings cannot be conveyed to the street gutter by gravitational means.

[DUR0580]

39. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix B, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798.

[DUR0630]

40. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR0730]

41. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.

[DUR0850]

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

[DUR0870]

43. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.

[DUR0880]

44. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.

[DUR0890]

45. 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]
46. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence. [DUR0910]
47. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0920]
48. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is constructed in accordance with Tweed Shire Council Design Specification D7 - Stormwater Quality. [DUR0930]
49. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1210]
50. The horizontal and vertical alignment of the proposed link road shall transition smoothly into the existing pavement of Martinelli Avenue and Bione Avenue in accordance with DCP16.
51. The vertical alignment of the proposed link road shall be such that the sag in the kerb and channel aligns with the easement to drain water that exists within Lot 1 DP 1034399.

52. For storms up to a Q100 ARI event, overland flow associated with the development must be conveyed through designated overland flow paths, prior to breaching the crest in the road reserve of Martinelli Avenue, east of the site.
53. In accordance with DCP16, the formed nature strip of the proposed road reserve is to be 3.5m wide at 2% crossfall.
54. In accordance with DCP16, the proposed kerb and channel is to be standard Tweed Shire Council Upright, not Layback.
55. In accordance with DCP16, a 1.2m wide footpath is to be constructed on one side of the proposed link road. The nominated side is to be confirmed by Council.
56. The driveways servicing proposed Lots 13 and 14 are to be constructed for the full length of the access shafts in accordance with Tweed Shire Council's DCP16.
57. Erosion and Sedimentation control measures shall be carried out in accordance with the Erosion and Sediment Control Plan prepared by Cozens Regan Williams and Prove Pty Ltd dated August 2003.

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall **NOT** be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Stage 2

Water:	14 lots @ \$4110	\$57,540.00
Sewer:	14 lots @ \$3290	\$46,060.00

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

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

[PCC0070/PSC0004]

59. Section 94 Contributions

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

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

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

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

Stage 2

- a. Tweed Road Contribution Plan: \$23,576.00
 S94 Plan No. 4 (Version 4.0)
(Tweed South - Sector 2)

Heavy Haulage Component

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

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.5

- b. Open Space (Structured): \$10,920.00
 S94 Plan No. 5

c.	Open Space (Casual): S94 Plan No. 5	\$2,338.00
d.	Street Trees: S94 Plan No. 6	\$600.60
e.	Shirewide Library Facilities: S94 Plan No. 11	\$9,632.00
f.	Bus Shelters: S94 Plan No. 12	\$322.00
g.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$1,764.00
h.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$3,010.00
i.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$4,827.34
j.	Cycleways S94 Plan No. 22	\$2,240.00
k.	Regional Open Space (Structured) S94 Plan No. 26	\$16,478.00
l.	Regional Open Space (Casual) S94 Plan No. 26	\$3,094.00

60. A Subdivision Certificate will not be issued for each stage by the General Manager until such time as all relevant conditions of Development Consent No DA03/1348 have been complied with. [PCC0050/PSC0005]

61. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following: [PSC0010]

- i. Easements for sewer, water supply and drainage over **ALL** services on private property.
- ii. Restriction as to user for all lots within Stage 2 of the subdivision to ensure future dwelling houses are designed in accordance with the acoustic design measures in the acoustic report as required in Condition 20.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0020]

62. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.

[PSC0040]

63. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Councils Surveyor within two months of the issue of the Subdivision Certificate.

[PSC0060]

64. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director Planning and Environment **PRIOR** to the issue of a Subdivision Certificate. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0070]

65. Prior to registration of the plan of subdivision, a **Subdivision Certificate** shall be obtained.

- (i) The following information must accompany an application:
- original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees of \$122.00 per lot.
 - relevant development consent
 - detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
 - evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
 - a certificate of compliance from the relevant water supply authority (where applicable)
 - for subdivision involving subdivision works evidence that:
 - the work has been completed, or

- agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
 - security given to the consent authority with respect to the completion of the work
 - Work as Executed Plans for **ALL** works
- (ii) Documentary evidence that **all** matters contained in Section 109J of the Act have been complied with.
- (iii) Written evidence from Council that the proposed road/street names have been approved.

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

[PSC0090]

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

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

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

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

[PSC0100]

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

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

[PSC0110]

68. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of the stormwater pipes will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

Any defects identified by the inspection are to be repaired using any one of the following repair techniques or such other technique as may be approved by the Director of Engineering Services.

- Tiger Patch patch liner;
- Econoliner;
- PL Quick Sleeve System;
- Flexi-Bond method

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC0140]

69. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

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

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

[PSC0150]

70. The production of written evidence from Telstra Australia certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC0170]

71. i. The production of written evidence from Country Energy certifying that reticulation of underground electricity (residential and rural residential) has been completed; and
- ii. The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

[PSC0190]

72. All stormwater gully lintels shall have the following notice **cast** into the top of the lintel: **'DUMP NO RUBBISH, FLOWS INTO CREEK'** or similar wording to the satisfaction of the Director of Development Services.

[PSC0220]

73. (i) **PRIOR** to lodging an application for a Subdivision Certificate, the applicant shall obtain the written approval of Council to the proposed road/street names. Approved names are to be in accordance with Council's Road Naming Policy adopted on 7 August 1996 and are to be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.
- (ii) Street signs shall be erected clearly indicating the interface between Bione Avenue and Martinelli Avenue in accordance with Tweed Shire Council's Standard Drawing 041.

The names shall be approved **PRIOR** to lodgement of any plan of subdivision in respect of the development.

[PSC0230]

74. 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.

In addition to the above certification the following is to be included in the S88B Instrument to accompany the final plan of subdivision.

- i. A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.5m in vertical height.
- ii. Each lot burdened and or benefited by a type 1 wall as defined in AS4678-2002- Earth retaining Structures, shall contain a restriction to user advising the landowner of the need to monitor and maintain the structure in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

75. Prior to the issue of Subdivision Certificate for Stage 2 the acoustic barriers referred to in Condition 19 are to be constructed or alternatively these works may be bonded for an amount agreed to by Tweed Shire Council.

[PSCNS01]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. Reticulated water supply shall comply with AS2419. Locations of fire hydrants are to be delineated by blue pavement markers in the centre of the road.
2. Any future development application lodged for this subdivision under section 79BA of the EP & A Act will be subject to the requirements as set out in Planning for Bushfire Protection, 2001.
3. The proposed road shall comply with 4.3.1 Planning for Bushfire Protection 2001.
4. Property access to lots 14 and 15 shall comply with 4.3.2 Planning for

- Bushfire Protection 2001. To achieve the required width for an access road, no obstruction or barrier (fence, etc) is to be erected between the access roads to the two lots.
5. There shall be a minimum of 20 metres from the vegetation on the south-western boundary to any proposed dwelling to be maintained as an 'Inner Protection Area' as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.
 6. The proposed fire trail is to be deleted as the maintenance on private lots is impractical and the provision of a 20 metre Asset Protection Zone provides sufficient protection from the vegetation.

REPORT:

Applicant: Matilda Constructions Pty Ltd
Owner: Mrs PTE Yates, Mr L Constantine & Mrs F Constantine
Location: Lot 2 DP 871171, Lot 731 DP 48275 and Lot 515 DP 755740 No. 4A
Oyster Point Road, Banora Point
Zoning: 2(a) Low Density Residential
Cost: \$300,000.00

BACKGROUND:

The subject land has been zoned 2(a) Low Density Residential at the commencement of the Tweed Local Environmental Plan 1987 and continues under the current planning instrument to be identified for the low density residential purposes.

The land adjoining the subject land is zoned 5(a) Special Uses for Roads and Traffic Authority purposes under the Tweed Local Environmental Plan 2000. The adjoining land is to accommodate a future road corridor. As the Roads and Traffic Authority have an interest in the adjoining land the proposal was referred for comments.

The issue of future noise impacts on the residential subdivision was raised in the assessment. The RTA was requested to provide details on the alignment and design so that the applicant could engage an acoustic consultant to provide design details on any required acoustic fencing or restriction as to user on future dwelling houses.

However as the RTA are unable at this stage to provide the information required it has been suggested that the noise mitigation measures may be bonded or deferred commencement until such time as further design detail for the Sextons Hill Bypass is finalised.

In the absence of the final design the RTA refers Council to certain design manuals for indicative costs for reasonable treatment options and the code for housing design and layout. The recommended conditions of consent include the requirement for an acoustic report prior to the issue of a construction certificate for Stage 2 thereby ensuring the subdivision meets the RTA requirements and that future dwelling houses are provided with appropriate noise attenuation measures.

SITE DIAGRAM:



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

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

Tweed Local Environmental Plan 2000

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

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

The proposed subdivision layout provides allotments that can support detached housing and maintain a low density residential environment. The proposed subdivision is not considered to undermine the primary objective of the zone.

The proposed residential allotments are wholly within the 2(a) Low Density residential zone and the area of each allotment complies with the minimum of 450m² required for the erection of a dwelling house.

Clause 15 of the TLEP requires the provision of essential services or suitable arrangements being made prior to consent being granted. The applicant has provided engineering reports that conclude that there is adequate capacity in the existing sewerage system and water supply system to service the proposed residential lots. Council's Development Engineer has recommended conditions of consent to ensure servicing of the proposed subdivision.

Clause 35 of the TLEP ensures the management of acid sulfate soils. The subject land is not affected by acid sulfate soils. As such no management plan is required for the proposal.

North Coast Regional Environmental Plan 1988

Clause 12 of the REP states that Council shall not consent to development on rural land unless it has considered the likely impact on adjoining land, whether or not the development will result in loss of prime agricultural land. The subject land is zoned for residential purposes and does not adjoin any rural land. No further assessment is considered necessary under this clause.

Clause 15 of the REP provides for the protection of wetlands and waterways from development. The subject land does not drain into any wetland or stream area and is not likely to impact on a fishery. The proposed development does not require further assessment under this clause.

Clause 32B of the REP requires Council to take into consideration the Coastal Policy and North Coast Design Guidelines in relation to development of land within the coastal zone. The applicant has completed an assessment under the relevant provisions. There are no specific matters for which the proposal requires more detailed assessment. The site is not adjoining any foreshore open space areas.

Clause 43 of the REP requires densities to be maximised for residential development. As the subject land is required to provide the Bione and Martinelli link for connectivity not all of the area is able to be utilised. The applicant has submitted that a yield of 9 dwellings per hectare will result from the development. In achieving this density the proposed development is not considered to undermine any environmental attributes of the site.

Clause 66 of the REP requires Council when considering an application to subdivide land whether the community and welfare services are adequate. The subject land is within close proximity of Tweed Heads and future residents will be able to access existing services.

Clause 81 of the REP requires the consideration of potential impacts for development adjacent to the ocean or a waterway. The subject land is not within 100 metres of any waterway.

The proposed subdivision is not considered to be in conflict with any provision of the REP.

State Environmental Planning Policies

State Environmental Planning Policy No.55 - Remediation of Land

The applicant submitted preliminary information in relation to land contamination that was assessed by Council's Environmental Health Surveyor. The proposal is considered to have satisfied Council's requirements in relation to contaminated lands.

State Environmental Planning Policy No.71 - Coastal Protection

The subject land is not mapped as a sensitive coastal location.

Clause 18 of SEPP71 requires Master Plans for subdivision of land within a residential zone that is not identified as a sensitive coastal location into more than 25 lots unless the Minister has adopted a master plan for the land or has waived the need for a master plan.

As the proposed subdivision is less than 25 lots a master plan is not required. The proposed development is not considered to be in conflict with the provisions of Clause 8 of SEPP 71.

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

The proposed subdivision does not require any further assessment under the draft environmental planning instruments.

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

Development Control Plan No.16 - Subdivision Manual

Council's Subdivision Engineer has assessed the proposed subdivision and raises no objection to the proposal. Conditions of consent have been recommended to ensure the subdivision meets Council's requirements.

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

The subject land is affected by the NSW Coastal Policy 1997. The proposed subdivision is not in conflict with the goals and objectives of this strategic 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

Natural Environment

The subject land is characterised by Closed-grassland and contains regrowth vegetation dominated by Acacia, Macaranga and Glochidion sp. The applicants flora fauna consultant has advised that there are no ROTAP species on site. The applicant has submitted an eight part test which concludes that the proposed development will not result in a significant effect on the threatened species that may occur at or utilise the subject site. As such, a Species Impact Statement is not required.

Subdivision Layout

The proposed subdivision is designed around the link of Bione and Martinelli Avenues. The proposed subdivision has been designed based on the contours and the requirement for the connection of the two existing roads.

The proposed subdivision is undertaken in two stages. Stage 1 creates 3 lots being 2646m², 3870m² and 15230m². Stage 1 creates two lots for existing residences and one development lot for the proposed residential subdivision.

Stage 2 creates 15 lots ranging in size from 610m² to 2616m². The average lot size is 750m². The lot that is 2616m² accommodates additional area for bushfire asset protection zones.

The lot layout is predetermined by the need for the road connection. The proposed subdivision involves the creation of 15 new residential lots of which 12 lots will have the longest axis on the northern and southern elevation, thereby providing good opportunity for future housing design to meet energy efficient requirements.

The proposed subdivision creates a further 3 residential lots that are orientated more towards the eastern and western elevation. These 3 lots have adequate building envelopes that would enable good housing design. It is considered that all of the proposed allotments would have the ability to capture prevailing winds and are of suitable design.

The proposed subdivision design included the provision of a perimeter fire trail abutting adjoining land in the ownership of the NSW Roads and Traffic Authority. However the NSW Rural Fire Service have nominated a 20 metre wide asset protection zone rather than the perimeter road. The allotments that are adjacent to the RTA land have adequate lot depth to provide a 15 x 10 metres building envelope, and the required 20 metre wide asset protection zone.

Council's Development Engineer has not raised any objection to the design of the proposed subdivision. The proposed subdivision is considered to be of a reasonable design.

(c) Suitability of the site for the development

Traffic Noise

The proposed subdivision is located adjacent to land owned by the NSW Roads and Traffic Authority. The RTA were requested for information in relation to the design of the Sextons Hill Bypass to assist the applicant in the preparation of an acoustic report. Depending on the design of the new roadway, which could be a tunnel or elevated road the noise barriers for the proposed subdivision would vary.

In the absence of a final design for the Sextons Hill Bypass the RTA have advised that deferred commencement or bonding of noise barriers would be a solution. The RTA have indicated that the concept design will be finalised by mid 2005. They have also indicated that information can be provided from a nearby noise study upon its completion in the near future.

The noise abatement measures are required for Stage 2 of the proposed subdivision. Stage 1 does not necessitate noise barriers as it provides the boundary adjustment for the creation of the development lot. The recommended conditions of consent provide the opportunity for the applicant to proceed to the completion of Stage 1 and at Stage 2 issues of acoustic barrier design are to be finalised in consultation with the NSW Roads and Traffic Authority. The opportunity also exists in the recommended conditions that the acoustic measures can be bonded.

While it is preferable that all noise matters are finalised prior to determination of development applications, it is considered that in the absence of the final design for Sextons Hill the solution provided by way of the recommended conditions will ensure future residential lots meet the noise requirements of Council.

Bushfire Hazard

The proposed subdivision is identified as being integrated development and requires the general terms of approval from the NSW Rural Fire Service. The applicant submitted additional information required and on 11th February 2004 the general terms of approval of the NSW Rural Fire Service were issued.

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

The proposed subdivision was notified to adjoining property owners. During the notification period two submissions were received. The following table addresses the issues raised.

Issue	Comment	Assessment
Natural Environment	Concern was raised that the area supports flocks of Black Cockatoos, and that the site should not be bulldozed. Careful assessment of the tree removal was requested.	The subject land does contain some vegetation that the applicants flora fauna consultant identified as being Closed Grassland. The consultant has completed an eight part test and concludes that the proposal is not likely to result in a significant impact. The site does not support any significant vegetation and it is considered that the proposed development does not warrant refusal on this issue.
Infrastructure	Concern was raised that the subdivision will need	Council's Development Engineer assessed the

	<p>to manage stormwater to not result in inundation of adjoining property. The addition of sewerage and capacity of the mains was raised as a concern.</p>	<p>issues raised in the submission and has no objection to the proposed subdivision. Conditions have been imposed to ensure the development meets Council's requirements.</p> <p>The proposal does not warrant refusal on this issue.</p>
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(e) Public interest

The proposed subdivision is in a prominent location and forms part of the residential precinct located at East Banora. The proposed subdivision is considered to be consistent with the intended use of the land.

The issue of bushfire raised by the proposed subdivision has been resolved with NSW Rural Fire Service issuing general terms of approval. The issue of traffic noise has not been able to be resolved due to the absence of the final design of the Sextons Hill Bypass.

The conditions that have been recommended for the proposed subdivision are considered to protect the general public interest of future residents with the requirement of an acoustic report being imposed prior to issue of a construction certificate for Stage 2. Noise attenuation measures will be identified at this stage for the future dwellings in the subdivision.

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

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with the determination of the application they have a right for review in the NSW Land and Environment Court.

POLICY IMPLICATIONS:

The proposed development does not raise policy implications for Council.

CONCLUSION:

In conclusion the proposed subdivision is in accordance with Council's requirements for the subject zone. The subdivision is able to be conditioned to ensure it meets Council's standards.

UNDER SEPARATE COVER:

Nil.

3 [DS] Regional Industry and Economic Plan

ORIGIN:

Strategic Town Planning

SUMMARY OF REPORT:

On 2 April 2004 the Northern Rivers Regional Development Board forwarded a copy of their recently prepared working paper for a Regional Industry and Economic Plan. This report briefly outlines the content of this plan and the proposed progress for finalisation of this plan.

RECOMMENDATION:

That this report be received and noted.

REPORT:

The Northern Rivers Regional Economic Development Board (the Board) have undertaken to prepare a Regional Industry and Economic Plan. The preparation of this plan is being funded by the Department of Infrastructure, Planning and Natural Resources along with the Department of State and Regional Development.

When the final plan is completed it will attempt to establish a set of actions that will change the economic base of the region. The rationale behind this is so that the region can be proactive in establishing a sustainable industrial base, rather than responding to opportunities as they arise.

The preparation of the Economic Plan will be undertaken in three phases;

1. data analysis and preparation of a working paper,
2. communication, review and preparation of implementation plans,
3. actions and implementation.

Currently the Board have completed the first phase, the Working Paper, of the project and presented copies to Council. If Councillors wish to obtain a copy they can be made available either through the Director of Development Services or the Tweed Economic Development Corporation.

The Working Paper identifies economic opportunities and priorities for the Region. A review of the regional demographic and economic data has been undertaken to establish the state of the regions economy.

The Working Paper has then established the regions key industry sectors which have strategic opportunity for growth and development. It also has reviewed the suppliers to these sectors and the required infrastructure. These key sectors are;

1. Horticulture
2. Aquaculture
3. Tourism
4. Forestry
5. Herbs and Botanical Products / Services
6. Meat and Dairy
7. Media and Creative Industries
8. Traditional Marine Fishing
9. Sugar Cane Growing
10. Education
11. Residential Development and Construction

In the next phase of this project the Board will consult with local government in the development of implementation plans. This will be done through a local government forum to be held later this year.

As this is a regional project some of these key sectors are not as important as others to the Tweed. However there is some good background information to promote discussion and development of local economic sectors.

Currently Council has an Economic Development Strategy which was adopted in 2002. It previously identified key sectors which are important for future economic development to the Tweed. These key sectors are also identified in the Working Paper.

Council and the Tweed Economic Development Corporation are currently reviewing this Strategy. When this has been finalised it will be presented to Council. In the meantime the findings of this Working Paper will be taken into consideration in the Strategy's redrafting.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER

4 [OGM] Council Committees - Delegations to September 2004

ORIGIN:

Administration Services

SUMMARY OF REPORT:

This report details the current status of Council Committees and is presented for the information of Councillors in considering membership representation.

The report suggests the number of Councillors on each Committee. It is Council's decision as to the relevance of each Committee and whether any new Committees should be established.

RECOMMENDATION:

That Council:-

1. Appoints Councillor representatives to the various committees for the period ending 30 September 2004.
2. Calls for expressions of interest from current and other interested representatives for membership of the following committees:-

Burringbar Sewerage Community Reference Group
Clarrie Hall Dam Fishery Management Committee
Community Cultural Development Advisory Committee
Flood Plain Management Committee
Tweed Coastal Committee
Tweed River Regional Art Gallery Advisory Committee
Tweed River Committee

REPORT:

Details of Council Committees are presented below for the information of Councillors in consideration of Councillor representation to 30 September 2004:-

Committee: Arts Northern Rivers Steering Committee
Councillors: Polgalse
Alternate:
Contact: Don Buckley
Staff: Don buckley
Others: Councillors and staff from other organisations
Frequency: 4th Monday every two months
Place: varies
Duration:
Comment:

Committee: Aboriginal Advisory Committee
Councillors: One Councillor to be nominated.
Alternate:
Contact: Geoff Edwards
Staff: Pam Veness
Others: Representatives of Aboriginal and Torres Strait Islander Organisations and Community of Tweed Local Government Area
Frequency: Monthly
Place: Activities Room, HACC Centre, Tweed Heads South
Duration: 2 hours
Comment: One Councillor to be nominated.

Committee: Bogangar/Cabarita Beach Committee
Councillors: Three Councillors to be nominated.
Alternate:
Contact: Eber Butron
Staff:
Others: Merrick Keene, nominated representative of the Johansen family, nominated representative of the Friends of Cudgen Nature Reserve Land Care Group, Chris Greogry, Ken Hansen, Bill Abbottsmith, 2 nominated representatives of Cabarita Beach/Bogangar Residents Association, P Smith, Steve Dale (Tweed Coast Community Coalition), Stuart Reid, Gail Connolly, M MacLennan, Neil Moores, Jeff Johnson, Nominated representative of the Cabarita Beach Surf Life Saving Club
Frequency: As required (Draft Plan completed for exhibition)
Place:
Duration:
Comment: Development of DCP

Committee: Burringbar Sewerage Community Reference Group
Councillors: Two Councillors to be nominated.
Alternate:
Contact: A Abedrabbo
Staff: A Abedrabbo, M Rayner, P Ainsworth
Others: Tom Tabart (Burringbar & District Progress Association & Local Landcare Group), Stuart Cahill (Burringbar Progress Association), Bob McTackett (Burringbar & District Progress Association) Bruce Douglas (Community Rep), Joanne Wyatt (Community Rep) Mr Ross Lyn, Miss Adrian Bowden, Mr Patrick Lerato, Mr Craig Anderson, Dr Paul Malouf
Frequency: Two to three times per year.
Place:
Duration: Lunchtime mid-week
Comment:

Committee: Casuarina Beach Dune Management Plan Monitoring Review Committee
Councillors: Two Councillors to be nominated.
Alternate:
Contact: Stewart Brawley
Staff: Stewart Brawley
Others:
Frequency: Meeting organised as required
Place:
Duration:
Comment: Limited number of meetings required to complete.

Committee: Clarrie Hall Dam Fishery Management Committee
Councillors: Two Councillors to be nominated.
Alternate:
Contact: David Oxenham
Staff: David Oxenham
Others: Bob Loring, Colin Wiley, Chris Estreich, Barry Saunders, Lindsay Cram, David Gardner, Leslie Brims, Michael Elliott, Des Charles
Frequency: As required
Place: Council
Duration: 1-1 ½ hrs
Comment:

Committee: Communication Committee
Councillors: Two Councillors to be nominated.
Alternate:
Contact: Marilyn Smith
Staff: Marilyn Smith, Reg Norvill
Others: Jude Robb, Dudley Kelso, Neville Douglas, Wal Smith, Ronald Wolff, Melinda Barton
Frequency: Monthly
Place: Tweed Heads
Duration: 1 ½ hrs
Comment:

Committee: Community Cultural Development Advisory Committee
Councillors: Two Councillors to be nominated.
Alternate:
Contact: Lesley Buckley
Staff: Lesley Buckley, Geoff Edwards
Others: Glenda Nalder, Judith Sutton, Gary Corbett, Russell Logan and Bill Bainbridge
Frequency: Monthly
Place: Rous Meeting Room
Duration:
Comment: Meets regularly, Expressions of Interest for new membership

Committee: Community Options Project Management Committee
Councillors: Two Councillors to be nominated.
Alternate:
Contact: Linda Wiggins
Staff: Don Buckley, Geoff Edwards, Linda Wiggins, Community Options Staff as required
Others:
Frequency: As required
Place: Council
Duration: As required
Comment:

Committee: Companion Animal Committee
Councillors: Two Councillors to be nominated.
Alternate:
Contact: Peter Ainsworth
Staff: Don Buckley, Paul Brouwer, Peter Ainsworth
Others: Rob Philp, Christie Walker, Audrey Rennison, Milena Morrow, Milena Morrow (Companion Animal Owners)
Frequency: As needs basis
Place: Rous Room
Duration: 2 hrs
Comment: This Committee has not met for two years

Committee: Contiguous Local Authority Group (Mosquito Control)
Councillors: Two Councillors to be nominated.
Alternate:
Contact: Clive Easton
Staff: Clive Easton, Don Buckley
Others:
Frequency: Quarterly meeting day to be advised
Place: Rotational (Tweed-Redlands)
Duration: All day
Comment: Renamed from Biting Midge Research and Control Committee

Committee: Coolangatta Airport Regional Advisory Committee
Councillors: One Councillor to be nominated.
Alternate: One Councillor alternative to be nominated.
Contact: Richard Adams
Staff: Richard Adams
Others: 2 reps Qld Airports Ltd, 2 reps GCCC, 1 rep GC Tourism Board, 1 rep TACTIC, 1 rep GC Economic Dev Org, 1 rep TEDCO, Mr. Trevor Stephenson (community rep TSC), 1 community rep GCCC
Frequency: Monthly
Place: Council
Duration: 1-2 hrs
Comment:

Committee: Far North Coast County Council
Councillors: One Councillor to be nominated.
Alternate:
Contact:
Staff:
Others:
Frequency: Monthly (3rd Thursday)
Place: Rotational
Duration: All day
Comment:

Committee: Flood Plain Management Committee
Councillors: Two Councillors to be nominated.
Alternate:
Contact: David Oxenham
Staff: David Oxenham, Mike Rayner, Patrick Knight
Others: Reps of DIPNR, SES & Community reps as appropriate (P Reynolds, J Everingham, T Flood, Felicia Cecil and B Sheehan (SES))
Frequency: As required (infrequent)
Place: Council
Duration:
Comment:

Committee: General Manager Review Committee
Councillors: Mayor, Deputy Mayor, plus Two Councillors to be nominated.
Alternate:
Contact: Mayor
Staff:
Others:
Frequency: Six monthly
Place:
Duration:
Comment: Committee of 4 with a quorum of 3

Committee: Krekelberg Environment Reserve Management Committee
Councillors: One Councillor to be nominated.
Alternate:
Contact: Stewart Brawley
Staff: Stewart Brawley
Others: Peter Krekelberg, Len Greer
Frequency: As required
Place: Pottsville Environment Park
Duration: 1 hr
Comment: By Deed of Agreement

Committee: Local Environmental Plan Advisory Committee (Rural)
Councillors: Two Councillors to be nominated.
Alternate:
Contact: Douglas Jardine
Staff: Douglas Jardine
Others: Bruce Graham, Trevor Stephenson, Col Brooks, Don Beck, Alan McIntosh, Athol Dobson, Mike Allen, Darren Gibson, Craig Venner, Tom Senti
Frequency: Third Tuesday of each month at 2.00pm
Place: Canvas & Kettle
Duration: 1 ½ hours
Comment:

Committee: Local Traffic Committee
Councillors: One Councillor to be nominated
Alternate: One Councillor alternative to be nominated
Contact: Paul Morgan
Staff: Paul Morgan (Chairman) Judith Finch, Ray Clark
Others: Mr Neville Newell, MP, State Member for Tweed, Mr Don Page, MP, State Member for Ballina, Police Representative and Mr Mike Baldwin, RTA Representative
Frequency: Monthly or as need arises
Place: Oxley Room
Duration: Approx. 2 hrs
Comment:

Committee: Lot 490 Committee
Councillors: All Trustees
Alternate:
Contact: Richard Adams
Staff: Richard Adams
DDS
Others: Representatives of (DLAWC), (Tourism NSW), Trustee(s) Tweed Shire Council & One Community Representative
Frequency:
Place:
Duration:
Comment:

Committee: Murwillumbah Airfield Management Committee
Councillors: Two Councillors to be nominated.
Alternate:
Contact: Richard Adams
Staff: Richard Adams
Others: Greyden Tapp (Tapp's Aviation), Brian Budd, J H Williams, Ken Zealey
Frequency: As need arises
Place: Murwillumbah Airfield
Duration:
Comment:

Committee: Northern Rivers Regional Organisation of Councils Inc (NOROC)
Councillors: The Mayor
Alternate:
Contact: The General Manager.
Staff:
Others:
Frequency:
Place:
Duration:
Comment:

Committee: Pottsville Environment Park Committee
Councillors: One Councillor to be nominated
Alternate:
Contact: Stewart Brawley
Staff: Stewart Brawley, Rodney Keevers
Others: R James, A Rawlinson
Frequency: As required
Place: Bicentennial Environment Park
Duration: 1 hour
Comment: Reconvened Min 453 21/11/01

Committee: Public Transport Working Group
Councillors: Two Councillors to be nominated
Alternate:
Contact: Robin Spragg
Staff: Robin Spragg, Ray Clark
Others: Shauna McIntyre (Public Trans Dev Proj), Bill McKenniarey, David Bishara, Garry McDonald (Surfside), Penny Baldwin (TBB Community Transport), Don Stubbs (Tweed Taxis), Barbara Rahmate.
Frequency: Monthly 10am Every 3rd Friday
Place: Tweed Heads Civic Centre
Duration: 2-3 hrs
Comment:

Committee: Regional Companion Animals Committee
Councillors:
Alternate:
Contact: Peter Ainsworth
Staff: Peter Ainsworth, Paul Brouwer
Others: Representatives from other Councils
Frequency:
Place:
Duration:
Comment: This Committee has representatives from other Councils with Tweed as co-ordinators and meets regularly

Committee: Richmond-Tweed Regional Library Committee
Councillors: Two Councillors to be nominated
Alternate:
Contact: Geoff Edwards
Staff: Don Buckley, Geoff Edwards
Others:
Frequency: 10 am 2nd Thursday (Feb, May, Aug, Nov)
Place: Rotational
Duration: 4 hrs
Comment: Meets regularly

Committee: Rural Fire Service Liaison Committee
Councillors: Two Councillors to be nominated
Alternate: David Cook, Don Buckley
Contact: David Cook, Don Buckley
Staff: Don Buckley
Others:
Frequency: Quarterly
Place: Council
Duration: 1 hour
Comment: Monitoring performance standards and Rural Fire Service District Service Level Agreement

Committee: Southern Regional Organisation of Councils (SouthROC)
Councillors: Two Councillors to be nominated
Alternate:
Contact: Douglas Jardine
Staff:
Others:
Frequency: Thursday (monthly)
Place: Rotational (Tweed-Redlands)
Duration: 4 hrs
Comment:

Committee: Sports Advisory Committee
Councillors: Four Councillors to be nominated
Alternate:
Contact: Stewart Brawley
Staff: Stewart Brawley, Don Buckley
Others: Merv Edwards, Linda Threlfo, Peter Moschogianis, Ray Jarrett Jrn, Glynnis Kenny, Leanne Sharp + 3 more
Frequency: 3rd Tuesday bi-monthly 5pm
Place: Alternates Tweed/ Buchanan Room and Cabarita Beach Sports Centre
Duration:
Comment:

Committee: Tweed Economic Development Corporation
Councillors: Two Councillors to be nominated
Alternate:
Contact: Reg Norvill
Staff:
Others: Tom Senti, Bill Stainlay, Ron Ford, Barrie Briggs, Harry Williams, Ken Lee, Peter Sippel, Robert Wesener, Rod Habfood
Frequency: Monthly
Place: 41-43 Commercial Road, Murwillumbah
Duration: 2-3 hours
Comment:

Committee: Tweed & Coolangatta Tourism Inc
Councillors: Two Councillors to be nominated
Alternate:
Contact: Reg Norvill
Staff:
Others: TACTIC: Lee Eyre, Barrie Briggs, Shane Marshall, Mark Manteit, Zeta Grealy, Clive Parker, Richard Adams
Frequency: Irregularly
Place:
Duration:
Comment:

Committee: Tweed Australia Day Committee
Councillors: Two Councillors to be nominated
Alternate:
Contact: Brian Donaghy
Staff:
Others:
Frequency: As required
Place: Council
Duration:
Comment:

Committee: Tweed Bush Fire Management Committee
Councillors: One Councillor to be nominated.
Alternate:
Contact:
Staff:
Others: Emergency Organisation reps
Frequency: Twice yearly (minimum)
Place:
Duration:
Comment:

Committee: Tweed Coastal Committee
Councillors: Two Councillors to be nominated
Alternate:
Contact: Jane Lofthouse
Staff: David Oxenham, Stewart Brawley, Jane Lofthouse, Tom Alletson, Sandra Zietlow (Minutes)
Others: C Cormack (Waterways Auth), R James (Caldera), T Rabbidge, R Hagley (DIPNR), L Tarvey (NPWS), N Newell (State Member), G Thorpe (Hastings Pt) J Harbison (P'ville), T Kane (Bogangar), J Pearson (K'cliff), P Harding (Pottsville)
Frequency: 2 monthly approx.
Place: Canvas & Kettle Restaurant
Duration: 2 hrs
Comment: Councillor Representatives should be consistent with the Tweed River Committee

Committee: Tweed Dune Care Advisory Committee
Councillors: Two Councillors to be nominated
Alternate:
Contact: Stewart Brawley
Staff: R Keevers, S Brawley
Others: G Thorpe, F McLeod, K McKenzie, M Stewart, L Greer, P Langley, R Butler, I Anderson, D Walker
Frequency: Bi-monthly
Place:
Duration: Pottsville Environment Centre
Comment: 2 hrs

Committee: Tweed Futures Committee
Councillors: Committee of the Whole
Alternate:
Contact: Douglas Jardine
Staff: Douglas Jardine, staff from SPU
Others: G Sansom, T Watson, R Quirk, R Wesner, Maggie-Anne Leybourne, B Ray and B Longland
Frequency: 2nd Wed (monthly) 2.30pm
Place:
Duration:
Comment:

Committee: Tweed River Committee
Councillors: Two Councillors to be nominated
Alternate:
Contact: Jane Lofthouse
Staff: David Oxenham, Graham Judge, Geoff Edwards, Jane Lofthouse
Tom Alletson
Sandra Zietlow (Minutes)
Others: C Comack (Waterways Auth) R James (Caldera) T Rabbidge, R Hagley (DIPNR[!]), L Tarvey (NPWS), Bob Loring (NSW Fisheries), N Newell (State Member), R Quirk (TRAC & NSW Canegrowers Assn), Dugald Gray (Dredging Industry)
Frequency: 2 monthly approx
Place: Canvas & Kettle Restaurant
Duration: 3 hrs
Comment: Councillor representatives should be consistent with Tweed Coastal Committee

Committee: Tweed River Regional Art Gallery Advisory Committee
Councillors: Two Councillors to be nominated
Alternate:
Contact: Garry Corbett
Staff: Gary Corbett, Geoff Edwards, A Shardin
Others: M Anthony, D Francis, A King, R Stephens, R Watson, J Flett, J Sutton, A Schardin, B Connery, D Calrow
Frequency: Every 6 weeks approx
Place: Gallery
Duration: 2 hrs
Comment: Expressions of Interest for membership.

Committee: Tweed Shire Council Consultative Committee
Councillors: One Councillor to be nominated
Alternate:
Contact: Tracey Dawson (Secretary)
Staff: Steve Sharp (Chair), Mike Rayner, Mark Abbott, Debbie Gallard, Edward Dickson, David Holston, Mick Mitchell, Steve Birney, Warren Boyd, Michael Skinner, Deborah Souter (ex officio)
Others:
Frequency: 3rd Thursday of month
Place: Buchanan Room
Duration: 1-2 hrs
Comment:

Committee: Tweed Shire Council Disability Access Committee
Councillors: Two Councillors to be nominated
Alternate:
Contact: Maggie Groff
Staff: Maggie Groff, Stewart Brawley, Ross Cameron, Ray Clark, Bob Missingham, Pam Veness (minutes)
Others: Cr Barbara Carroll, U Cowdroy, R Douglas, B McKennariey, P Ridgeway, S Pigram, S Pollit, S Zak, J Needhan, J Baldwin
Frequency: 2 in Murwillumbah 4 in Tweed Heads
Place: Tweed HACC Centre, M'bah Buchanan Room
Duration: 2 hrs
Comment: Terms of reference have been changed to a quorum of four members.

Committee: Tweed Shire Council Mayor's Disaster Relief Fund
Councillors: Mayor, Deputy Mayor
Alternate:
Contact: Chief Finance Officer
Staff:
Others:
Frequency: As required
Place: Council
Duration:
Comment:

Committee: Tweed Shire Local Emergency Committee
Councillors: The Mayor
Alternate:
Contact: Geoff Edwards
Staff: Geoff Edwards, Ian Percy, Bob Missingham, Doreen Eaton
Others: Emergency Organisation representatives
Frequency:
Place:
Duration:
Comment: Meets regularly

Committee: Vegetation Management Plan Committee
Councillors: Two Councillors to be nominated
Alternate:
Contact: Graham Judge
Staff: Graham Judge, Douglas Jardine, Stewart Brawley
Others: Mr Brian Sandercock, Ms Barbara Stewart, Mr Gary Varga, Ms Rhonda James, Ms Kate McKenzie, Mr Robert Quirk, Mr Jim O'Brien, Mr Paul Bolster, Mr Paul Hopkins, Mr Peter Mason, Mr David Lovell, Mr Colin Brooks (Combined Rural Industries), Mr Mark Kingston (Ecograph), Representative (National Parks & Wildlife Service), Mr Bruce Hungerford (DLAWC).
Frequency: Monthly 4th Tuesday each month
Place: Canvas and Kettle
Duration:
Comment:

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

5 [OGM] Council Elections 2004

ORIGIN:

Administration Services

SUMMARY OF REPORT:

The Local Government & Shires Association is undertaking an inquiry into the conduct of the recent elections and are seeking input from Councillors and the general public.

RECOMMENDATION:

That should Councillors want to have input into this inquiry that such information be submitted to the Manager Administration Services so that a united submission can be made on behalf of Tweed Shire Council.

REPORT:

The following letter has been received from the Local Government & Shires Association concerning the conduct of the recent local government elections.

Local Government
Association of NSW



Shires Association of NSW

Our Ref: R04/0042 OUT-10534
19 April 2004

TO ALL MAYORS AND GENERAL MANAGERS

The Associations have decided to undertake their own inquiry into the conduct of the recent Local Government Elections following receipt of complaints concerning various aspects of the process.

Without limiting the generality of the inquiry, the Associations are particularly keen to learn of problems experienced by candidates and the general public, in the following areas:

- The confidentiality and security of ballot papers, including pre-poll ballot papers;
- Inaccuracies in electoral rolls,
- The conduct and confidentiality of the voting process including the involvement of third parties in assisting persons to vote and irregularities in the operation of polling booths;
- The counting of votes and the opportunities for scrutineers to be present with reasonable notice and at reasonable times;
- The approval of election material by the State Electoral Office, including authorisation of material contrary to the Local Government Act and the Advice to Candidates and Scrutineers November 2003,
- The provision of advice by the State Electoral Office, particularly as to its availability, consistency and timeliness,
- The above and below-the-line voting system.

The Associations are also seeking the views of councils on the overall efficiency of the current local government electoral process. In particular, do councils have a view on who should be responsible for the conduct of the elections, ie the State Electoral Office or the Councils themselves?

It would be appreciated if details of the Associations' inquiry could be widely circulated within your local government area. A local media release may be appropriate.

Comment and submissions should be forwarded to David Hale at the Associations, GPO Box 7003, Sydney NSW 2001, or (fax) 02 9242 4022, or david.hale@lgsa.org.au by Friday, 21st May 2004

Cr Dr Sara Murray
President
Local Government Association of NSW

Cr Phyllis Miller
President
Shires Association of NSW

GPO Box 7003 Sydney NSW 2001
215-217 Clarence St Sydney NSW 2000
Tel (02) 9242 4000 Fax (02) 9242 4111
www.lgsa.org.au lgsa@lgsa.org.au

Councillors are requested that should they wish to make a submission that is to be done through the Manager Administration Services so that a united response can be made on behalf of Tweed Shire Council.

It is proposed that a media release will be conducted through the Tweed Link seeking submissions from the general public as to all aspects of the recent Local Government Elections. Such submissions are to be directed to the Manager Administration Services for on-forwarding to the Local Government & Shires Association of NSW.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

6 [OGM] Corporate Quarterly Report - January to March 2004

ORIGIN:

Corporate Performance

SUMMARY OF REPORT:

The Corporate Quarterly Report for the period 1 January to 31 March 2004 is presented for Council's information.

RECOMMENDATION:

That :

1. This report be received and noted.
2. This report be placed in the libraries for public information.

REPORT:

In accordance with Section 407 of the Local Government Act the General Manager must report to Council each quarter as to the extent to which the performance targets set by the Council's current Management Plan have been achieved during that quarter.

The Quarterly Corporate Report is still being progressively redeveloped to provide progress feedback on designated priorities within the principle activity categories as specified in the 2003-2006 Management Plan. These Quarterly Reports will be combined at the conclusion of the financial year and included in the annual report to the Department of Local Government, Council and the community.

CORPORATE QUARTERLY PERFORMANCE REPORT

1 January to 31 March 2004

The following report details the progress during January to March on actions identified to be undertaken in 2003-2004 in the 2003-2006 Management Plan. These actions assist Council work towards its vision of "a premier area in which to live, work and visit".

ACTIVITY 1: RECREATION SERVICES**Objective:**

To conserve the unique bio-diversity and scenic quality of the Tweed whilst ensuring sustainable quality development.

Progress towards Actions:

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Upgrade existing and install new Picnic Facilities, and playground equipment in Council Parks and Reserves	Completed by target date	June 2004	Meetings held with various community and residents associations to discuss requirements for new facilities.	Installations commenced.	Installations continued.	
Purchase, Subdivide and Maintain Land at Chillingham for Community Purposes	Completed by target date	June 2004	Area being maintained. Draft lease for Community Association and CTC centre finalised.	Maintenance continued.	Maintenance continued	
Develop Regional Botanic Gardens	Completed by target date	June 2004	Report to Council 1 October resolving on progression of next stages of gardens.	Greencorp group commenced works in Gardens. Logo competition announced.	Logo competition completed and work is progressing.	
Implement Works Program for Recreation Facilities in Development Control Plan 3	Completed by target date	June 2004	Meeting with Banora Point Residents Association to discuss proposed works program. Association to provide feedback prior to seeking broader input.	Works program finalised and commenced.	Works Program progressing as fields become available.	
Develop Plan of Management for Kingscliff Sportsground	Completed by target date	June 2004	On going negotiations with relevant clubs.	Draft plan completed.	Plan partly completed - some works commenced.	
Develop Plan of Management for Round Mountain Equestrian Centre	Completed by target date	June 2004	On going discussions with relevant facility users.	Discussions continued with relevant facility users.	Discussions continued with relevant facility users.	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Develop Plan of Management for Bilambil Sports Complex	Completed by target date	June 2004	Further liaisons with various users regarding future needs.	Council's design unit working on plan.	Council's design unit working on plan.	
Develop Plan of Management for Knox Park	Completed by target date	June 2004	Implementation of pond remediation works.	Implementation of pond remediation works.	Implementation of pond remediation works.	
Develop Capital Works Program for Council Sports Facilities	Completed by target date	June 2004	Capital works program commenced.	Capital works program commenced.	Capital works program commenced.	
Develop a Beach Use Policy	Completed by target date	June 2004	Policy included in draft guidelines for use of Council controlled lands.	Policy included in draft guidelines for use of Council controlled lands.	Policy included in draft guidelines for use of Council controlled lands.	
Develop Skate Park Policy	Completed by target date	June 2004	Due to resource prioritisation this project will commence next financial year.	Due to resource prioritisation this project will commence next financial year.	Due to resource prioritisation this project will commence next financial year.	
Install Irrigation Central Control System for Council Parks and Reserves	Completed by target date	June 2004	Due to resource prioritisation this project is deferred and will be reassessed next quarter.	Due to resource prioritisation this project is deferred and will be reassessed next quarter.	Due to resource prioritisation this project is deferred and will be reassessed next quarter.	
Construct and Maintain firebreaks as required under Rural Fires Act.	Completed by target date	June 2004	Additional firebreaks constructed – Cabarita. DA for works in SEPP14 areas in Pottsville progressing.	Additional firebreaks constructed – Cabarita. DA for works in SEPP14 areas in Pottsville progressing.	Additional firebreaks constructed – Cabarita. Development Application lodged.	
Increase maintenance standards within Council Reserves	Completed by target date	June 2004	Maintenance standards increased.	Maintenance standards increased.	Maintenance standards increased	
Responsible Division / Unit						
Recreation Services						

ACTIVITY 2: HEALTH AND COMMUNITY SERVICES**Objective:**

To identify community needs and increase the wellbeing of members of the community.

Progress towards Actions:

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Complete Draft Documentation for New Garbage Contract / Joint Disposal Initiative with Gold Coast City Council	Completed by target date	Dec. 2003	Legal advice being sort on contract.	Report to be submitted to Council January 2004.	Report adopted by Council	
Upgrade Public Toilets	Completed by target date	June 2004	Fingal Head completed. Chinderah completed.	Report to be submitted to Council concerning Tumbulgum and Mooball Public Toilets.	Construction of Mooball public toilets commenced. Tumbulgum deferred.	
Implement Sewerage Management Facilities Strategy	Completed by target date	1000	Staff appointed. Initial training completed.	20 systems inspected.	100 systems inspected.	
Plan and Design new SES headquarters	Completed by target date	Sep. 2003	Awaiting confirmation for purchase of RTA land.	Still awaiting confirmation for purchase of RTA land.	Still awaiting confirmation for purchase of RTA land	
Obtain DA consent for SES headquarters	Completed by target date	Sep. 2003				
Build new SES headquarters	Completed by target date	June 2004				
Complete preliminary planning for Murwillumbah Civic Centre Office extensions	Completed by target date	Dec. 2003	Preliminary planning commenced.	Awaiting settlement of RTA land before progressing.	Still awaiting confirmation for purchase of RTA land	
Complete planning for Murwillumbah Pool upgrade to regional standard	Completed by target date	March 2004	Expressions of interest for consultants called.	Submissions received and analysed.	Consultants appointed. Planning commenced.	
Build new Art Gallery	Completed by target date	Sep. 2003	Works on target for completion December 2003.	Handed over December.	Handed over December 2003.	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Upgrade Surf Lifesaving Club at Cabarita	Completed by target date	Sep. 2003	D.A. approval for works issued.	Tweed Shire Council building demolished. Temporary arrangement nearing completion.	Demountable building on site.	
Plan and design Banora Point Community Centre	Completed by target date	March 2004	Preliminary planning completed.	D.A. submitted.	D.A. approved. Tenders called and contract awarded.	
Implement the 5 th City of the Arts	Completed by target date	June 2004	Gala Launch 3 August.	Appointed Home grown Film Works Co-ordinator. Commenced Arts Aboriginal and Torres Strait Islander Community Stories project with a series of workshops. Held a Disability Forum celebrating International Day of people with a disability on the 3 rd & 4 th December.	A series of workshops have been held together with exhibitions and forums.	
Purchase new library books in accordance with Libraries Strategies	Completed by target date	June 2004	Books purchased on an ongoing basis.	Books purchased on an ongoing basis.	Books purchased on an ongoing basis.	
Develop and adopt Community Safety Action Plan	Completed by target date	June 2004	Committee convened, Draft Plan being prepared.	Consultation with stakeholders commenced.	Plan approved by Council and State Government.	
Develop and adopt Human Services Delivery Plan	Completed by target date	June 2004	Draft Plan reviewed by consultant.	Draft submitted to Premiers Department.	Draft submitted to Premiers Department.	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Develop and adopt Community Facilities Policy and Program	Completed by target date	June 2004	Draft Policy prepared and submitted to Director of Development Services.	Draft Policy prepared and submitted to Director of Development Services.	Draft Policy completed. Waiting on approval of the Human Services Delivery Plan.	
Responsible Division / Unit						
Environment and Health Strategic Planning						

ACTIVITY 3: ECONOMIC DEVELOPMENT**Objective:**

To encourage economic activity that enhances the standard of living of residents through the promotion of a wide range of development opportunities through the Council sponsored economic development agencies and commercial undertakings.

Progress towards Actions:

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Engage Consultants to perform a contaminated land study at Lot 490 South Kingscliff (former tourism NSW site)	Completed by target date	June 2004	Yet to be commenced.	Yet to be commenced.	Yet to be commenced.	
Develop and adopt Development Control Plan 46 and Plan of Management for South Kingscliff Gateway	Completed by target date	June 2004	Council resolution sent to DIPNR for endorsement.	No response received to date from Department Infrastructure Planning and Natural Resources.	No response received to date from Department Infrastructure Planning and Natural Resources.	
Manage TEDC Contract Deliverables Quarterly	Percentage of contracted performance objectives completed to satisfaction of Council	100%	100% satisfaction. Contract performance objectives achieved and up to date.	Contract performance criteria reviewed quarterly. Discussed last quarter performance with EMT. December 2003.	Contract performance criteria reviewed quarterly. Discussed last quarter performance with EMT. March 2004.	
Manage TACTIC Contract Deliverables Quarterly	Percentage of contracted performance objectives completed to satisfaction of Council	100%	100% satisfaction. Contract performance objectives achieved and up to date.	Contract performance criteria reviewed quarterly. Meeting arranged with TACTIC in January 2004 to discuss last quarters performance.	Contract performance criteria reviewed quarterly. Meeting held with TACTIC in February 2004 to discuss last quarters performance and budget.	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Update a Plan of Management for Jack Evans Boat Harbour Tweed Heads	Completed by target date	June 2004	Draft Plan being finalised.	Tweed Heads Revitalisation Task Force continued to develop Draft Plan.	Tweed Heads Revitalisation Task Force continued to develop Draft Plan.	
Develop and Adopt a Retail Development Strategy	Completed by Target date	June 2004	Consultant engaged to prepare strategy.	Draft Strategy being prepared by consultant.	Draft Strategy completed. Future report to Council.	
Submit Tweed Local Environmental Plan 2000 Amendment – West Tweed Heads to Minister for Planning	Completed by target date	June 2004	No response from land owners to request for contributions towards cost of Environmental Study.	Landowner contribution received. Further report required by Council on Traffic.	Landowner contribution received. Further report required by Council on Traffic.	
Submit Tweed Local Environmental Plan 2000 Amendment – Fernvale to Minister for Planning	Completed by target date	June 2004	No response from land owners to request for contributions towards cost of Environmental Study.	No response from land owners to request regarding contributions towards cost of Environment Study.	No response from land owners to request regarding contributions towards cost of Environment Study.	
Submit Tweed Local Environmental Plan 2000 Amendment – Melaleuca Station to Minister for Planning	Completed by target date	June 2004	Request for Section 65 certificate to exhibit Draft LEP and Environmental Study sent to Planning NSW.	Request for Section 65 certificate to exhibit Draft LEP and Environment Study sent to Planning NSW.	Request for Section 65 certificate to exhibit Draft LEP and Environment Study sent to Planning NSW.	
Develop Tourism Industry Infrastructure Development Strategy	Completed by target date	June 2004	Yet to be commenced.	Yet to be commenced.	Yet to be commenced.	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Develop and adopt Development Control Plan for performance based criteria for Employment Generating Development	Completed by target date	June 2004	Draft DCP prepared.	Draft DCP prepared.	Draft DCP prepared.	
Responsible Division / Unit						
Office of the General Manager Business Undertakings Strategic Planning						

Additional Actions

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Council owned land at Wardrop Valley is to be partially sold.	Completed by target date	June 2004	Progress subject to D.A. process.	D.A. being assessed by independent consultant.	D.A approved March 2004	

ACTIVITY 4: NATURAL & BUILT ENVIRONMENT

Objective:

To conserve the unique bio-diversity and scenic quality of the Tweed whilst ensuring sustainable quality development.

Progress towards Actions:

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Complete Annual Survey of Development Applicants	Percentage of overall applicant satisfaction	66%	Yet to be commenced.	Yet to be commenced.	Yet to be commenced.	
Review Internal Service Level Protocols	Completed by target date	Dec 2003	Implemented Service Level Protocol Dashboard to enable managers to monitor performance against the agreed Service Level Protocols.	Implemented.	Implemented.	
Review Engineering Input into Development and other Application Processes	Completed by target date	Dec 2003	Commenced review and information collection.	Continued review and information collection.	Continued review and information collection.	
Implement new 149 certificate production using IT resources	Completed by target date	August 2003	Implementation nearing completion.	Implementation nearing completion	Implementation nearing completion	
Complete Review of Inspections system and processes	Percentage of completed projects inspected after 3 months of completion	30%	Estimated on target, approximately 30% of completed Building Strata subdivisions inspected.	Estimated on target, approximately 30% of completed Building Strata subdivisions inspected.	Estimated on target, approximately 30% of completed Building Strata subdivisions inspected.	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Prepare and Implement Complaints Protocol	Percentage of complaints resolved within 4 weeks of initial complaint	50%	Estimated above target at approximately 70% of complaints resolved within 4 weeks of initial complaint.	Estimated above target at approximately 70% of complaints resolved within 4 weeks of initial complaint.	Estimated above target at approximately 70% of complaints resolved within 4 weeks of initial complaint.	
Implement adopted Tweed Local Environmental Plan Review Program	Percentage of LEP amendments completed within 18 months from Council section 54 Resolution	100%	Various Draft Local Environmental Plans being prepared.	Various Draft Local Environmental Plans being prepared.	Various Draft Local Environmental Plans being prepared.	
Submit Vegetation Management Plan and Draft Tweed Local Environmental Plan 2000 Amendment to Minister for Planning	Completed by target date	June 2004	Steering Committee has endorsed draft DCP - Exempt and Complying Development and Draft Vegetation Management Strategy. Zoning maps being finalised for consideration by Committee.	Deferred due to State Government Natural Resource Guidelines introduced end of 2003.	Draft LEP amendment being finalised with Vegetation Management Committee.	
Review and adopt updated Strategic Plan	Completed by target date	June 2004	Project commenced with community meetings, and special edition of Tweed Link.	Issues paper exhibited.	Draft Strategy being prepared.	
Complete Kingscliff Local Plan	Completed by target date	June 2004	Key Issues being investigated.	Key Issues being investigated.	Key Issues being investigated.	
Draft a Development Control Plan for Kingscliff	Completed by target date	June 2004				
Draft a Section 94 Plan for Kingscliff	Completed by target date	June 2004				
Review Village Strategy for Pottsville	Completed by target date	June 2004	No work to be completed until Retail Strategy provides data on floor space requirements for Pottsville.	No work to be completed until Retail Strategy provides data on floor space requirements for Pottsville.	No work to be completed until Retail Strategy provides data on floor space requirements for Pottsville.	
Prepare Development Control Plan for Pottsville	Completed by target date	June 2004				

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Prepare Section 94 Plan for Pottsville	Completed by target date	June 2004				
Prepare draft Development Control Plan for Cabarita for exhibition	Completed by target date	June 2004	Steering Committee set up, Draft Plan being finalised.	Draft Plan being finalised with Steering Committee.	Draft Plan finalised. Future report to Council.	
Develop and Adopt Rural Villages Development Strategy	Completed by target date	June 2004	Yet to be commenced.	Yet to be commenced.	Yet to be commenced.	
Develop and adopt Residential Development Strategy	Completed by target date	June 2004	Relevant issued investigated.	Relevant issued investigated.	Relevant issued investigated.	
Develop and Rural Settlement Strategy	Completed by target date	June 2004	Brief prepared for consideration by LEP advisory committee.	Project to be completed following completion of Cabarita and Uki DCP's.	Project to be completed following completion of Cabarita and Uki DCP's.	
Submit Rural Settlement Strategy to Planning New South Wales	Completed by target date	June 2004				
Draft Local Environmental Plan Exhibited	Completed by target date	June 2004				

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Submit Draft Local Environmental Plan to Planning New South Wales for Terranora Area E Urban Release Area	Completed by target date	June 2004	Consultants preparing planning framework.	Draft Environment Study being reviewed by Council Staff.	Draft LEP on exhibition.	
Prepare and adopt Development Control Plan for Terranora Area E Urban Release Area	Completed by target date	June 2004				
Prepare and adopt Section 94 plan for Terranora Area E Urban Release Area	Completed by target date	June 2004				
Submit draft Local Environmental Plan for Kings Forest Urban Release Area to Planning New South Wales	Completed by target date	June 2004	Awaiting transfer of land to new owners before work commences.	Awaiting transfer of land to new owners before work commences.	Engaged consultants to review environmental constraints	
Prepare and adopt Development Control Plan for Kings Forest Urban Release Area	Completed by target date	June 2004				
Prepare and adopt Section 94 plan for Kings Forest Urban Release Area	Completed by target date	June 2004				

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Implement Tweed River Management Plan	Completed by target date	June 2004	Bird Monitoring Report received UQ Ecological River Health Report Received Lavender Creek Stormwater Improvements 90% complete.	Successful completion of Tweed River Festival. Woobul Creek Management Plan received. Fingal peninsula Wetland Project DA submitted. Waters of the Tweed IV Educational Brochure completed.	Commenced Fingal Wetland Rehab works unrelated to DA. Arrangements for Implementation of Woobul Creek completed. Stotts Channel Veg Plan Complete. Lower Oxley Bank Stabilisation project commenced. Waters of the Tweed IV distributed and communities' response evaluated.	
Implement Estuary Management Plan	Completed by target date	June 2004	Estuary Management Plan Review commenced.	Mooball Creek Reserve Rehab Plan complete.	90% complete. Mooball Creek Reserve Rehab Plan works commence. Cudgen Creek spur wall removal DA lodged. Canoe Trail design report 90% complete.	
Commence development for Implementation of the Coastline Management Plan	Completed by target date	June 2004	Stage 1 Report Completed. Coastline Management Study and Plan 60% complete.	Stage two report draft completed. Coastline Management Study and Plan 70% complete.	Coastline Management Study and Plan 90% complete.	
Review and Revise Tweed River Flood Model and DCP5	Completed by target date	June 2004	Digital Elevation Model Project 50% complete. Interim review of DCP5 90% complete.	Tweed River Flood Model 60% complete. Interim DCP5 advertised.	Tweed River Flood Model 80% complete. Interim DCP5 deferred by Council.	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Construct Boat Ramps	Percentage of project complete	100%	10% complete. Tenders received for 3 boat ramp upgrades.	10% complete. Awaiting additional funding from Waterways.	10% complete. Awaiting additional funding from Waterways.	
Construct new Flood Mitigation Facilities	Percentage of project complete	100%	0% complete. Nil Action. awaiting funding advice.	0% complete. Funding from Federal and State Government unavailable for any new works.	0% complete. Funding from Federal and State Government unavailable for any new works.	
Responsible Division / Unit						
Development Assessment Strategic Planning Water						

Additional Actions

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Uki Development Control Plan	Completed by target date	June 2004	Yet to be commenced.	Project to be completed following completion of Cabarita DCP.	Consultants brief prepared.	
Development of Southern Boat Harbour Marina	Completed by target date	June 2004	Report brought forward to Council. Council resolved to proceed with the project and finalise the lease agreement with the Department of Lands.	Awaiting final lease from Department of Lands.	Awaiting final lease from Department of Lands.	

ACTIVITY 5: INFRASTRUCTURE PLANNING**Objective:**

To prepare strategic plans, specifications and public policies for engineering infrastructure that are consistent with Council's Strategic land use planning, reflect current best practice and are underpinned by demonstrable financial capability and coordination long term financing of key infrastructure with the release of land for urban development.

Progress towards Actions:

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Implement DCP16 Development Engineering Specs	Completed by target date	June 2004	90% complete.	90% complete.	Completed	
Organise DCP16 Development Eg: standard drawing	Standard Drawings produced on time	June 2004	10% complete.	12% complete.	Completed	
Review and update as necessary DCP 16 Development Engineering Specs and Standards	Specifications and Standards completed	June 2004	Yet to be commenced.	Yet to be commenced.	Yet to be commenced.	
Draft Stormwater DCP	Completed by target date	June 2004	50% complete.	50% complete.	Completed and for future consideration by Council.	
Finalise Northern Arterial Road Network	Completed by target date	June 2004	70% complete. Report submitted to Council September 2003.	80% complete. Five year program to be submitted to Council January 2004.	Complete. Five year program approved by Council.	
Responsible Division / Unit						
Infrastructure Planning						

ACTIVITY 6: ROADS AND TRANSPORT**Objective:**

To provide a transport infrastructure system that allows safe, convenient and comfortable pedestrian and vehicular traffic movement to, from and within the Tweed Shire.

Progress towards Actions:

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Undertake the pre-construction activities for those projects listed in the Works programme	Complete pre-construction activities 3 months prior to construction commencing	100%	25% complete. On target, pre-construction activities completed 3 months prior to construction commencing.	50% complete. On target, pre-construction activities completed 3 months prior to construction commencing.	75% complete. On target, pre-construction activities completed 3 months prior to construction commencing.	
Complete Urban Works Program	Percentage complete	100%	10% complete. Queen Street Fingal completed. Floral Avenue commenced. Cominan Avenue commenced with some re-design required.	25% complete. Floral Ave completed. Cominan Ave redesign finalised and work 70% complete. Rutile Street drainage finished and only roadwork's to complete.	40% complete. Cominan Ave completed. Gray St 80% complete. Rutile St completed. Peninsula Dr 50% complete. Old Ferry Rd completed. Church St M'bah 90% complete.	
Complete Drainage Program	Percentage complete	100%	0% complete. No projects commenced at this time.	50% complete. Minjungbal Drive completed.	65% complete. Rosemount Cr completed. Rutile St completed. Walsh St completed. Peninsula Dr completed.	
Complete Roads to Recovery Program	Percentage complete	100%	20% complete. Minnows Road completed. Byrrell Creek Road ready to be sealed.	70% complete. Byrrell Ck Rd completed. Urliup Rd completed. Round Mountain Rd completed.	70% complete. Byrrell Ck Rd completed. Urliup Rd completed. Round Mountain Rd completed.	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Complete ACRD Program	Percentage complete	100%	10% complete. Kyogle Road completed Numinbah Road completed Fingal Road service relocation commenced.	25% complete. Fingal Rd service relocation completed.	40% complete. Byangum Bridge approaches preliminary works completed. Tyalgum Rd commenced.	
Complete Bridge Program	Percentage complete	100%	10% complete. South Pumpenbil Bridge completed.	70% complete. Byangum Bridge contracts let for pile driving and deck units (work not to commence until April / May 2004).	90% complete. Byangum Bridge preliminary works commenced.	
Complete Planning for Tweed and Murwillumbah Depots upgrade	Completed by target date	June 2004	Design commenced for extension to Murwillumbah Depot Office. No funding allocated for Tweed Depot improvements.	Design completed for Murwillumbah Depot. Extensions and Contract documents being prepared.	Design completed for Murwillumbah Depot. Extensions and Contract documents being prepared.	
Responsible Division / Unit						
Design Works						

ACTIVITY 7: WATER & SEWERAGE**Objective:**

To provide a high quality and reliable water and sewerage service that meets community expectations and assists economic development.

Progress towards Actions:

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Undertake the pre-construction activities for those projects listed in the Water and Sewerage programme	Complete pre-construction activities 3 months prior to construction commencing	100%	25% complete. On target, pre-construction activities completed prior to construction commencing.	50% complete. On target, pre-construction activities completed prior to construction commencing.	75% complete. On target, pre-construction activities completed prior to construction commencing.	
Review and Implement Asset Replacement Program	Percentage of program complete	100%	12% complete.	20% complete.	31% complete.	
Implement Capital Works Program	Percentage of program complete	100%	10% complete. Kingscliff STP Interim Works completed.	22% complete. Uki Sewerage scheme 98% complete. Connection to the system commenced.	42% complete. Uki Sewerage scheme 98% complete. Connection to the system commenced.	
Implement Augmentation of Hastings Point Sewerage Treatment Plant	Percentage of program complete	100%	10% complete. Tenders Received.	15% complete. Contracts have been let.	40% completed. Works substantially completed.	
Implement Augmentation of Bray Park Water Treatment Plant	Percentage of program complete	100%	5% complete. Concept Design completed.	8% complete. Tenders prepared for supply of membrane filters.	12% complete. Tenders called for membrane supply..	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Develop Bulk Water Supply Strategy	Percentage of program complete	50%	5% complete. Engaged Consultant to Complete Scoping Study.	5% complete. Hunter Water engaged to complete Integrated Water Cycle Plan Concept Study.	10% complete. Hunter Water 60% completed. Integrated Water Cycle Plan Concept Study.	
Obtain Community and Council endorsement for Banora Point & West Tweed Effluent Disposal Strategy	Percentage of program complete	100%	80% complete. Final Meeting Scheduled for November 2003.	95% complete. Awaiting final report from consultant.	100% completed. Consultant report received and reported to Council.	
Obtain Community and Council endorsement for West Tweed & Banora Point Sewerage Treatment Plants	Percentage of program complete	100%	0% complete. Awaiting outcome of Disposal Strategy.	0% complete. Still awaiting outcome of Disposal Strategy.	0% complete. Still awaiting outcome of Disposal Strategy	
Responsible Division / Unit						
Design Water						

ACTIVITY 8: CIVIC GOVERNANCE**Objective:**

To provide representative and responsive government, sound management of the resources of Council, ensure statutory requirements are met and provide services to the organisation in the most cost effective, safe and timely manner.

Progress towards Actions:

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Continue to Facilitate and Implement Reserve Trust Resolutions in relation to Caravan Park Maintenance and Development	Percentage of Reserve Trust resolutions implemented on time and within budget	100%	100% of Reserve Trust resolutions implemented.	100% of Reserve Trust resolutions implemented on time and within budget.	100% of Reserve Trust resolutions implemented on time and within budget.	
Implement Freedom of Information Act	Number of complaints regarding personal details being given out by Council	Zero	Zero complaints.	Zero complaints.	Zero complaints.	
Implement Privacy and Personal Protection Act.	Number of complaints regarding personal details being given out by Council	Zero	Zero complaints.	Zero complaints.	Zero complaints.	
Implement Strategic Asset and Risk Management Program	Reduce the number of Public Liability Claims	100%	Estimated reduction in number of public liability claims by 60%.	Estimated reduction in number of public liability claims unchanged from last quarter, 60%.	Estimated 80% reduction in number of public liability claims.	
Complete Council Safe II Program	Completed by target date	Dec 2003	90% complete.	95% complete.	Awaiting Procurement Document review. 95% complete.	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Reduce workers compensation costs against 2002 benchmark	Meet Target	\$2800	Report submitted to EMT.	Workers' Compensation costs for the calendar year are \$1634. This is below the target and the 2002 benchmark.	Workers' Compensation costs for the calendar year are \$1986 per employee. This is below the target and the 2002 benchmark	
Implement Training Plan	Percentage of program delivered	100%	20% of program delivered. Training included chemical usage, crane & plant electrical safety, chainsaw safety and maintenance, dam safety surveillance, water fluoridation, various professional conferences and workshops and plant & equipment licences.	73% of program delivered.	85% of program delivered.	
Review employment selection and EEO process	Completed by target date	Feb 2004	Reformation of EEO sub-committee.	Will be the responsibility of the HR Officer - Employee Relations once appointed. Appointment is due to occur in early February.	Review of processes currently in process.	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Implement Staff Orientation Program	Completed by target date	Dec 2003	August 11 – commenced first office-based orientation program; August 18 – commenced first field-based orientation program. Program monitoring and enhancement to continue.	Program is fully implemented and progressing well. Monitoring and review of program will be the responsibility of the Human Resources Officer – Employee Relations.	Program is fully implemented and progressing well. Monitoring and review of program will be the responsibility of the Human Resources Officer – Employee Relations.	
Benchmark records management processes against local government authorities to ensure it delivers “best practice”	Percentage of processes at or above best practice standard.	50%	Estimated 10% best practice Design phase for compliance to State Records Act completed.	Estimated 15% Best Practice. Plans drawn for new central records repository.	Estimated 15% Best Practice. Plans drawn for new central records repository.	
Specify new information technology application requirements and support existing infrastructure	New specifications developed	March 2004	8 applications specified. Implementation of Minutes Manager / DataWorks Upgrade completed.	Network upgrade 90% complete. Network and Operating System upgrade.	Network upgrade 90% complete. Network and Operating System upgrade.	
	Level of customer satisfaction for existing support	50%	90% satisfaction. Aim is to continually improve customer service.	92% satisfaction achieved.	90% satisfaction achieved.	
Monitor Councils budget including timely reporting and provision of financial advise to	Reports completed on time monthly	100%	100% complete. All reports completed on time.	90% complete. Draft copy of Quarterly Budget Review submitted to Executive Management Team.	100% complete. All reports completed on time.	

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
support the decision making process.	Timely advice provided	100%	100% of advice was provided in a timely manner.	100% of advice was provided in a timely manner.	100% of advice was provided in a timely manner.	
Complete relevant statutory financial reporting (annual statements, financial indicators, etc) in accordance with relative statutes.	Completed by target date	Nov 2003	Completed.	Completed.	Completed.	
Provide effective and efficient costing, payroll, accounts payable, stores, debtors, rating, receipting, management, accounting, water debtors, and property services.	Percentage of satisfaction with financial services	99%	95% satisfaction. Aim is to continually improve service.	100% satisfaction. All areas performing to relevant date of progress.	100% satisfaction. All areas performing to relevant date of progress.	
Undertake a program of internal Audits of Councils Operations	Number of internal audits undertaken completed by the end of the financial year	30	7 audits completed.	2 audits completed. Several audits waiting to be finalised in varying areas.	5 audits completed.	
Responsible Division / Unit						
Office of the General Manager Business Undertakings Administration Services Occupational Health & Safety Human Resources Financial Services Information Technology Services						

Additional Actions

2003 / 2004 Actions	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Delivery of training through RTO	Completed by target date	March 2004	RTO application to be completed.	RTO application to be completed.	RTO application to nearing completion.	
Retention of staff	Completed by target date	June 2004	Commenced labour turnover review	5% complete.	5% complete.	
AURION REGIONAL PROJECT: Regional implementation of Aurion – HRIS system	Completed by target date.	June 2004	Yet to be commenced.	Project commenced. Schedule formulated for the six months ending June 2004. Lismore City Council is managing the project with Tweed Shire Council providing hardware support (server capacity) and program experience.	Project currently on target.	

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

7 [OGM] 2003/2004 Loan Borrowing Program

ORIGIN:

Financial Services

SUMMARY OF REPORT:

The Minister for Local Government has determined Council's 2003/2004 approved borrowing limit to be \$4,262,000 for new loans and \$7,247,000 for renewal loans. Council has previously approved the borrowing of these loan funds during the original budget and subsequent budget reviews.

RECOMMENDATION:

That:

1. The General Manager and Chief Financial Officer be authorised to negotiate acceptance of the loan quotations; and
2. The loan documentation be completed under the Common Seal of Council.

REPORT:

The Minister for Local Government has determined under section 624 of the Local Government Act 1993, the borrowing limit for Council for the period 1 July 2003 to 30 June 2004, to be:

NEW LOANS 4,262,000

<u>Infrastructure</u>	Bridges	1,000,000	4,090,000
	Drainage	1,600,000	
	Road Construction	500,000	
	SES, Depot	495,000	
	Respite Centre	495,000	
<u>Other</u>	Public Toilets	100,000	172,000
	Boat Ramps	40,000	
	Saleyards	12,000	
	Airfield	20,000	

RENEWAL LOANS 7,247,000**TOTAL BORROWINGS 10,519,000**

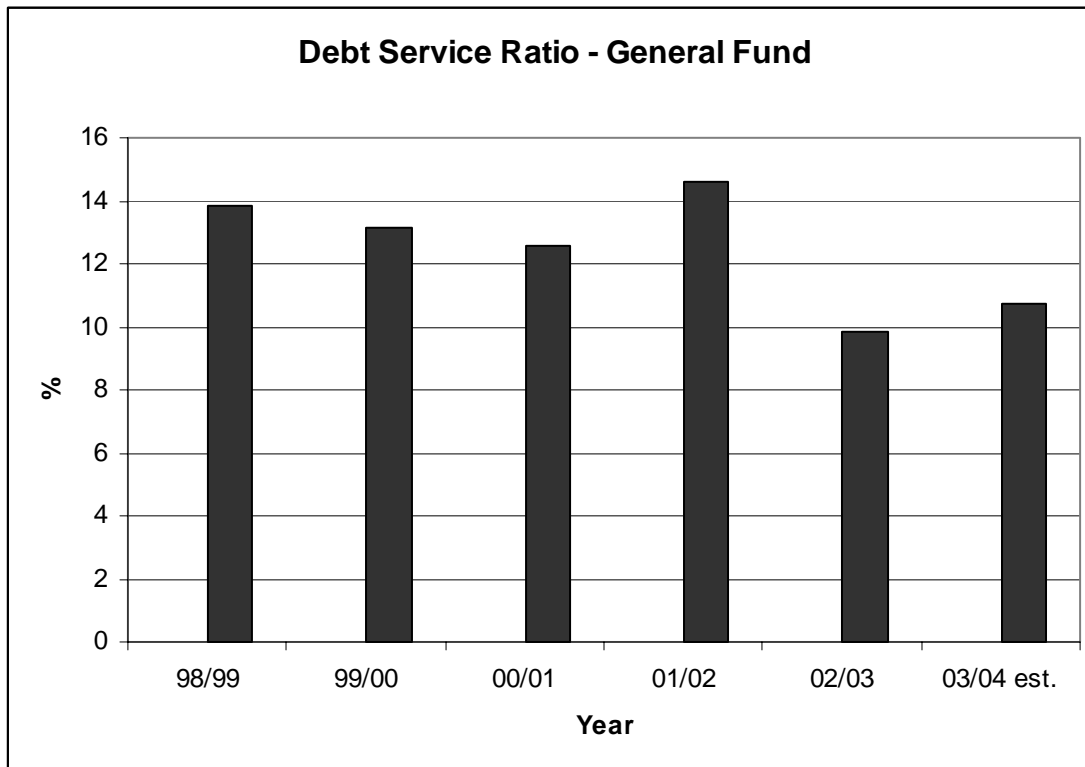
It is Council practice to call quotations for the supply of loan funds from various financial institutions. A further report will be submitted to Council at a later date on the quotations received and accepted by the General Manager and the Chief Financial Officer.

In order to distribute the cost of long term facilities over the period which the facilities benefits will be enjoyed, it is usual for Council to finance part of these works from borrowings. This ensures that both current and future ratepayers share the cost of the facility equally. However, it should be noted that loan borrowings have a long term effect on Councils finances. The more debt incurred each year will reduce the amount available for other purposes, such as normal operations, because of the increased repayment amounts.

Council's Debt Service Ratio represents the degree to which revenues from ordinary activities are committed to the repayment of debt. The following table represents the previous five years and the current year estimated debt service ratio for the General Fund.

Debt Service Ratio – General Fund

Financial Period	%	Financial Period	%
1998/1999	13.87	2001//2002	14.62
1999//2000	13.14	2002/2003	9.87
2000/2001	12.58	2003/2004 – estimated	10.74



If the debt service ratio, for a developing Council such as Tweed Shire, were to exceed 15%, there would be a need to consider other sources of funding and or levels of service.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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8 [OGM] 2004/2008 Management Plan and 2004/2005 Budget

ORIGIN:

Corporate Performance

SUMMARY OF REPORT:

The Draft Management Plan 2004/2008 (which forms an attachment to this Business Paper) is part of the process of providing clear purpose and direction in the management planning of Council's proposed activities, functions and services over the next four years. The Plan includes the Draft Budget 2004/2005 of \$140 million, Revenue Policy, Fees and Charges.

The Minister for Local Government has not set a percentage increase in general purpose rate income for rating year commencing 1 July 2004, however the 2004/2005 draft budget is based on an estimated increase of 2.2%.

The 2004/2005 budget has an extensive capital works program of \$65 million that will support growth and community needs in the Shire.

RECOMMENDATION:

That:-

1. The Draft 2004/2008 Management Plan/Budget be adopted and placed on public exhibition for 28 days from 8 May 2004.
2. The proposed community consultation and feedback process be applied to provide scope for all ratepayers to participate and make submissions.
3. Submissions received be considered by Council at its Extraordinary Meeting of 9 June 2004 with the view to adopting the Management Plan/Budget.
4. An application be made to the Minister for Local Government for a variation to general income of \$108,895.00 for a Special Rate in the Casuarina Beach locality above the allowable limit to be determined.
5. An "*opinion*" in accordance with Section 495(2) of the Local Government Act 1993 has been formed on the Special Rates proposed to be levied in 2004/2005.

REPORT:

What is the Management Plan?

Council's Management Plan is the strategic mechanism in the Local Government Act within which planning, policy making and management takes place. It translates the strategic thinking of Council's Strategic Plan.

The Management Plan is Council's major business planning document.

Variation to General Income for 2004/2005

Proposed 2004/2005 Rate Structure (Minimum Rates)

General Rate	Currently unknown	(2003/2004) \$482.00
Sewerage Rate	\$435.00	(2003/2004) \$430.00
Water Access Charge	\$106.00 Plus Water Use (Residential)	(2003/2004) \$106.00
Domestic Garage Charge	\$178.00	(2003/2004) \$173.50
		<u>\$1,191.50</u>

Management Plan - 2004/2008

The Management Plan provides a four-year program aimed at effectively meeting the expected needs of the community. The Plan states Council's vision, mission, projects and initiatives that Council proposes to undertake during 2004/2005 and priorities for 2004/2008.

Each project or initiative has attached to it performance management measures and target dates, which will be used to determine how Council is performing during 2004/2005. These performance management measures will form the basis of the General Manager's quarterly reports and the annual report to the community.

Community Consultation

The next stage of the Management Plan process involves seeking feedback from the community, as to their expectation of the Plan. To facilitate this process the draft management plan and supporting documents will be placed on public display on Council's Internet, at the Tweed Heads and Murwillumbah Civic Centres.

Ratepayers will be encouraged to express their views on the Plan to Council, as well as to liaise with Council Officers seeking clarification of issues associated with the various projects and initiatives.

Casuarina Beach Special Rate

A pre –requisite that all Councils must address before making application for a special variation to general income for use of a special rate, is that Council must be able to demonstrate that the affected ratepayers are in favour of the proposal.

Accordingly, Council will be writing to each owner of rateable property within the Casuarina Beach development advising of the proposal to seek approval from the Minister for Local Government for a special variation to general income for use as a Special Rate to be levied on all rateable properties within the Casuarina Beach development to fund the replacement of trees and shrubs and the painting/repair of infrastructure to the Council owned public facilities within Casuarina Beach.

The letter further advised the ratepayers of approximate amount that they would be required to pay if the special variation was approved and also that Council is seeking their written comments on the proposal.

Legal Requirements

Section 402 of the Local Government Act 1993, provides that during each year a Council must prepare a draft Management plan with respect to: -

- Council's activities for at least the next three years; and
- The Council Revenue Policy for the next year.

The Act provides that the draft Management Plan must contain the following statements with respect to the Council's activities for the period to which it relates: -

- A statement of the principal activities that the Council proposes to conduct;
- A statement of the objectives and performance targets for each of its principal activities;
- A statement by which the Council proposes to achieve these targets
- A statement of the manner in which the Council proposes to assess its performance in respect to each of its principal activities; and
- Statements with respect to such other matters as may be prescribed by the regulations.

The act requires the statement of principal activities to include the following particulars: -

- Capital works projects to be carried out by the Council;
- Services to be provided by the Council;
- Asset replacement programs to be implemented by the Council;
- Sales of assets to be conducted by the Council;
- Activities of a business or commercial nature to be undertaken by the Council;
- Human Resource activities (such as training programs) to be undertaken by the Council;

- Activities to properly manage, develop, protect, enhance and conserve the environment in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- Activities in response to and to address priorities identified in, the Council's current comprehensive report as to the state of the environment and any other relevant reports; and
- Programs to be undertaken by the Council to implement its equal employment opportunity plan.

The General Manager must report to the Council within 8 weeks after the end of each quarter as to the extent to which the performance targets set by the Council's current Management plan have been achieved during that quarter.

Council prior to 30 June 2004 must adopt the Management Plan for 2004/2008.

Overview

The intention of the Local Government Act is that financial planning is an integral part of the Management Plan and Council must show how it proposes to fund the activities it plan to undertake.

The draft Management Plan includes details of sources, amounts and bases of calculation of the revenue proposed to be raised in the next year (S.404). These details are supported by a detailed estimate of Council's income and expenditure (S.404(1)). A general estimate of income and expenditure for the second and subsequent years covered by the Management Plan has also been prepared (S.404(4)).

Revenue Policy

A Revenue Policy is an issue that is of major interest to Tweed Shire Council, with the Local Government Act insisting upon greater reliance on user charges and less reliance on rates. The need to balance these considerations with the community service obligations of Council means that the issue of pricing may not be a particularly easy one.

A Revenue Policy for a charge or fee should identify: -

- Cost relating to a particular service or function of local government;
- Any revenue which may be earmarked for that service or function: and
- Options for recovering the cost of a service or function.

Council exists to provide services for the benefit of the local community, therefore it should operate in an efficient manner. Tweed Shire Council is not a profit making concern, however, the development and undertaking of non-statutory activities should not be precluded – such an approach to provision of services must take account of a number of major characteristics of local government including: -

- A large part of its revenue comes from ratepayers who understandably expect a certain level and quality of service for payment of rates;

- Local Government policies, budget and pricing are developed and set by representatives elected by the ratepayers;
- Local Government receives large grants from other spheres of government which often prescribes policies and pricing practices;
- Commonwealth and State Legislation are prescriptive in certain areas in relation to the powers of local government; and
- A responsibility of allocating revenues in the most efficient and effective manner.

What services can be charged for?

The following questions need to be addressed when considering the level of fees and charges covered in the Revenue Policy: -

- Which groups (persons or entities) will benefit from the service?
- Can this target group be charged for the service?
- Should this target group be charged for the service?
- How will the target group be charged?
- Will the target group pay, or will other groups be forced to subsidise the provision of the service?

STATEMENT OF INTENTION – APPLICATION FOR SPECIAL VARIATIONS TO GENERAL INCOME – “CASUARINA BEACH SPECIAL RATE” (SEE MANAGEMENT PLAN FOR DETAILS)

Council intends to seek approval to increase the annual general increase by \$108,895 for a Special Rate in the Casuarina Beach locality above the allowable limit to be determined.

The “Casuarina Beach” Special Rate to be levied in the Casuarina Beach locality will only to be used for the purpose of replacing of trees and shrubs and the painting/repair of infrastructure.

The rate revenue to be generated from the Special Rate will only apply to each rateable assessment within the Casuarina Beach development and it will be levied as a rate in the dollar on the land value.

The Department of Local Government has indicated that approval for a rate increase will generally be given for a specified period (eg 7 years). Such an approval will need to be reviewed at expiry as a fresh application.

SPECIAL RATES – COUNCIL TO FORM AN “OPINION”

Section 495 of the Act enables Council to make a special rate for or towards meeting the cost of any “works, services, facilities, or activities” provided or undertaken, or proposed to be provided or undertaken, by Council within the whole or any part of Council’s area, other than “domestic waste management systems”.

By virtue of section 495(2), the special rate is to be levied on such rateable land in Council’s area as, in Council’s “opinion”:

- benefits or will benefit from the works, services, facilities or activities; or
- contributes or will contribute to the need for the works, services, facilities or activities; or
- has or will have access to the works, services, facilities or activities.

Council is required to form a certain “opinion” as a necessary precondition to the making and levying of a special rate.

The opinion relates to the land which will benefit from, contribute to the need for, or have access to the particular works, services, facilities or activities the subject of the rate.

The opinion must correspond exactly with the “substance” and the “effect” of the rate, that is, all land rated must be identical to the land which will benefit from, contribute to the need for, or have access to the particular works, services, facilities or activities the subject of the rate. Thus, the rate must not be levied on any land which will not, in Council’s reasonable opinion, benefit from, contribute to the need for, or have access to those works, services or activities must be rated.

Community Service Obligation

It is the degree to which Council is obliged to provide a service (or part of a service) to the community, which it may not otherwise do if motivated purely by economic or financial considerations.

Council’s Financial Plan (2004/2005) – Budget

The budget as presented in the General Fund is balanced. If any surplus funds become available from operations during the year, these should be applied to increase the level of accumulated funds, so that Council has a sound financial platform on which it can build.

Budget Format

Program Budgeting provides both a financial and management analysis of the individual programs and services offered by Council and in conjunction with the various program objectives and performance measures allow an ongoing review of services related back to the individual program objective. Extensive use of activity based costing is used to support this process.

The Financial Strategies segment of the strategic component of the Management Plan outlines the key financial strategies, which have been incorporated into the development of the budget. Such strategies include: -

- To maintain a Balanced Budget;
- To maximise income from all sources, subject to the stated policies of Council;
- To provide works and services at levels commensurate with budget allocation;
- To restrain expenditure, wherever possible;

- To achieve economy of operation; and
- To optimise the return on funds and investments.

The Budget Document

The budget document provides information on the types of services that council proposes to provide during the 2004/2005 financial year and at what level. Detailed information on financial sources and expenditure categories have been identified within each of Council's Principal Activities, for the five Corporate Goals. Information on Council's Principal Activities and Corporate Goals is described in the strategic component of the Management Plan.

As a financial plan, the budget outlines how much the council services will cost and how they will be funded. The budget document includes appropriations from operation funds for capital projects and the cost impact of the maintenance of these projects is reflected in the document.

Summary

In preparing the Budget, every effort has been made to address the objectives and strategies of the Draft Management plan and is only presented after many months of discussions and deliberations.

It can be difficult to exclude projects, which could be considered of benefit to the ratepayers, however they are usually excluded after evaluating the initial cost and subsequent cost of maintaining of these projects.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Section 402 of the Local Government Act 1993, provides that during each year a Council must prepare a draft Management plan with respect to: -

- Council's activities for at least the next three years; and
- The Council Revenue Policy for the next year.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

1. Draft 2004/2008 Management Plan,
 2. Draft 2004/2005 Budget,
 3. Draft Revenue Policy; 2004/2005 Fees and Charges
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REPORTS FROM DIRECTOR ENGINEERING SERVICES

9 [ES] Cudgen Creek Bridge

ORIGIN:

Director

FILE NO: DA02/1422 Pt23

SUMMARY OF REPORT:

Subsequent to issuing development consent for SALT, Council resolved to enter into negotiations to obtain an additional contribution towards the cost of building a new bridge over Cudgen Creek in lieu of complying with the development consent which requires an upgrade to the existing bridge. This report provides a summary of the issues and a range of options for council. The report concludes by recommending that a contribution be sought from The Ray Group in lieu of upgrading the existing bridge, that the feasibility of a stand alone cycleway / pedestrian link at the end of Marine Parade to Cudgen Headland be pursued and upgrading of the existing bridge be deferred pending resolution of a development outcome for Lot 490.

RECOMMENDATION:

That Council:-

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

REPORT:

Introduction

In April 2003 Council issued development consent for SALT. Condition No. 122 of that consent requires the applicant to upgrade the bridge over Cudgen Creek at Kingscliff as detailed below:-

"122. Prior to the issue of the Subdivision Certificate for Stage 2, the bridge over Cudgen Creek at Kingscliff shall be upgraded at the applicants cost. The upgrading works shall consist of;

- *Cathodic protection of substructure reinforcement*
- *Widen the substructure as required to facilitate widening of superstructure to accommodate pedestrian/cycleway on one side*
- *Replace defective girders and corbels in superstructure*
- *Replace and widen deck to accommodate Austroads standard width cycleway/footpath*
- *Construct appropriate traffic barriers/handrails*

Other alternative arrangements to the satisfaction of both the applicant and Council maybe considered."

At the Council meeting of 18 February 2004 Council resolved to reopen negotiations. That resolution appears as follows:-

"RESOLVED that Council negotiates with the Brian Ray Group at the highest level with a view to obtaining a major contribution towards the cost of building a new bridge over Cudgen Creek."

Negotiations have continued with the Ray Group subsequent to the Council resolution.

History

The Tweed Road Contribution Plan is the means by which Council levies Section 94 developer contributions to fund new works required on Council's distributor road network as a consequence of development. Council's road network model distributes trips generated from new development across the distributor road network and calculates the cost of new works required based on those trips. The plan has identified some 140 works projects at an estimated value of \$123M.

The legislation under which such contributions are levied does not allow for the collection of funds to cover the cost of maintenance or replacement of existing assets.

The existing Cudgen Creek Bridge has an estimated remaining life of 10 to 15 years. Prior to the upgrading of the Tweed Coast Road (previously known as Old Bogangar Road) and the opening of the Yelgun to Chinderah Freeway this bridge carried up to 12,000 vehicles per day. The Bridge is currently carrying 2,500 vehicles per day. With the development at Casuarina, SALT, Lot 490 and Seaside City the Bridge is projected to ultimately carry 4,700 vehicles per day.

Given that the projected development in the catchment will not require an upgrade of the Bridge's traffic carrying capacity it was therefore never included in the Tweed Road Contribution Plan Works Programme.

Despite the above the applicant for SALT had originally indicated a desire to provide a new Bridge over Cudgen Creek. To facilitate this an amendment to the Tweed Road Contribution Plan was exhibited with the addition of a new Bridge. Under the amendment funds for the new bridge would have been collected from SALT and Lot 490. The applicant objected to the proposal during the exhibition period on the basis that SALT would have been paying for a large proportion of the new bridge. The proposed amendment cannot be legally defended because traffic other than from Lot 490 and SALT would use the bridge and in the absence of endorsement by SALT the amendment was not proceeded with.

Negotiations were subsequently undertaken with the Ray Group prior to development approval to upgrade the existing bridge.

Condition No. 122

Works as outlined in Condition No. 122 of the consent have been pursued with the applicant.

The Works as conditioned are in excess of the works offered by the applicant. The applicant had indicated a preparedness to invest \$232,000 on the existing bridge.

An Austroads standard cycleway/footpath as required under the consent must have a minimum width of 2.5m. Structurally this cannot be designed as a cantilever off the existing bridge. A stand alone facility is therefore required. The estimated cost of the new foot bridge including geotechnical investigation is \$180,000. The balance of the upgrading works on the existing bridge have been estimated by the applicant at \$230,000. However, there are concerns that this may not provide sufficient funds for cathodic protection of reinforcement in the existing concrete piers.

Tweed Coast Cycleway

Construction of the Tweed Coast Cycleway/Pedestrian link has been proceeding in a number of parallel areas towards the ultimate completion of a link from Black Rocks Bridge over Mooball Creek at Pottsville to the mouth of the Tweed River at Fingal. Parts of this facility have been incorporated into development approvals (SALT, Casuarina, Pottsville Waters etc), Council's Footpath and Cycleway Program (Marine Parade foreshore at Kingscliff) and Urban Road Upgrading (Fingal Road). Some 21km of a total of 27km of this link has been completed.

Preferred Pedestrian Crossing Location

The Estuary Management Plan for Cudgen, Cudgera and Mooball Creeks, 1997 includes a concept for a pedestrian bridge across Cudgen Creek to improve public access. The Plan locates the proposed footbridge at Rotary Park, downstream of the road bridge. This position was identified in the Plan to enable a low level bridge to be constructed upstream of the Coastguard boat shed, located at the eastern end of Rotary Park. This location does not provide any advantages over a pedestrian walkway attached, or adjacent, to the road bridge. Accessibility for cycles is poor.

Council and community discussion in relation to the appropriate location for a crossing of Cudgen Creek at Kingscliff has identified that a more favourable location than the existing bridge would be immediately upstream of the boat ramp at the end of Marine Parade.

A bridge near the boat ramp would require sufficient clearance to enable the Kingscliff Coastguard rescue boat to pass under at high tide.

Locating the bridge upstream of the boat ramp provides a considerable number of advantages:-

- Pedestrian and cycle movement continued along Marine Parade to South Kingscliff,
- Negates the need for cyclists to negotiate a dangerous and steep section of Sutherland Street,
- South Kingscliff and Cudgen Headland would be more accessible to a greater number of people,
- Is closer to the commercial and residential centres of Kingscliff,
- Encourages greater use of under-utilised facilities at Cudgen Headland.

The Marine Parade location requires a span of 110m compared with a 40m span adjacent to the existing bridge. Clearly this option would be more expensive. The estimated cost of the Marine Parade facility is \$400,000. However given the long term advantages as outlined above it is considered that this option should be pursued. Additional funding can be obtained from:-

1. Reallocation of \$90,000 from the Moss Street boardwalk. This boardwalk is located along the creek east of the Moss Street units.
2. Section 94 funds of \$208,000 (current balance).
3. Contribution from the Ray Group of \$180,000 in part fulfilment of Condition No. 122.

4. State Coastal Cycleway Project Committee. As the bridge would form part of this facility some funding may be available. DIPNR has a State Coastline Cycleways Project currently in progress offering grants to Council on a Dollar for Dollar basis. An application has been made for funding in 2004/2005 under this Program for Project One, described as linking existing cycleway at Moss Street Kingscliff along the Cudgen Creek foreshore to the Kingscliff Bridge and then continuing through Lot 490 to the Cycleway finishing at SALT's northern boundary. The estimated cost is \$251,000. If the proposal in this report is adopted the above project would need to be modified to include the proposed cycleway bridge which may enable a larger grant provided Council can match the funding. To date it was proposed to fund Council's part of the above project at approximately \$126,000 from the Section 94 Contributions of \$208,000 leaving a further \$82,000 from Section 94 Contributions to potentially be allocated towards the cost of the Cycleway Project discussed in this report.

Bridge Alternatives

In relation to the vehicular component of the new bridge, options for Council at this stage are to insist on the conditioned works to be completed prior to release of the Stage 2 plan or alternatively seek a contribution from the applicant.

While the existing timber bridge has a remaining life of some 10 to 15 years there is a general desire from all parties to have a new structure over Cudgen Creek. The value to Council of upgrading this bridge now in regard to projected maintenance savings is in the order of \$300,000. Given the strong possibility of obtaining a substantial contribution from the ultimate development of Lot 490 there would appear to be sufficient incentive to defer expenditure at this point in time until the outcome of Lot 490 is known. Council's Coastal Committee has also expressed a strong desire to increase the waterway under the existing bridge. Deferral of any expenditure at this point in time will allow that option to be further pursued.

Options

1. Require the applicant to fulfil Condition No. 122 prior to release of Stage 2. Stage 2 comprises 43 residential lots in the northern section of SALT, west of Casuarina Way.
2. Take a contribution of \$180,000 for the cycleway/footpath and require the applicant to complete the balance of the work on the existing bridge prior to release of Stage 2.
3. Take a contribution from the Ray group of \$180,000 for the cycleway/footpath and \$230,000 for bridge upgrading works plus a further \$40,000 for additional costs of cathodic protection of steel reinforcement in existing concrete piers as full compliance with Condition No. 122.

Conclusion

The option of relocating the cycleway / footpath bridge to Marine Parade should be fully investigated and construction adjacent to the existing traffic bridge deferred until this is resolved.

After consideration of all of the issues as outlined above this report recommends that Council advise the Ray Group that a contribution of \$450,000 prior to the linen plan release of SALT Stage 2 would fulfil the requirements of Development Condition No. 122.

The Ray Group have indicated their acceptance of this proposal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

10 [EC] Request to Install Unregistrable Moveable Dwelling

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

A letter of request has been received from Mr Brian Smart to install an unregistrable moveable dwelling (UMD) at site 8 Drifters Van Village, Chinderah.

Drifters Van Village is a high hazard flood prone park. Installation of UMDs in such parks is not permissible under Council Policy E2.29. This restriction is intended to protect long term residents and their property from exposure to flood conditions.

On 7 August 2002 Council specifically resolved to refuse an application for placement of a UMD on site 28 within the subject park by Mr Smart. Council has also relatively recently refused applications to place UMDs in both the Homestead and Royal Pacific Parks. If an approval were granted, it would set a precedent which other people are likely to pursue, namely approval for more UMDs in flood prone parks.

Officers recommend that the Policy not be varied and the application be refused.

RECOMMENDATION:

That Council refuses the request to install an unregistrable moveable dwelling on Site 8 Drifters Van Village.

REPORT:

Mr Brian Smart has written to Council requesting that consideration be given to the relocation of an unregistrable moveable dwelling (UMD) from Banora Point Caravan Park to site 8 Drifters Van Village, Chinderah.

General Manager
Tweed Shire Manager
Murwillumbah NSW 2484

Attention - D. Buckley - Director, Health & Environment Services

Dear Sirs,

Relocation of existing UMD from Tweed Waters/Banora Point Caravan Park to Drifters Van Village.

I refer to the reported Council decision (Council Meeting March 3rd 2004), to allow Mr Bary Roach to be allowed to purchase my home and install it on a site in the Drifters Van Village.

Subsequently Mr Roach has decided against this cause of action and is no longer a resident of that Park and has withdrawn his offer to purchase my home. This has left me once again as a 'captive tenant' of the Banora Point Park in which living conditions are deteriorating daily.

The park owner has confirmed to me that the Park will be closing soon. As I am a 74yr old single pensioner having been born locally and wishing to stay in this area, I request that the compassion shown by the original council decision be extended to allowing me to relocate the home with the only difference being that I be allowed to reside in it instead of Mr Roach.

I note the notice of motion No 4 passed by Council on March 17th 2004, and advise that due to shortage of available sites in the Tweed area, the Drifters management are kindly holding the site pending Council's decision.

Thanking you in anticipation I remain,

Yours faithfully,

The park is a high hazard flood prone park and the placement of UMDs on long term sites is prohibited by Council Policy E2.29. On 7 August 2002 Council specifically resolved to refuse an application for placement of a UMD on site 28 within the subject park by Mr Smart. Council has also relatively recently refused applications to place UMDs in both the Homestead and Royal Pacific Parks.

However, on 3 March 2004 Council resolved as follows with respect to site 8 at the Drifters Park:

'notwithstanding its current policy in view of the previous unit being destroyed by fire approves of the installation of an unregistrable moveable dwelling by the applicant to any requirements of the Environment and Community Services Division.'

This resolution was made following a request from a Mr Roach to replace an existing UMD which was destroyed by fire (the report is reproduced in full at the end of this report). The report recommended that the application be refused, however Council approved the request due to the fire damage.

As noted in Mr Smart's letter, Mr Roach no longer seeks to replace the UMD which was fire damaged, and now Mr Smart wishes to place a UMD on the site.

Council Policy E2.29 – Unregistrable Moveable Dwellings and Annexes on Flood Liable Land

Council's existing Policy E2.29 is reproduced in full at the end of this report. The Policy objective is 'To control the placement of unregistrable moveable dwellings and rigid annexes upon flood liable land to minimise damage from flooding in caravan parks while providing tenants of long term sites with the opportunity to have adequate levels of convenience and security.'

Part k of the Policy relates to the placement of UMDs, and states the following:

- k. In a high hazard park unregistrable moveable dwellings may be installed on short term sites with the approval of Council provided that:-*
 - E1. The floor level of the unregistrable moveable dwelling shall be at least 300mm above the designed flood level but not more than 1200mm above ground level.*
 - E2. The unregistrable moveable dwelling is only to be used as a park van and the base is to comply with clause (h) of this Policy.*

The current request does not comply with the current Policy in any respect, in that it would be placed on a long term site, floor heights would not comply and it would not be used as a 'park van'.

The Policy is intended to prevent persons placing UMDs on long term sites within flood prone parks as the structures would be exposed to flooding. This situation places the occupants and their possessions at risk, and may incur liability for Council.

The current Policy restrictions have operated since about 1989.

Subject Proposal

Site 8 in the Drifters is a long-term site and the ground level within the Park is believed to have a height of about 2m AHD. Drifters Van Village is classified as a 'high hazard flood prone park' by Council records. The minimum floor level required in the structure by DCP 5 and Policy E2.29 is 3.6m AHD. This level equates to 300mm above the 'adopted design flood level' for Chinderah. Therefore the structure would need to be placed some 1600mm above ground level to be free from flood waters. Council's existing Policy does not permit floor levels to be placed more than 1200mm above ground level for reasons of aesthetics and stability.

There are a number of significant and valid reasons why Council should not vary the current Policy and permit placement of the UMD, as follows:

- Mr Smart could seek approval to install a complying structure on the site, namely a caravan and rigid annexe.
- The site is a long-term site and the occupant would be exposed to flood conditions. It may be said that there are many structures in caravan parks which would be exposed to flood waters. However, there is no good reason why this should be compounded by the approval of additional UMDs in these circumstances. It is the intention of the Policy that as structures become old or dilapidated that they would be replaced with complying structures, not UMDs.
- Unless the structure is raised about 1600mm above GL, then the structure could be inundated by flood water. This is undesirable for reasons of aesthetics and structural stability. Whilst structural stability could be overcome by robust construction, caravan parks in the Tweed would look quite peculiar if it were permissible to install manufactured homes at 1600mm above ground level.
- The structure would eventually transfer to separate ownership, exposing future residents to flood conditions.
- Importantly, any approval would set a precedent. There is likely to be many other people who would seek approval to install UMDs. Officers regularly take enquiries from persons interested in installing UMDs in flood prone parks. This needs to be considered in terms of the safety of these persons and their possessions if they were exposed to future flood conditions.
- Council has refused similar applications in the recent past.
- There are other non flood prone caravan parks for which approval could be sought to install a new UMD.

Recommendation

Council resolved to permit a UMD to be placed on the subject site by a previous occupant who's home was destroyed by fire. That person no longer wishes to occupy the site. Another person, Mr Smart has now requested to place a UMD on the site. However placement of such restrictions is not permissible under Policy E2.29 due to flood exposure. There are substantive and valid reasons why the application to place a UMD on site 8 Drifters Van Village should be refused. Officers recommend that the current Policy not be varied and that the application be refused.

Policy P1.29

Unregistrable Moveable Dwellings and Annexes on Flood Liable Land

Objective

To control the placement of unregistrable moveable dwellings and rigid annexes upon flood liable land to minimise damage from flooding in caravan parks while providing tenants of long term sites with the opportunity to have adequate levels of convenience and security.

Policy

- a. Unregistrable moveable dwellings and rigid annexes will not be permitted in any caravan park or addition to caravan park on flood liable land constructed after 1 December 1986.
- b. Unregistered moveable dwellings and rigid annexes may be permitted in caravan parks that are located on flood liable land within flood fringe and non-critical flood storage areas where the park is filled above Council's design flood level for the locality and where Council's investigations have shown that filling will not have any significant adverse impact on the flood pattern.
- c. In caravan parks not excluded by Clause (a), unregistrable moveable dwellings and rigid annexes may be permitted in caravan parks designated as being of a low hazard category. The floor level of the unregistrable moveable dwelling the floor level of the registrable moveable dwelling whilst maintained in a mobile state shall be at least 300 millimetres above the design flood level.
- d. In no instances shall the floor level be more than 1200 millimetres above the ground level.
- e. Low hazard for the purpose of this policy shall mean that the site and normal surrounding ground and road levels shall be not more than 800 millimetres below the design flood level and that there shall be access which will be not more than 800 millimetres below the design flood level from the moveable dwelling site to flood free land considered by Council to be a suitable refuge.
- f. In high hazard caravan parks, except Greenhills Caravan Park, Tweed Ski Lodge Caravan Park and any park excluded under clause (a) rigid annexes may, with the approval of Council, be attached to registrable moveable dwellings on long term sites provided:-
 - E1. Where levels permit, the annexe floor level shall be in accordance with clauses (c) and (d) of this policy.
 - E2. Where Item 1 cannot be complied with, the floor level of the annexe is not below the floor level of the registrable moveable dwelling to which it is attached.
 - E3. Any flooring fitted less than 300 millimetres above the designed flood level for the site shall be of hardwood or water resistant grade material.
 - E4. The method of attachment to the registered moveable dwelling shall be such as to allow disconnection within one hour.
- g. Short term sites will not be allowed to be converted to long term sites on flood liable land except as a reorganising of sites in accordance with Council's approval of an upgrading program.
- h. The base to the unregistrable moveable dwelling or annexe is to be structurally designed to withstand flood water and wind loadings and adequate design and documentation is to be submitted to Council to allow it to determine compliance with this clause.
- i. No unregistrable moveable dwelling or annexe is to be placed upon flood liable land without prior approval of Council.

- j. Each application for approval under this policy is to be made upon the approved form and be accompanied by a fee to be as determined by Council.
- k. In a high hazard park unregistrable moveable dwellings may be installed on short term sites with the approval of Council provided that:-
 - E1. The floor level of the unregistrable moveable dwelling shall be at least 300mm above the designed flood level but not more than 1200mm above ground level.
 - E2. The unregistrable moveable dwelling is only to be used as a park van and the base is to comply with clause (h) of this Policy.
- l. A fee of \$50.00 will apply for applications to place unregistrable moveable dwellings or rigid annexes on flood liable land will apply from 4 June 1992 for the remainder of 1992.
- m. Council's Environment and Community Services Division will ensure that each park has an approved evacuation plan and means of communication to all tenants.

Previous Report

SUMMARY OF REPORT:

A letter of request has been received from Mr Barry Roach to install an unregistrable moveable dwelling (UMD) at site 8 Drifters Van Village, Chinderah.

Drifters Van Village is a high hazard flood prone park. Installation of UMDs in such parks is not permissible under Council Policy E2.29. This restriction is intended to protect long term residents and their property from exposure to flood conditions.

On 7 August 2002 Council specifically resolved to refuse an application for placement of a UMD on site 28 within the subject park. Council has also relatively recently refused applications to place UMDs in both the Homestead and Royal Pacific Parks. If an approval were granted, it would set a precedent which other people are likely to pursue, namely approval for more UMDs in flood prone parks.

Officers recommend that the Policy not be varied and the application be refused.

RECOMMENDATION:

That Council refuses the request to install an unregistrable moveable dwelling on Site 8 Drifters Van Village.

REPORT:

Mr Barry Roach has written to Council requesting that consideration be given to the relocation of an unregistrable moveable dwelling (UMD) from Banora Point Caravan Park to site 8 Drifters Van Village, Chinderah. Mr Roach lived in a UMD on site 8 within the park for 5 years, until the unit recently burnt down (photos below). Mr Roach is seeking approval to place another UMD on the same site. Mr Roach's letter states:

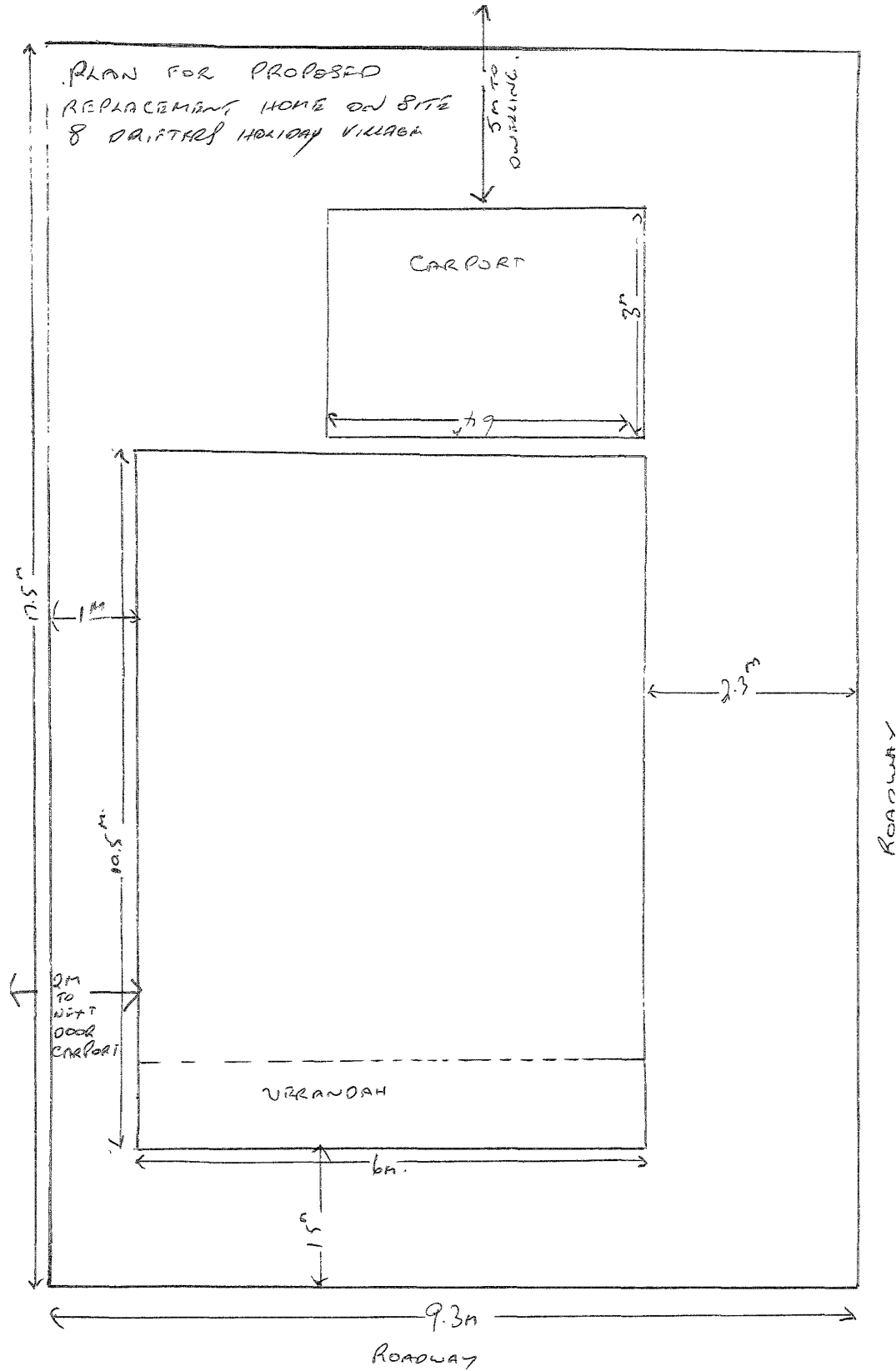
HOLIDAY
CL- DRIFTERS HOLIDAY VILLAGE
- WOMMIN BAY RD CHINDERAH
2487
FRIDAY 13TH FEB 2004

To Health and Building Section
Tweed Shire Council.

On the 23RD December 2003 my unit as
as Relocatable Home was burnt to the
ground on SITE 8 DRIFTERS HOLIDAY
VILLAGE where I had lived for 5 years
since then my wife and I have been
living with different relatives at
different locations which is not
satisfactory for anyone and is
affecting both our health.
I have the opportunity to acquire a
similar Relocatable Home to put on
this site. Photo enclosed. I know
there is a problem with putting Relocatable
Homes into the park but owing to
my present situation could permission
be granted for me to replace my
burnt out home in order that we
can get on with our lives +
TO PAGE 2

The Home I wish to Purchase Is
Presently Situated at Banana Point.
Caravan Park. Photo Included. Hoping
for a Favourable Reply.

Yours Sincerely
Barry Roach
c/o Drifters Holiday Village
Wammin Bay Rd
Chinderah 2487



The park is a high hazard flood prone park and the placement of UMDs on long term sites is prohibited by Council Policy E2.29. On 7 August 2002 Council specifically resolved to refuse an application for placement of a UMD on site 28 within the subject park. Council has also relatively recently refused applications to place UMDs in both the Homestead and Royal Pacific Parks.

Therefore, the current request would be refused, except for the fact that Mr Roach's existing UMD was damaged by fire and for this reason it is brought before Council.

COUNCIL POLICY E2.29 – UNREGISTRABLE MOVEABLE DWELLINGS AND ANNEXES ON FLOOD LIABLE LAND

Council's existing Policy E2.29 is reproduced in full at the end of this report. The Policy objective is 'To control the placement of unregistrable moveable dwellings and rigid annexes upon flood liable land to minimise damage from flooding in caravan parks while providing tenants of long term sites with the opportunity to have adequate levels of convenience and security.'

Part k of the Policy relates to the placement of UMDs, and states the following:

- k. In a high hazard park unregistrable moveable dwellings may be installed on short term sites with the approval of Council provided that:-*
 - E1. The floor level of the unregistrable moveable dwelling shall be at least 300mm above the designed flood level but not more than 1200mm above ground level.*
 - E2. The unregistrable moveable dwelling is only to be used as a park van and the base is to comply with clause (h) of this Policy.*

The current request does not comply with the Policy in any respect, in that it would be placed on a long term site, floor heights would not comply and it would not be used as a 'park van'.

The Policy is intended to prevent persons placing UMDs on long term sites within flood prone parks as the structures would be exposed to flooding. This situation places the occupants and their possessions at risk, and may incur liability for Council. The Policy will result in a gradual reduction in the number of UMDs in high hazard situations owing to natural attrition.

The Policy does however permit UMDs to be placed on short term sites where the structures are owned by the Park. The structures are required to achieve certain minimum floor levels. In this situation the occupants are short term occupants (holiday makers) and in the case of a flood warning they can collect their belongings and vacate the site.

The current Policy restrictions have operated since about 1989.

SUBJECT PROPOSAL

Site 8 in the Drifters is a long-term site and the ground level within the Park is believed to have a height of about 2m AHD. Drifters Van Village is classified as a 'high hazard flood prone park' by Council records. The minimum floor level required in the structure by DCP 5 and Policy E2.29 is 3.6m AHD. This level equates to 300mm above the 'adopted design flood level' for Chinderah. Therefore the structure would need to be placed some 1600mm above ground level to be free from flood waters. Council's existing Policy does not permit floor levels to be placed more than 1200mm above ground level for reasons of aesthetics and stability.

Should consideration be given to issuing approval, then it is considered essential that floor heights in the new structure be required to comply with DCP 5 and the existing Policy.

The following points could be made in support of the request:

- The structure would be certified as structurally sound by a structural engineer.
- The ground height is believed to be about 400mm below the 2.4m AHD necessary to achieve compliance with part E1 of the Policy.
- Setbacks would comply with the Regulations.
- It could be argued that the new structure would be no more hazardous than the previous UMD on the site.
- Approval would show compassion to Mr Roach who has recently lost his home to fire.

Officers are sympathetic to the request. However there are a number of significant and valid reasons why Council should not vary the current Policy and permit placement of the UMD, as follows:

- Mr Roach could seek approval to install a complying structure on the site, namely a caravan and rigid annexe.
- The site is a long-term site and the occupant would be exposed to flood conditions. It may be said that there are many structures in caravan parks which would be exposed to flood waters. However, there is no good reason why this should be compounded by the approval of additional UMDs in these circumstances. It is the intention of the Policy that as structures become old or dilapidated that they would be replaced with complying structures, not UMDs.
- Unless the structure is raised about 1600mm above GL, then the structure could be inundated by flood water. This height is undesirable for reasons of aesthetics and structural stability. Whilst structural stability could be overcome by robust construction, caravan parks in the Tweed would look quite peculiar if it were permissible to install manufactured homes at 1600mm above ground level.

- *Importantly, any approval would set a precedent. There is likely to be many other people who would seek approval to install UMDs. Officers regularly take enquiries from persons interested in installing UMDs in flood prone parks. This needs to be considered in terms of the safety of these persons and their possessions if they were exposed to future flood conditions.*
- *Council has refused similar applications in the recent past.*
- *There are other non flood prone caravan parks for which approval could be sought to install a new UMD.*

RECOMMENDATION

Officers are sympathetic to the loss of Mr Roach's home to fire. However application could be sought to place a complying structure on the site. There are substantive and valid reasons why the application to place a UMD on site 8 Drifters Van Village should be refused. Officers recommend that the current Policy not be varied and that the application be refused.



Burnt Structure



Proposed Structure

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

A Council decision other than to refuse would require variation to P1.29 of Council Policies.

UNDER SEPARATE COVER:

Nil.

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11 [EC] Request to Place Unregistrable Moveable Dwellings into Royal Pacific Tourist Retreat

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

A letter has been received from the owners of the Royal Pacific Tourist Retreat which requests that Council approve the placement of 22 unregistrable moveable dwellings (UMDs) within the Park.

An application to place a UMD in the Park has previously been considered by Council. On 16 July 2003 Council specifically resolved to refuse that application to place a UMD on site 15 in the subject Park.

Placement of UMD structures is not permissible as restrictions exist in Council Policy P1.29 over the placement of unregistrable moveable dwellings in high hazard flood prone caravan parks. These restrictions are intended to prevent exposure of additional long term residents living in these structures in flood prone parks.

There are a number of valid reasons why these restrictions should not be varied, as outlined in this report.

RECOMMENDATION:

That the request to place unregistrable moveable dwellings in the Royal Pacific Tourist Retreat be refused.

REPORT:

A letter has been received from the owners of the Royal Pacific Tourist Retreat, Chinderah Road, Chinderah which requests that Council approve the placement of 22 unregistrable moveable dwellings (UMDs) within the Park. The request is made on compassionate grounds due to structures having been damaged in the Park by a hail storm.

Dear Sir,

* **Re: Request to Install Unregistrable Moveable Dwelling**
Please find enclosed a letter of request to install an Unregistrable Moveable Dwelling (UMD) at the Royal Pacific Tourist Retreat 109 Chinderah Rd Chinderah.

You would be aware, that on the 16 January 2002, the Shire was hit by a large hailstorm; this had an adverse effect on our lives and a tremendous impact on our business.

(Bearing in mind we had been the proud owners, all of 12 weeks when this happened)!

The Premier of NSW later declared the hailstorm a "Natural Disaster".

As a result of that disaster our Caravan Park suffered a lot of damage to (27) park owned vans/annexes. All 27 will need to be replaced. This left our business Greatly effected financially by The Natural Disaster to the point; where we successfully qualified for Disaster Relief from the State Government.

As Council operates several Van Parks you would appreciate the impact of having (27) vans/annexes damaged in a park as small as ours. The current insurance dispute over that Natural Disaster along with the business restrictions are causing us extreme Personal and Business Hardship.

Therefore, we are seeking Councils Assistance/Compassion in allowing us to replace the vans and hard annexes with UMD's and hard annexes.

We are asking to replace/upgrade what is currently damaged on site to similar sized UMD's currently within the Park.

You would be aware that the industry is moving away from the old vans to the more modern cabins (as your own park upgrades reflect this) and we too, would like to move with the times and have the same opportunities such as your businesses.

We hope that Council will consider our extreme hardship and show us compassion similar to the request by Mr Barry Roach to install a (UMD) at Drifters Van Village.

Also, that Council consider the long-term benefits to the Park and surrounding area/community by allowing replacement/upgrades of our damaged vans/annexes, also allowing others to relocate to our park. Going on the flood history the Royal Pacific is one of the last parks to have water enter. We have been told by a resident who has been a resident of around 25 years, that floodwater has never entered any van within the park.

Keeping in mind that under Councils DCP5 the Royal Pacific is only relatively Low velocity flood storage.

Therefore, your Understanding, Compassion and Assistance in this matter would be greatly appreciated.

To Whom It May Concern:

Please find listed the number of Long Term Sites/Tourist Sites and the Nominated UMD sites.

There are 34 Long Term Sites with a Request for 14 UMD's.

There are 10 Tourist Sites with a Request for 8 UMD's.

Long Term Sites: 1 to 34

Total UMD'S requested: 14

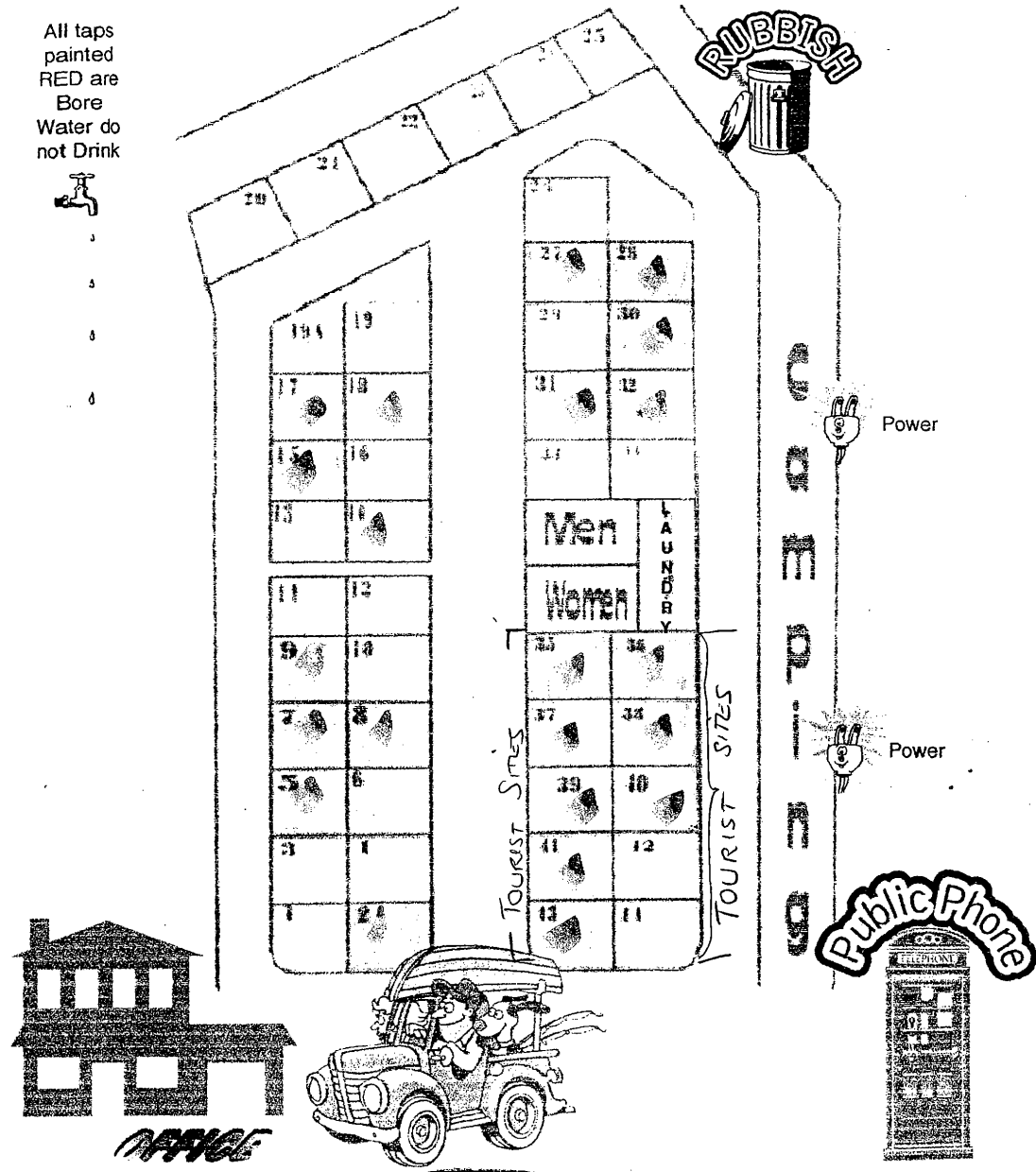
Nominated Sites: 2- 5- 7- 8- 9- 14- 15- 17- 18- 27- 28- 30- 31- 32

Tourist Sites: 35 to 44

Total UMD'S requested: 8

Nominated Sites: 35- 36- 37- 38- 39- 40- 41- 43

TOTAL UMD'S Requested: 22



An application to place a UMD in the Park has previously been considered by Council. On 16 July 2003 Council specifically resolved to refuse that application to place a UMD on site 15 in the subject Park.

In recent years Council has also refused applications to place UMDs in the Homestead, Royal Pacific and Drifters caravan parks. However on 3 March 2004 Council did approve variation to the Policy to permit the placement of one UMD in Drifters Holiday Village following destruction of an existing UMD by fire as a specific action on that one site.

Placement of UMD structures is not permissible as restrictions exist in Council Policy P1.29 over the placement of unregistrable moveable dwellings in high hazard flood prone caravan parks. Council's existing Policy P1.29 is reproduced in full at the end of this report. The Policy objective is 'To control the placement of unregistrable moveable dwellings and rigid annexes upon flood liable land to minimise damage from flooding in caravan parks while providing tenants of long term sites with the opportunity to have adequate levels of convenience and security.' These restrictions are intended to prevent exposure of additional long term residents living in these structures in flood prone parks. Without enforcing these restrictions Council would be exposing itself to significant liability in the event of flooding causing damage.

The current Policy restrictions have operated since about 1989.

Part k of the Policy relates to the placement of UMDs, and states the following:

- k. In a high hazard park unregistrable moveable dwellings may be installed on short term sites with the approval of Council provided that:-*
 - E1. The floor level of the unregistrable moveable dwelling shall be at least 300mm above the designed flood level but not more than 1200mm above ground level.*
 - E2. The unregistrable moveable dwelling is only to be used as a park van and the base is to comply with clause (h) of this Policy.*

The Policy basically prevents the placement of new UMDs occupied by long term residents in the high hazard parks. The Policy does however permit UMDs to be placed on short term sites where the structures are owned by the Park. Importantly, the structures are required to achieve certain minimum floor levels. In the case of "park vans" occupants are short term occupants (holiday makers) and in the case of a flood warning they can collect their belongings and vacate the site.

The request is to place 14 UMDs on long term sites and 8 UMDs on short term sites. The Policy does not permit placement of UMDs on long term sites. Unfortunately in this case the Policy does not permit placement of the UMDs on short term sites either, due to ground levels. Ground level within the Park is 1.8 – 1.9m AHD. The Royal Pacific Tourist Retreat is classified as a 'high hazard flood prone park'. The minimum floor level required in the structure by DCP 5 and Policy E2.29 is 3.6m AHD. This level equates to 300mm above the 'adopted design flood level' for Chinderah. Therefore the structure would need to be placed some 1700 - 1800mm above ground level to comply with the minimum flood level requirement. Council's existing Policy does not permit floor levels to be placed more than 1200mm above ground level for reasons of aesthetics and stability.

Therefore the Policy does not permit placement of UMDs on either the long or short term sites requested.

Reasons Why The Existing Policy Should Not Be Varied

There are a number of significant and valid reasons why Council should not vary the current Policy and permit placement of the UMDs, as follows:

- Council is not responsible for ensuring the commercial viability of the existing park, and should not vary policies which exist to protect residents from flood conditions.
- Caravan park residents are often seniors who are less able to cope with flood exposure and recovery from such events.
- If approval were given and the floor levels were required to comply with DCP 5 requirements (floor at 3.6m AHD) then the structures would be 1.7 – 1.8m above ground level. This would not be desirable from an aesthetic or structural aspect. Caravan parks in the Tweed would look quite peculiar if it were permissible to install manufactured homes at 2000mm above ground level.
- Future occupants would be exposed to flood conditions. It may be said that there are many structures in caravan parks which would be exposed to flood waters. However, there is no good reason why this should be compounded by the approval of additional UMDs in these circumstances. It is the intention of the Policy that as structures become old or dilapidated they would be replaced with complying structures, not UMDs.
- The structure would eventually transfer to separate ownership, exposing future residents to flood conditions.
- Potential future litigation against Council in the event of future harm or damage to residents or property
- Importantly, any approval would set a precedent. There is likely to be many other people who would seek approval to install UMDs. Officers regularly take enquiries from persons interested in installing UMDs in flood prone parks. This needs to be considered in terms of the safety of these persons and their possessions if they were exposed to future flood conditions.
- Council has refused similar applications in the recent past.

Recommendation

It is strongly recommend that Policy P1.29 not be varied, and unregistrable moveable dwellings not be permitted to be placed in the subject Park.

Policy P1.29

Unregistrable Moveable Dwellings and Annexes on Flood Liable Land

Objective

To control the placement of unregistrable moveable dwellings and rigid annexes upon flood liable land to minimise damage from flooding in caravan parks while providing tenants of long term sites with the opportunity to have adequate levels of convenience and security.

Policy

- a. *Unregistrable moveable dwellings and rigid annexes will not be permitted in any caravan park or addition to caravan park on flood liable land constructed after 1 December 1986.*
- b. *Unregistered moveable dwellings and rigid annexes may be permitted in caravan parks that are located on flood liable land within flood fringe and non-critical flood storage areas where the park is filled above Council's design flood level for the locality and where Council's investigations have shown that filling will not have any significant adverse impact on the flood pattern.*
- c. *In caravan parks not excluded by Clause (a), unregistrable moveable dwellings and rigid annexes may be permitted in caravan parks designated as being of a low hazard category. The floor level of the unregistrable moveable dwelling the floor level of the registrable moveable dwelling whilst maintained in a mobile state shall be at least 300 millimetres above the design flood level.*
- d. *In no instances shall the floor level be more than 1200 millimetres above the ground level.*
- e. *Low hazard for the purpose of this policy shall mean that the site and normal surrounding ground and road levels shall be not more than 800 millimetres below the design flood level and that there shall be access which will be not more than 800 millimetres below the design flood level from the moveable dwelling site to flood free land considered by Council to be a suitable refuge.*
- f. *In high hazard caravan parks, except Greenhills Caravan Park, Tweed Ski Lodge Caravan Park and any park excluded under clause (a) rigid annexes may, with the approval of Council, be attached to registrable moveable dwellings on long term sites provided:-*
 - E1. *Where levels permit, the annexe floor level shall be in accordance with clauses (c) and (d) of this policy.*
 - E2. *Where Item 1 cannot be complied with, the floor level of the annexe is not below the floor level of the registrable moveable dwelling to which it is attached.*

- E3. Any flooring fitted less than 300 millimetres above the designed flood level for the site shall be of hardwood or water resistant grade material.*
- E4. The method of attachment to the registered moveable dwelling shall be such as to allow disconnection within one hour.*

- g. Short term sites will not be allowed to be converted to long term sites on flood liable land except as a reorganising of sites in accordance with Council's approval of an upgrading program.*
- h. The base to the unregistrable moveable dwelling or annexe is to be structurally designed to withstand flood water and wind loadings and adequate design and documentation is to be submitted to Council to allow it to determine compliance with this clause.*
- i. No unregistrable moveable dwelling or annexe is to be placed upon flood liable land without prior approval of Council.*
- j. Each application for approval under this policy is to be made upon the approved form and be accompanied by a fee to be as determined by Council.*
- k. In a high hazard park unregistrable moveable dwellings may be installed on short term sites with the approval of Council provided that:-*
 - E1. The floor level of the unregistrable moveable dwelling shall be at least 300mm above the designed flood level but not more than 1200mm above ground level.*
 - E2. The unregistrable moveable dwelling is only to be used as a park van and the base is to comply with clause (h) of this Policy.*
- l. A fee of \$50.00 will apply for applications to place unregistrable moveable dwellings or rigid annexes on flood liable land will apply from 4 June 1992 for the remainder of 1992.*
- m. Council's Environment and Community Services Division will ensure that each park has an approved evacuation plan and means of communication to all tenants.*

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

As stated above, any approval would set a precedent. There is likely to be many other people who would seek approval to install UMDs. Officers regularly take enquiries from persons interested in installing UMDs in flood prone parks. This needs to be considered in terms of the safety of these persons and their possessions if they were exposed to future flood conditions.

Council has refused similar applications in the recent past.

POLICY IMPLICATIONS:

A Council decision, other than to refuse, would necessitate a variation to Policy P1.29.

UNDER SEPARATE COVER:

Nil.

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REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

1 Minutes of the Vegetation Management Plan Steering Committee Meeting held Tuesday 2 March 2004

FOR THE CONSIDERATION OF COUNCIL:

VENUE:

Buchanan Meeting Room, Buchanan Street, Murwillumbah.

TIME:

5.10pm.

PRESENT:

Council: Cr Henry James, Mr Graham Judge, Mr Douglas Jardine (Chair)

Others: Ms Barbara Stewart, Ms Rhonda James, Ms Kate McKenzie, Mr Jim O'Brien, Mr Paul Hopkins, Mr Peter Mason, Mr Mark Kingston (Ecograph), Mr Bruce Hungerford (DLWC) and Mr David Hart (DLWC).

APOLOGIES:

Mr Col Brooks, Mr Robert Quirk, Mr John Allen (NPWS).

MINUTES OF PREVIOUS MEETING:

Moved: Paul Hopkins

Seconded: Jim O'Brien

RESOLVED that the Minutes of the Vegetation Management Plan Steering Committee Meeting held Tuesday 28 October 2003 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

BUSINESS ARISING:

1. David Hart (DIPNR) - NSW Natural Resource Management Reforms - Update

- Presentation by David Hart on the Native Vegetation Act 2003, the Catchment Management Authorities Act 2003 (CMA Act 2003) and the Natural Resources Commission Act 2003. The Acts have been enacted but are yet to be proclaimed to bring them into effect.
- Native Vegetation Act 2003 repeals the Native Vegetation Conservation Act 1997.
- Native Vegetation Act 2003 waiting on finalisation of the Regulations to the Act (target end of May 2004) before being brought into effect.

- Catchment Management Authority now being set up under the CMA Act 2003. A Chair has been appointed and the CMA Board is currently being selected. Staff recruitment will take place after the Board membership has been finalised.
- The NR Commission will determine state-wide natural resource targets and advise the Minister on natural resources issues.
- Substantial discussion between Committee and David Hart of the provisions and implications of the Native Vegetation Act 2003. Some matters arising from this discussion were as follows:
 - Regrowth defined as native vegetation regrowth from January 1990.
 - Minister/DIPNR the consent authority under the Act. Minister can, however, delegate this role to other authorities such as CMAs or Councils.
 - NV Act makes provision for three types of Property Vegetation Plans (between DIPNR/CMA and landowner). Incentive Plan, Continuing Use Plan and Land Use change plan.
 - If there is no PVP then landowner can still try to obtain consent to clear vegetation from CMA/DIPNR by lodging a Development Application.
 - June 2005 target date for CMAs to finalise action plan and start negotiating PVPs with landowners.
 - Transfer of consent role to CMAs for clearing vegetation targeted for June 2005.
 - Catchment Action Plan will be a guiding document, not a statutory document.
 - NV Act 2003 retains provisions from the old Act for State Protected land. There is therefore still an issue with exemption for clearing 2 hectares or 7 trees per annum on State Protected Land category a) - land over 18 degrees. Most of the bushland in the Tweed is in this category.
 - David indicated that this transitional arrangement for State Protected Land appears to be an anomaly in that a 2ha clearing exemption is permitted on steep land, but not on land less than 18 degrees slope. Not logical. There is, however, a likelihood that this anomaly will be rectified by the Regulations.
 - Clearing exemption for 'routine agricultural management activities' (RAMA) will apply to all native vegetation, but not non-native vegetation on State protected land. Again, this anomaly may be sorted out by Regulations. RAMA includes the following maintenance of rural infrastructure, removal of noxious weeds, control of noxious animals, collection of non-commercial firewood, harvesting commercially planted native vegetation, lopping native vegetation for stock fodder, traditional non-commercial cultural activities, maintenance of public infrastructure and any activity reasonably considered necessary to remove or reduce an imminent risk of serious personal injury or damage to property. The regulations can extend or vary the RAMAs.

- In response to query from Douglas Jardine, David Hart indicated that there was a strong likelihood that the Regulations, once completed, would correct the anomalies identified from review of the NV Act 2003.

2. Tweed Vegetation Management Strategy

- Graham Judge gave a brief outline of the status of the finalisation of the Strategy and draft Tweed LEP (A21) and draft DCP 40 (clearing exemptions). The Strategy still requires to be updated to incorporate the recent NRM reforms.
- Graham suggested that the draft LEP/DCP be amended to be integrated with the NRM reforms, particularly the new provisions and proposed regulations under the Native Vegetation Act 2003. The draft LEP/DCP should be amended to reflect the fact that the majority of clearing issues associated with rural activities (agriculture, forestry etc) in rural areas will now be dealt with by DIPNR or the Northern Rivers Catchment Management Authority, and not Tweed Shire Council. Tweed, however, will still retain interest in vegetation clearing associated with landuse change particularly in urban zones (Greenfield sites) and environmental protection zones and, to a lesser extent, on land mapped as Bushland, on the proposed 'Catchment Map'.
- Graham advised the Committee that a substantial amount of work is still required to finalise the digital layers for the draft LEP zone and Catchment map.
- Agreement to target completion of the Tweed Vegetation Management Strategy, draft Written Instrument by April 2004 and the draft maps by 25 May 2004.

NEXT MEETING:

The next meeting of the Vegetation Management Plan Steering Committee will be held on 27 April 2004.

The meeting closed at 6.50pm.

DIRECTOR'S COMMENTS:

Nil.

DIRECTOR'S RECOMMENDATIONS:

Nil.

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2 Minutes of the Aboriginal Advisory Committee Meeting held Thursday 1 April 2004

FOR THE CONSIDERATION OF COUNCIL:

**Minutes of the Aboriginal Advisory Committee Meeting held Thursday 1 April 2004
Aboriginal Matters**

VENUE:

HACC Centre Activities Room

TIME:

10.00 a.m.

PRESENT:

Max Boyd, Russell Logan (TBLALC), Chris Morgan (AECG), Jackie McDonald (AECG), Janette Saunders (AECG), Joyce Summers, Roy Monaghan (NRACC), Stella Wheildon, Thomas Hayes, Arron Stevens, Lesley Buckley (TSC), Ken Woodley (Eastern Yugambah Ltd), George Beattie (Far Western Tugun Bypass Group), Rev Khani Hawthorne and Colleen-Mary Smith (Reconciliation Group)

APOLOGIES:

Michelle Rogers (DOCS), Steve Jamieson (TAFE), Franc Krasna, Desrae Rotumah, Jenny Jones, Kelly Lena, Marlene Boyd, Harry Boyd, Gilbert King

Moved: Max Boyd

Seconded: Jacki McDonald

That the apologies be accepted. **CARRIED**

Mr Boyd declared the Chair vacated and called for nominations. Russell Logan was nominated to chair this meeting.

Moved: Jacki McDonald

Seconded: Chris Morgan

Mr Logan was unanimously elected Chairman of the Aboriginal Advisory Committee for this meeting.

MINUTES OF PREVIOUS MEETING:

Moved: Max Boyd

Seconded: Chris Morgan

RESOLVED that the minutes of the meeting held 6 February 2004 and the notes of the meeting held Friday 5 March 2004 be accepted as a true and accurate record of the proceedings of those meetings.

BUSINESS ARISING:

1. NSW Heritage Office and Aboriginal Heritage

In response to a question by Mr Boyd if representations had been made to the Aboriginal Heritage Unit of the NSW Heritage Office regarding Lot 2 DP 569304 Gray Street, Tweed Heads West, Ms McDonald advised that correspondence has been forwarded to National Parks and Wildlife Service.

Moved: Max Boyd

Seconded: Rev Khani Hawthorne

RESOLVED that the Aboriginal Heritage Unit of the NSW Heritage Office be approached to ascertain whether they have investigated this site with relation to cultural heritage in the light of strong concerns raised by the Aboriginal community of the relevance of the site. As well the Unit be requested to indicate whether action will be taken and if so what action and the timeframe for this.

CARRIED

Moved: Max Boyd

Seconded: Chris Morgan

RESOLVED that the meeting has dealt with Business Arising from the Minutes of 6 February 2004.

CARRIED

GENERAL BUSINESS:

1. Tweed Shire City of the Arts ATSI Arts Project

Lesley Buckley outlined the progress of the Community Stories project. The first stage of writing the stories was well underway, and the second stage of Creative Adaptation has commenced. Aunty Maureen Logan's story "The Boat" has been accepted as one of the six story treatments in the Homegrown Filmworks project. As part of the Theatre in Education component of the Arts Project, Des and Deidre Currie are collaborating with Michael Hennessy of NORPA to produce a dance performance in Sydney for the Premier's awards in June.

Ms McDonald extended an invitation to Ms Buckley to address the NAIDOC Committee meeting on 25 June to discuss incorporating Arts Project outcomes into the week's program.

Ms Buckley advised that the Community Stories project covered contemporary stories as well as oral histories. Story Collectors are willing to visit elders wishing to share information at their invitation.

Ms Buckley advised that the identified position (CDEP) approved for two days per week could assume a co-ordinating role, and that the ATSI Project Manager Brief will be tabled at the next Aboriginal Advisory Committee meeting.

2. Old Border Caravan Park Site

As requested by the Committee, Mr Logan provided a video and digital photographic presentation of the Burleigh Heads National Park Tourist Information Centre display of indigenous history and culture and walking track, developed as joint ventures between the Kombumerri Aboriginal community and Gold Coast City Council. NPWS provides questionnaires for student groups as an educational tool. Such a venture may be considered a model for development of an indigenous botanic garden on the site.

Moved: Max Boyd

Seconded: Janette Saunders

RECOMMENDATION:

That Council facilitate a Workshop to explore opportunities with regard to the Old Border Caravan Park site to be presented to the Tweed Heads Ministerial Taskforce.

CARRIED

Ms Buckley advised that funds are available in the City of the Arts Public Art Commission Project for a facilitator to initiate community consultation. The opportunity also exists to link with the ATSI Arts Project (Community Stories) to involve youth in the creation of the Indigenous Botanic Garden.

3. 17th Local Government Aboriginal Network Conference, Moree

Moved: Max Boyd

Seconded: Jacki McDonald

RECOMMENDATION:

That Council sponsor Russell Logan and one other member nominated by the Aboriginal Advisory Committee to attend the 17th Annual NSW Local Government Aboriginal Network Conference, "On Line with Youth.com", from 26-29 September 2004.

CARRIED

4. Far Western Tugun Bypass Route

Following an invitation to address this Committee, Mr George Beattie from the Rail And Traffic Bypass Action Groups (www.ratbags.org) outlined the proposal for a Tugun bypass from Stotts Island to Bermuda Street.

Moved: Max Boyd
Seconded: Jacki McDonald

RECOMMENDATION:

That Council investigates this proposal with the relevant State and Federal government authorities.

CARRIED

5. Eastern Yugambah Limited – Gold Coast Airport Limited

Mr Ken Woodley from Eastern Yugambah Limited addressed the Committee to outline the consultation, appraisal and reporting process with regard to cultural heritage issues, with specific reference to the Gold Coast Airport Limited Runway Extension Project.

Development Assessments can trigger the National Parks and Wildlife Service Cultural Heritage Legislation. Engaging Field Officers for cultural heritage assessment is a contractual arrangement and should be entered into as such. Eastern Yugambah Limited is interested in putting together a proposal for an Assessment and Management Plan. Mr Logan advised that the Tweed Byron Local Aboriginal Land Council is willing to work with community organisations to nominate representatives from each stakeholder group to proceed with consultation process.

Moved: Max Boyd
Seconded: Roy Monaghan

RESOLVED that Gold Coast Airport Limited be requested to arrange an appropriate inspection to be undertaken by stakeholder representatives of the area to be utilised for the runway extension project.

CARRIED

Moved: Max Boyd
Seconded: Khani Hawthorne

RESOLVED that Gold Coast Airport Limited be requested to fund an appropriate Assessment Report on the impact of the runway extension project on cultural sites in the area.

CARRIED

Moved: Russell Logan
Seconded: Jacki McDonald

RESOLVED that Tweed Shire Council Aboriginal Advisory Committee hold a workshop to invite key stakeholders and Tweed Byron Local Aboriginal Land Council to discuss the pathway to deal with Gold Coast Airport Limited Runway Extension Project issues.

CARRIED

6. Membership of Committee

Discussion ensued regarding membership of Tweed Shire Council Aboriginal Advisory Committee. Ms McDonald advised the Committee has been in operation since 1998, holding open meetings on a monthly basis, and that membership is extended to those residing outside of the Shire who express an interest in the Committee.

NEXT MEETING:

10.00 a.m., Friday 7 May 2004
HACC Centre Activities Room

The meeting closed at 1.50 p.m.

DIRECTOR'S COMMENTS:

6. Membership of Committee

Eligibility for Committee membership needs to be clarified by Council when determining its committee structures as it may be considered membership should be from within the Shire. However, no doubt traditional boundaries were not the current state or local government boundaries.

DIRECTOR'S RECOMMENDATIONS:

2. Old Border Caravan Park Site

As per committee's recommendation.

3. 17th Local Government Aboriginal Network Conference, Moree

As per committee's recommendation.

4. Far Western Tugun Bypass Route

As per committee's recommendation.

UNDER SEPARATE COVER:

Nil.

ITEMS OF INFORMATION AND INTEREST

[III] Councillors Access to the Local Government Superannuation Scheme (LGSS)

ORIGIN:

Administration Services

SUMMARY OF REPORT:

Council has received a letter from Mr Peter Judge from the Local Government Superannuation Scheme seeking permission to address Councillors on access to the Local Government Superannuation Scheme. A workshop has been organised to allow the Account Manager for the Tweed area, Mr Peter Tootell to provide Councillors with information on the scheme.

RECOMMENDATION:

That Council:-

1. Receives and notes the correspondence from Mr Peter Judge of the Local Government Superannuation Scheme.
2. Confirms the Workshop date of 26 May 2004 for Mr Peter Tootell, Account Manager for the Tweed area, to provide Councillors with information on the scheme.

REPORT:

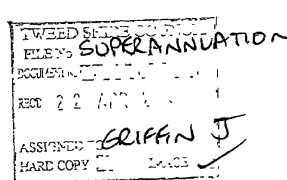
Council has received a letter from Mr Peter Judge from the Local Government Superannuation Scheme seeking permission to address Councillors on access to the Local Government Superannuation Scheme.



Sydney Office
Ground Floor
28 Margaret Street
Sydney, NSW 2000
Postal Address
PO Box N835
Grosvenor Place, NSW 1220
Tel: 1300 369 901
Fax: (02) 9279 4131
Website: www.lgsuper.com.au

20 April 2004

Dr John Griffin
General Manager
Tweed Shire Council
PO Box 816
Murwillumbah NSW 2484



Dear Dr Griffin

I seek permission to address Tweed Shire Councillors at a General Council Meeting. You may recall the announcement at the Albury LGA Annual Conference 2003 that Councillors now have access to the Local Government Superannuation Scheme (LGSS). This is the same Scheme that receives the compulsory Superannuation Guarantee (SG) contributions for employees of Local Government throughout New South Wales.

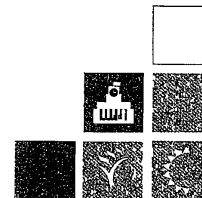
Many councillors expressed an interest in being provided with more information about personally contributing to the Scheme and utilising the free financial planning services that would become available to them. Further, they asked to be given an opportunity to question Scheme representatives in regard to the service delivery, performance, and security of funds managed by LGSS on behalf of their employees. This request to address council is in response to these questions.

The address would take approximately 15 minutes with a further 10 minutes allocated for any questions councillors may have. The most appropriate and convenient time and date for such an address I leave to you.

I have enclosed a schedule of Councils and their 'respective' Account Manager' and phone number and ask that, should you have any questions in regard to this or any other superannuation matter please contact them direct.

Yours sincerely

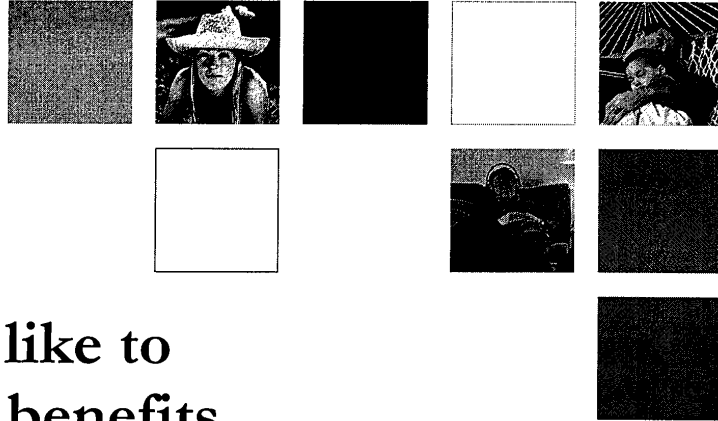
Peter Judge
AGM, Account Management



LGSS Pty Limited

ABN 68 078 003 497

A workshop has been organised on 26 May 2004 to allow the Account Manager for the Tweed area, Mr Peter Tootell to provide Councillors with information on the scheme. Mr Tootell has supplied Council with a flyer, as follows:-



Would you like to know what benefits “your fund” can offer?

You may require information on the following:

- salary sacrifice
- transferring other supers into one account
- taxation issues
- spouse contributions
- performance of the various investment strategies
- budget planning
- co-contributions

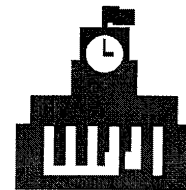
Peter Tootell will be in attendance for a general discussion with all Councillors on:

Date: Wednesday 26 May 2004

Time: 5.00pm

Location: Tweed Shire Council Chambers

Please bring any information you may wish to discuss along to the talk.



LOCAL GOVERNMENT®
SUPERANNUATION SCHEME

You can contact Peter on 6627 5803 Super explained in PLAIN ENGLISH

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

1. Letter from Mr Peter Judge, Local Government Superannuation Scheme (DW 1029155)
-

ORDERS OF THE DAY

1 [NOR] Seaside City

NOTICE OF RESCISSION:

Councillor L F Beck, R D Brinsmead and G J Lawrie move:

That Council's resolution at Minute 183 of the meeting held on 17 March 2004 being:

"... in view of the late arrival of information that this matter be deferred to allow a full an adequate report to be provided to the next meeting of Council by our officers."

be rescinded.

The original report is reproduced below for Councillors information:-

TITLE: *Ordinary Agenda*

ORIGIN:

Strategic Town Planning

FILE NO: *GT1/LEP/2000/3 Pt9*

SUMMARY OF REPORT:

In accordance with the outcome of the landowners meeting a re-subdivision plan has been prepared and circulated to landowners seeking their in-principle support. This Plan was achieved by the removal of two laneways and moving the subdivision westwards by 12 metres. Responses have been received from five (5) landowners, some of which have raised objections concerning financial implications.

A decision has to be made on the future planning for Seaside City. A number of options have been canvassed including one to examine the feasibility of reducing the width of Lorna Street at its southern end to provide additional land to those lots which have less than 450m² zoned 2(f). This option needs to be examined in terms of the impact of reducing the road width, accessibility, inter connectivity and overall urban design. Until that option has been examined by Council and the comments of affected landowners sought, no further act should be taken on Seaside City.

Richtech have prepared plans for the continuation of Ocean Avenue and Lorna Street, Seaside City, pursuant to S68 and S138 of the Local Government Act and Part V of the Environmental Planning and Assessment Act 1979. The former requires the consent of Council before an application can be lodged. Until such time as the planning for Seaside City has been finalised it would be premature to sanction any road opening application.

RECOMMENDATION:

That Council provides the owners of land at Seaside City with a copy of this report and related resolution and informs them that:

- 1. As the re-subdivision of Seaside City has not received unanimous support no further action will be taken by Council on this option.*
- 2. Any decision on the 7(f) zone line at Seaside City will be deferred until such time as the Tweed Shire Coastline Management Study has been adopted.*
- 3. Council pursues the feasibility of reducing the width of Lorna Street at its southern end to provide additional land to those lots which have less than 450m² zoned 2(f).*
- 4. Council does not provide land owners' consent for the applications to construct Ocean Avenue and Lorna Street as proposed by Richtech at this time pending resolution of the broader planning issues relating to Seaside City.*

REPORT:
Introduction

Council resolved on 22 October 2003 that:

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

The meeting with landowners was held on 16 January 2004 when it was agreed that:

- *a plan of the subdivision would be prepared by Council;*
- *the review of the 7(f) zone line would be included as part of the Coastline Management Plan;*
- *landowners prefer the retention of the 2(f) Zone.*

The re-subdivision plan has been prepared and circulated to landowners seeking their in-principle support. A copy of the notes of the meeting is attached. This report:

1. *Details and analyses the response from landowners.*
2. *Examines the options available to Council to review the planning for Seaside City.*
3. *Examines the issues in respect of proposals by Richtech to open roads in Seaside City.*

1. Plan of Re-Subdivision

This Plan was achieved by the removal of two laneways and moving the subdivision westwards by 12 metres. This has the effect of:

- *Retaining the same subdivision layout as at present.*
- *Providing the owners of lots fronting the ocean with about 45% of developable land west of the 7(f) zone boundary.*

A copy of the plan of re-subdivision is contained in Figure 1.

Landowners have been requested to provide in-principle support for the re-subdivision if Council is going to pursue it further. Responses have been received from the following five (5) landowners.

Comments
<p><i>Preference to remove the 7(f) zoning from all affected properties in Lorna Street. The re-subdivision raises financial issues of:</i></p> <ul style="list-style-type: none"> <i>• Capital Gains tax;</i> <i>• Road closures and dedications at as yet undisclosed costs;</i> <i>• Complicated valuations;</i> <i>• Legal costs.</i> <p><i>Movement 12m to west would diminish values.</i></p> <p><i>Delays</i></p> <p><i>Prefer to see LEP amended to give owners development potential.</i></p>
<p><i>Agrees with plan of re-subdivision.</i></p>
<p><i>Similar response to Mrs Nunan.</i></p> <p><i>Deprive rear land access.</i></p> <p><i>No benefit to this landowner.</i></p>
<p><i>Prepared to give in principle support, but too many grey areas to give outright support. Suggests more land could be included by narrowing Lorna and Carne Streets.</i></p>
<p><i>In principle support subject to narrowing of Lorna and Carne Streets.</i></p>

None of the other eleven landowners have responded, although there has been significant correspondence from Richtech on related matters. In view of the objections raised in responses received to date there appears to be no justification for pursuing a response from all landowners, irrespective of whether the objections are justified or not.

Conclusion

Whilst the preparation of the Plan of Subdivision has produced much good will between Council and the landowners, no further action should be taken.

2. Planning Options

In May 2000 Council resolved to prepare a draft LEP to rezone land at Seaside City from 2(f) to 2(e). This amendment has stalled following the recommendations of the Bulford Report to dispense with the services of the planning consultants engaged to undertake this amendment.

A decision has to be made on the future planning for Seaside City. The options open to Council may be summarised as follows:

Land Zoned for Development

- 1. Retain the zoning arrangements as already contained in TLEP 2000.*
- 2. Complete the LEP Amendment already commenced.*

3. *Provide for the erection of a dwelling on each individual allotment, in accordance with the expectations of the smaller landowners.*
4. *Richtech have nominated an Amendment to enable a clause similar to the provisions for SALT, namely:*
 - *Retain the 2(f) zone.*
 - *Dwellings be permissible in a nominated part of the subdivision (approx. 50%).*
 - *A DCP and agreement to secure the necessary servicing.*

Land Zoned 7(f)

5. *Retain the current 7(f) zone line.*
6. *Amend the 7(f) zone line as requested by landowners.*

Whilst land zoned for development and land zoned 7(f) raise quite distinct issues, to respond to the expectations of landowners they should be dealt with concurrently. In that regard the more critical of the two is the land zoned 7(f).

A number of the landowners have highlighted that the findings of the Umwelt and WBM reports which they argue justify moving the 7(f) zone boundary in an ocean direction. The 7(f) zone boundary is part of the Tweed Shire Coastline Management Plan. A final draft of the Plan is currently being finalised following community workshops. It is anticipated the draft Plan will be completed by the end of April 2004.

In the interim the Stage 2 document, Management Objectives, was completed in October 2003 with a Council workshop. The only option indicated in that document for the 7(f) zone was to retain it as contained in TLEP 2000.

The 7(f) zone is an integral part of the Management Plan. Should Council wish to consider any alteration to the 7(f) zone line this must be done as part of the overall Coastal Management Plan. Seaside City should not be dealt with in an ad hoc manner. Therefore, if Council is mindful to meet the expectations of landowners any amendment to 7(f) must be deferred until the Coastal Management plan has been completed. This was accepted by landowners at the meeting.

If this is the preferred option of Council, any review of zoning of land west of the 7(f) zone line should similarly be deferred. To otherwise amend the zoning of Seaside City in accordance with Option 1, 3 or 4 above in advance of dealing with the 7(f) zone line would raise the expectations of landowners, at least in the lots at the southern end of Lorna Street which could not realistically be met.

A further option would be to exclude from any LEP amendment those lots along Lorna Street that have an area of less than 450m² zoned for development. This is the minimum area required by TLEP 2000 for the erection of a dwelling. The rezoning of the identified lots could be considered as part of any reconsideration of the 7(f) zone line.

If Council accepts this approach there is merit in the option put forward by Richtech, but only if the area excluded from dwelling houses is suitably excluded from medium density housing development which is permissible in the 2(f) zone. If the intention is to retain the objectives of the 2(f) zone and provide similar provisions of SALT.

Those provisions require:

Additional development permitted with development consent	Conditions
<p><i>Portions 194, 301 and 312, Kings Beach, South Kingscliff</i></p>	<p><i>Development for the purpose of dwelling houses and a hotel, motel or tourist resort (or any combination of them)</i></p> <p><i>(1) An application made pursuant to this item must not be granted unless the consent authority is satisfied that the development, whether or not to be carried out in stages, will include a hotel, motel or tourist resort as the primary development and the number of units/rooms in that hotel, motel or tourist resort will at all times exceed the number of dwellings or dwelling houses included in the completed development.</i></p> <p><i>(2) If a subdivision is proposed to create an allotment for a dwelling house as part of the proposed development then such allotment must have a minimum area of 450m².</i></p>

Therefore if dwelling house development is to be limited to the nominated area, the remaining area must be quarantined for tourist development. The ownership and subdivision pattern would not preclude such an outcome.

If Council wishes to pursue this option it will be necessary to:

- Formally abandon Tweed LEP 2000 Amendment No 3.*
- Resolve pursuant to S54 of the EPA to prepare a draft LEP Amendment to include the appropriate provision in TLEP 2000.*
- Identify the necessary funds (either from landowners or Council) to prepare the mandatory environmental study, unless DIPNR waive the need.*

- *Investigate how much of the work undertaken for TLEP Amendment No. 3 may be used.*

Recent discussions with Richtech have identified a further option. This option would examine the feasibility of reducing the width of Lorna Street at its southern end to provide additional land to those lots which have less than 450m² zoned 2(f). This option needs to be examined in terms of the impact of reducing the road width, accessibility, inter connectivity and overall urban design.

Until that option has been examined by Council and the comments of affected landowners sought, no further act should be taken on Seaside City.

Road Opening Applications

Richtech have prepared plans for the continuation of Ocean Avenue and Lorna Street, Seaside City, pursuant to S68 and S138 of the Local Government Act and Part V of the Environmental Planning and Assessment Act 1979. The former requires the consent of Council before an application can be lodged. Until such time as the planning for Seaside City has been finalised it would be premature to sanction any road opening application.

**Seaside City Landowners Meeting
Friday 16 January 2004
Notes of Meeting**

Attendance:

- All landowners were represented except the Estate of P.J. Wright.
- Councillors Polglase, Beck, Boyd, Brinsmead, Lawrie, Marshall. Councillor James was an apology.
- Council Officers: J. Griffin (General Manager), M. Rayner (DES), G. Smith (ADDS), P. Knight (Infrastructure & Planning Engineer), R. Norvill (Executive Manager) and D. Jardine (MSP).
- Government Agencies: J. Clarke (DIPNR), R. Dunning (Department of Crown Lands).
- National Parks & Wildlife Service – Liz Boggie and Brendan Diacono.

Purpose of the Meeting:

- Bring all landowners up to date with planning for Seaside City.
- Assist Council to complete that planning.

Presentation:

Council officers made a brief presentation on the history, current planning controls of Seaside City and options for finalising the planning for Seaside City. A copy of the presentation is attached.

The planning requirements and options were detailed as follows:

Planning Requirements

- Unlikely to get support for amendment to 7(f) zone.
- Irrespective of any other amendments to TLEP
 - Comprehensive DCP and S94 Plans required to integrate and coordinate development
 - Master Plan may be required (SEPP 71)
- To achieve this
 - Agreement and cooperation of landowners necessary
 - Funding to implement.

Options

- Retain current zones
- Prepare DLEP to consider alternative planning controls for Seaside City:
 - 2(e)
 - Retain 2(f) with enabling clause to provide for dwelling houses with limitations to retain objectives of the 2(f) zone.

Discussion:

There was a great deal of discussion concerning the 7(f) zone line. Many landowners were of the opinion Council should take responsibility for moving the zone boundary to facilitate development. In response M. Rayner gave a brief overview of the Tweed Coast UBU Line Hazard Study and Coastline Management Plan Umwelt Report. There may be a number of amendments to the Tweed LEP 2000 arising from the eventual Coastal Policy.

The question of compensation was discussed if the land zoned 7(f) remains as such.

The consensus of the meeting was that the issue of the 7(f) zone line should be included in the review of the Tweed LEP 2000 following completion of Council's Coastal Management Study.

The possibility of re-subdividing Seaside City to retain the current number of lots and layout, but located to the west of the 7(f) zone line was discussed. One landowner suggested this could be achieved by the removal of laneways and reducing the depth of all lots. There was some opposition to the practicality and equity of this. G. Smith detailed the process that would have to be followed to achieve a re-subdivision.

Councillor Boyd suggested that Council should bring forward a draft re-subdivision plan, to which the meeting agreed.

With regard to the zoning of Seaside City the consensus of landowners was that Council should retain the current 2(f) and seek to amend the LEP to provide for an amount of detached housing development. Council officers highlighted that this would require the LEP amendment process to re-commence; and the likely preparation of an Environmental Study. Council would also have to decide how the amendment would be funded (by Council or landowners?).

Next Step:

- Council will prepare a draft plan of re-subdivision.
- Landowners comments would be sought before submitting a report to Council in respect to the LEP amendment already commenced in respect of Seaside City land or any other amendments to Tweed LEP 2000 that may be commenced in relation to this matter.
- The Mayor also undertake to provide briefing papers in relation to three matters to all landowners about every six (6) weeks.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

1. *Plan of re-subdivision*
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CONFIDENTIAL MATTERS

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

C1 [EC] Naming of Park in Dulguigan

REASON FOR CONFIDENTIALITY:

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

- (a) personnel matters concerning particular individuals (other than councillors)
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