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## SCHEDULE OF OUTSTANDING RESOLUTIONS

### Schedule of Outstanding Resolutions

#### FOR COUNCILLOR'S INFORMATION:

**17 March 2004**

#### REPORT FROM DIRECTOR ENGINEERING SERVICES

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

202

Councillor H James

Councillor B M Luff

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

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

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**16 June 2004**

#### REPORT FROM DIRECTOR PLANNING & ENVIRONMENT

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

432

Councillor M R Boyd

Councillor S M Dale

**RESOLVED** that this item be deferred.

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

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**4 AUGUST 2004**

**2 [NOM] Section 149 Certificates**

**NOTICE OF MOTION:**

**1**

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

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

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

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**3 [NOM] Grey Water Reuse**

**NOTICE OF MOTION:**

**2**

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

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

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

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## ITEMS DEFERRED IN COMMITTEE

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

#### REASON FOR CONFIDENTIALITY:

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

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

#### C 123 RESOLUTION:

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

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

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## 1 September 2004

### ORDERS OF THE DAY

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

#### NOTICE OF MOTION:

#### 3 RESOLUTION:

Cr D M Holdom  
Cr B J Carroll

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

**Current Status:** Report being prepared.

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## QUESTION TIME

### 1 Lands Classified Operational

**Cr S M Dale**

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

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

**Current Status:** Details being prepared.

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**15 September 2004**

## REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT

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

**Cr R D Brinsmead**

**Cr L F Beck**

**RESOLVED** that this item be deferred to allow the applicant to amend their development application.

**Current Status:** Awaiting amended application

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### 2 [NOM] Public Toilet at Tumbulgum

#### NOTICE OF MOTION:

**Cr G J Lawrie**

**Cr L F Beck**

**RESOLVED** that a report be prepared as to the feasibility of making available the funds for the construction of bollards on the riverfront at that village, and for the completion of a footpath on the residential side of Riverside Drive.

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

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## **MAYORAL MINUTE**

### **Mayoral Minute**

Councillors,

#### **1. Gold Coast City Council**

16 September – attended Gold Coast City Council Ball

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#### **2. Citizenship**

17 September – National Citizenship Day – conducted Citizenship Ceremony at Tweed Heads (24 candidates)

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#### **3. Festival of Speed on Tweed**

17 September – Street Parade of cars entered in Festival of Speed on Tweed

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#### **4. Festival of Speed on Tweed**

18 September – flagged off first cars in morning and attended Dinner at night

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#### **5. Twin Towns Flower Club**

18 September – attended Twin Towns Garden Club Flower Show at Tweed

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#### **6. Tweed Shire Museums**

20 September – signed Museum's Memorandum of Understanding

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#### **7. Northern Rivers Regional Arts**

21 September – attended Committee Meeting of Northern Rivers Regional Arts at Casino

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**8. Kirkwood Road**

21 September – Public Meeting Kirkwood Road Concept Design at South Tweed

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**9. Lot 490 Steering Committee**

22 September – attended meeting of Lot 490 Steering Committee at Tweed Heads

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**10. Casino to Murwillumbah Rail Line**

22 September – Release of Feasibility Study Casino to Murwillumbah Rail Line

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**11. Council's Rates Promotion**

22 September – Presentation of car to winner of Council's Rates Promotion

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**12. Murwillumbah Business Chamber**

23 September – attending Business Breakfast Murwillumbah Business Chamber

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**13. Murwillumbah High School**

23 September – Year 12 Final Assembly Murwillumbah High School

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**14. TEDC**

24 September – TEDC Board Meeting

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**15. Inspection Kingscliff**

25 September – inspection property at Kingscliff with ratepayer

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**16. Tweed District Hospital**

25 SEPTEMBER – ATTENDED TWEED HOSPITAL FETE

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**17. Tweed District Soccer**

25 September – Tweed District Soccer Grand Finals at Tumbulgum

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**18. Kingscliff Soccer**

25 September – Kingscliff Soccer Presentation Night at South Tweed

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**19. Burringbar School of Arts Ball**

25 September – Cr. Dot Holdom represented Council at the Burringbar School of Arts Ball

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**20. Citizenship**

28 September – Private Citizenship Ceremony at Murwillumbah (Caroline Helpburn)

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**21. Parking Murwillumbah**

28 September – meeting on parking Council/pool complex

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**22. Lot 490 Steering Committee**

29 September – Final meeting Lot 490 Steering Committee at Tweed

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**23. NRACC**

29 September – NRACC Meeting at Tweed

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**24. Calypso Hotel Coolangatta**

29 September – Launch new Calypso Hotel & Bistro Coolangatta

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**25. Varsity Lakes Development**

30 September - Inspection Varsity Lakes Development (bus tour)

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## **26. Jack Evans Boat Harbour Project**

1 October – Meeting of Jack Evans Boat Harbour Project Steering Committee

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## **27. Waterline Apartments**

2 October – Opening Waterline Apartments Tweed Heads

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## **28. Endless Summer Marine**

4 October – Dinner with Chinese Visitors hosted by Endless Summer Marine

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## **29. Wommin Bay Hostel**

5 October – Wommin Bay Hostel Birthday celebrations

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## **30. Tweed Shire Council Apprentices**

6 October – morning tea with Tweed Shire Apprentices

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### **INVITATIONS ACCEPTED:**

- 8 October – Far North Coast Strategy Half Day Workshop at Murwillumbah
- 8 October – Mike Rayner, Mike Shaw re Gold Coast Water
- 9 October – Gold Coast Soccer Annual Presentation Dinner
- 13 October – Centaur Primary School 10<sup>th</sup> Anniversary Celebrations
- 15 October – Mayoral Ball
- 17 October – Directions Media Tour (Casuarina)
- 19 October – Sports Advisory Committee meeting

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

- Kilkivan Shire Council Qld – 2004 Micro-Diversity Expo **15 October 2004** at Kilkivan
  - Australian Institute of Environmental Health 31<sup>st</sup> National Conference **18-20 October 2004** Melbourne Park Function Centre
  - NRMA Local Government Forum **3 November 2004** Brighton Sydney
  - Australian Water Association (AWA) NSW Regional Conference **11-12 November 2004** Bowral
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**ITEMS DEFERRED**

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

**ITEM DEFERRED FROM MEETING HELD:**

**15 September 2004**

***Cr H James***

***Cr L F Beck***

*RESOLVED that this item be deferred to the Meeting to be held on Wednesday,  
6 October 2004.*

**THIS ITEM IS THE SUBJECT OF A FURTHER REPORT IN THIS AGENDA UNDER  
REPORTS FROM DIRECTOR PLANNING AND ENVIRONMENT AT ITEM NO 2**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA03/0998 Pt1**

**SUMMARY OF REPORT:**

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

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

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

**RECOMMENDATION:**

That:

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

**GENERAL**

- 1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Planit Consulting dated July 2004 and Plans (as amended in RED) - nos.DWG 03-0503 Sheets 1 to 5 dated August 2004 prepared by Glen Peterson Architect Pty Ltd, except where varied by these conditions. [GEN0010]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0120]
- 3. The erection of a building in accordance with a development consent must not be commenced until:
  - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (b1) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and

- (ii) notified the principal certifying authority of any such appointment, and
- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

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

##### **4. Section 94 Contributions**

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

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

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

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

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

#### **Sector1\_4**

#### **Heavy Haulage Component**

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

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

where:

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

and:

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

Dist.	average haulage distance of product on Shire roads (trip one way)	
\$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): S94 Plan No. 5	\$780
c.	Open Space (Casual): S94 Plan No. 5	\$167
d.	Shirewide Library Facilities: S94 Plan No. 11	\$688
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$126
f.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$215
g.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$344.81
h.	Cycleways S94 Plan No. 22	\$160
i.	Regional Open Space (Structured) S94 Plan No. 26	\$1,177
j.	Regional Open Space (Casual) S94 Plan No. 26	\$221

[PCC0050/PSC0005]

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

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



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

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

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

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

[PCC0070/PSC0004]

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

[PCCNS01]

7. A) Legally binding easements to drain water shall be created on Lot 11 Section 4 DP 8568 and Lot 12 Section 4 DP 8568, to provide a legal point of stormwater discharge for the subject development.
- B) Full engineering details of drainage services to be constructed within the subject easements must be submitted for approval by Council prior to the issues of a Construction Certificate. Minor and major drainage systems shall be sized to convey (as a minimum) all runoff generated by the ARI 20 year storm event from the subject site to existing public drainage infrastructure in Adelaide Street.

[PCCNS02]

8. Prior to the issue of a Construction Certificate Council is to be furnished with a NatHERS Energy Star rating for each Unit. The minimum acceptable rating is 3.5 Stars.

[PCCNS03]

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

[PCC0190]

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

- erosion and sediment control works

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

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

[PCC0240]

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

- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
- (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

**PRIOR TO COMMENCEMENT OF WORK**

12. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
  - (c) if that is not practicable, any other sewage management facility approved by the council.

[PCW0060]

13. **Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0070]

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

[PCW0090]

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

[PCW0210]

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

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

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

[PCW0280]

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

[PCWNS01]

## DURING CONSTRUCTION

18. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).  
[DUR0010]
19. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.  
[DUR0080]
20. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.  
[DUR0130]
21. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.  
[DUR0160]
22. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.
  - ii. Required toilet facilities have been provided on the site.
  - iii. A sign has been erected on the site identifying:
    - Lot number
    - Builder
    - Phone number of builder or person responsible for site.
  - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
  - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.

[DUR1200]

23. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.  
[DUR1210]
24. The principal certifying authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the principal certifying authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.  
[DUR0170]
25. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.  
[DUR0200]
26. If the work involved in the erection or demolition of a building:
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - b. building involves the enclosure of a public place,
- a hoarding or fence must be erected between the work site and the public place.
- If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- Any such hoarding, fence or awning is to be removed when the work has been completed.  
[DUR0220]
27. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.  
[DUR0900]
28. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;
  - b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - c. external drainage prior to backfilling.

d. completion of work and prior to occupation of the building.

[DUR1020]

29. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.

B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR1030]

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

[DUR1070]

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

[DUR1090]

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

\* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and

\* 50<sup>0</sup>C in all other classes of buildings.

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

[DUR1160]

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

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

[POC0020]

**REPORT:**

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

**BACKGROUND:**

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

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

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

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

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

**SITE DIAGRAM:**





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

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

**Tweed LEP 2000**

**Clause 8 - Zone objectives**

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

***Primary objective***

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

***Secondary objectives***

- *to allow for non-residential development which supports the residential use of the locality.*
- *to allow for tourist accommodation that is compatible with the character of the surrounding locality.*
- *to discourage the under-utilisation of land for residential purposes, particularly close to the Tweed Heads sub-regional centre.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Clause 16 states:**

**(1) Objective**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **State Environmental Planning Policies**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Objective 1**

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

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

**Objective 2**

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

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

**Objective 3**

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

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

**Objective 4**

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

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

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

**DCP 6 Design Element 3.2: Streetscape**

**Objective 1**

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

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

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

**Objective 2**

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

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

**Objective 3**

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

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

**Objective 4**

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Demolition**

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

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

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

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

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

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

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

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

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

**(e) Public interest**

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

**OPTIONS:**

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

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

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

## **POLICY IMPLICATIONS:**

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

## **CONCLUSION:**

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

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

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

## **UNDER SEPARATE COVER:**

1. Plan illustrating approximate area of three-storey component
2. Development Assessment Panel Report of 1 September 2004
3. Development Assessment Panel Report of 3 September 2004

**[ID] [PE] Tweed Heads Ministerial Taskforce**

**ITEM DEFERRED FROM MEETING HELD:**

**15 September 2004**

*Cr M R Boyd*

*Cr H James*

*RESOLVED that this item be deferred to allow Council to Workshop this matter.*

**(Note: Workshop held Wednesday 22 September 2004)**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: Tweed Heads Ministerial Taskforce; Parks; Jack Evans Boatharbour**

**SUMMARY OF REPORT:**

Diane Beamer, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) released the Tweed Heads Masterplan on 27 August 2004. The Masterplan is a vision document with no statutory force at this point in time.

It will fall to Council to implement the Plan. Therefore, Council needs to establish a position on the Masterplan as well as develop and implement the Plan into an achievable framework. Several Council policy documents will need to be amended to reflect the specific details expressed in the vision put forward in the Masterplan. Specifically this would include the Tweed Local Environmental Plan and Development Control Plan No. 18 Tweed Heads. Also a new Section 94 Developer Contribution Plan and a Plan of Management for Jack Evans Boat Harbour will need to be drafted and adopted.

This Council report examines the strategic implications that will arise from the Tweed Heads Masterplan and how best to implement its findings. Finally it recommends that Council's endorses the Tweed Heads Masterplan. This report is followed by several reports which will instigate the necessary statutory procedures to modify or draft certain policies including the Local Environmental Plan and a crown reserve plan of management.

**RECOMMENDATION:**

That Council:

1. Informs the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) it adopts the Masterplan as a vision document for Tweed Heads conditional upon capital and recurrent costs being suitably linked to funding sources. On successful adoption Council will implement the recommendations of the Masterplan through the reserves trust as well as amendments to Council's planning policy documents and undertake further feasibility assessments on the lagoon, stormwater and the Tweed Heads Bypass elements.
2. Gives a low priority to the Lagoon concept, stormwater and drainage plans and Tweed Heads centre bypass due to resource requirements.
3. Recommends to the Jack Evans Boat Harbour Reserve Trust that it notify the Minister of Lands requesting consent to prepare a draft Plan of Management for Jack Evans Boat Harbour Reserve, in accordance with section 112 of the Crown Lands Act, to implement the vision and objectives of the Tweed Heads Masterplan.
4. Undertakes to compulsorily acquire Lot 703 DP 877250 (Part of Reserve 88182) Corall St, Jack Evans Boat harbour, Tweed Heads and Lot 7035 DP 1053313 (Reserve 1000253) Corner of Bay St and Dixon St (Queensland), Tweed Heads.
5. Requests that the Minister of Lands transfer Lot 703 DP 877250 and Lot 7035 DP 1053313 to Council in fee simple at a nominal rate as these parcels have been identified by the Tweed Heads Ministerial Taskforce as having commercial opportunity to Council to provide capital funding to undertake infrastructure works for Tweed Heads as outlined in the Tweed Heads Masterplan.
6. Advises the Jack Evans Boat Harbour Reserve Trust that it intends to acquire Lot 703 DP 877250 (Part of Reserve 88182) Coral St, Jack Evans Boat harbour, Tweed Heads.
7. Advises the Reserve Trust that it intends to acquire Lot 7035 DP 1053313 (Reserve 1000253) Corner of Bay St and Dixon St (Queensland), Tweed Heads.
8. Approaches the Minister for Lands for funds to prepare a draft Plan of Management for Jack Evans Boatharbour Reserve.

9. Informs the Director-General of the Department of Infrastructure, Planning and Natural Resources that, pursuant to Section 54 of the Environmental Planning and Assessment Act, Council intends to prepare a draft Tweed Environmental Plan 2000 amendment for the land identified in the Tweed Heads Masterplan and marked by a thick black line in Figure 1 of this report. The purpose of the Draft LEP is to give statutory effect to the Tweed Heads Masterplan. The draft Amendment in respect of building heights will be dealt with as a priority. Amendments in respect of zoning and development bonus will be deferred until such time as the Minister of Lands has accepted the requirements of Recommendation 5.
10. Informs the Director-General of the Department of Infrastructure, Planning and Natural Resources that it considers that an Environmental Study is not required as part of the preparation of the draft amendment to implement the Tweed Heads Masterplan.
11. Prepares and exhibit the draft Tweed Local Environmental Plan 2000 amendment in accordance with the Best Practice Guideline published by the Department of Urban Affairs and Planning in January 1997 titled *"LEPs and Council Land – Guideline for Councils using delegated powers to prepare LEPs involving land that is or was previously owned or controlled by Council"*.
12. Endorses the preparation of a draft Development Control Plan 18 Tweed Heads amendment to reflect the vision of the Tweed Heads Masterplan, together with any consequential amendments to other Development Control Plans.
13. Endorses the preparation of a draft Section 94 developer contribution plans to provide capital funding for specific public works identified in the Tweed Heads Masterplan.
14. Appoints the Manager of Strategic Planning as an internal officer to coordinate issues relating to the Tweed Heads Masterplan.

**REPORT:**

**Locality**

The Tweed Heads Masterplan covers the Tweed Heads CBD area north from the Queensland / New South Wales border south to the Hospital and Tweed Heads Civic Centre. Figure 1 below represents the extents of the Tweed Heads Masterplan.



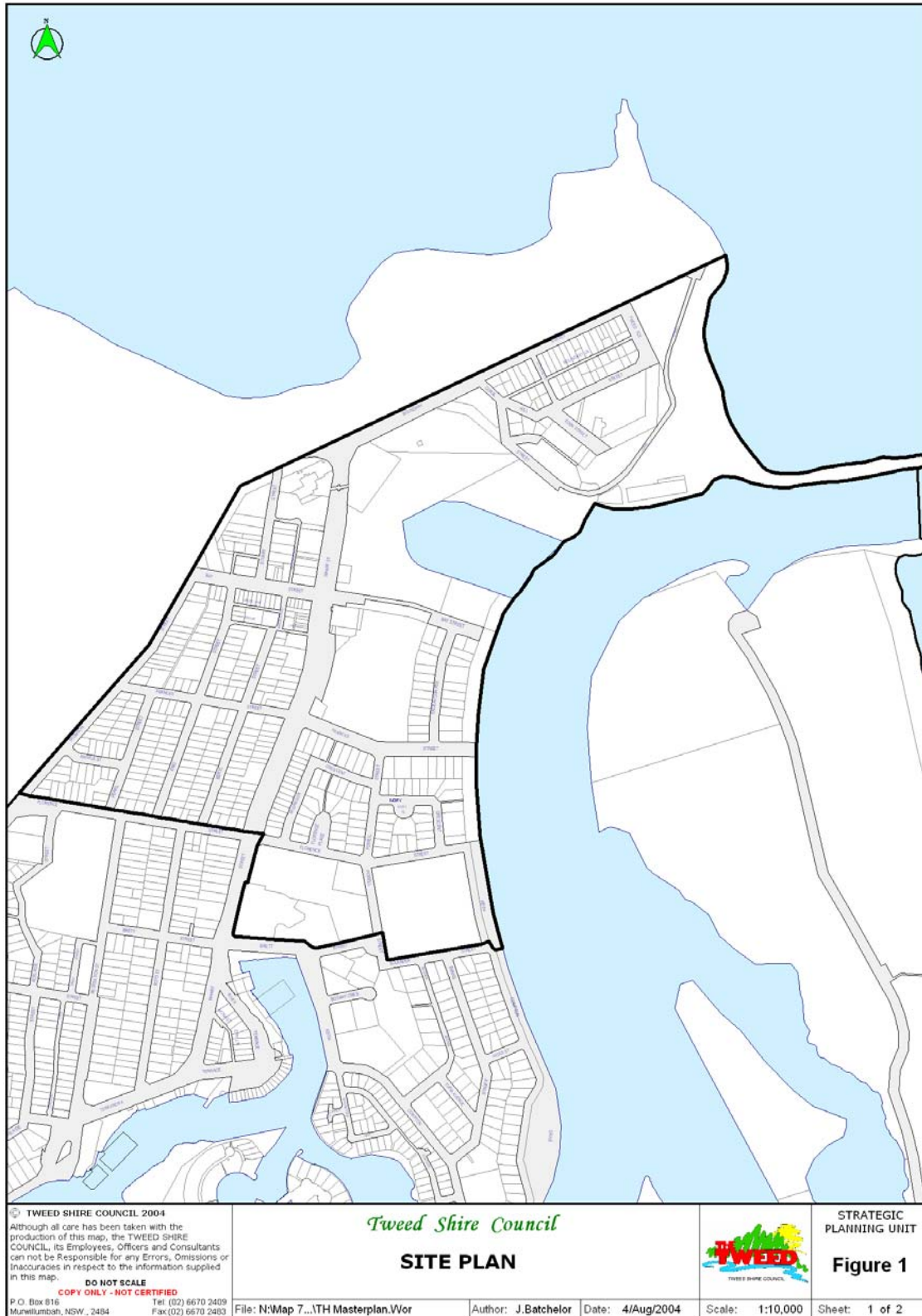


Figure 1: Locality Plan

## Background

Central Tweed Heads has historically played a major role in the economy of the Tweed. Over the years the economic focus has been shifted to other areas such as Tweed Heads West and Kingscliff. This has left Tweed Heads CBD demonstrating a lacklustre economic performance and a large amount of vacant commercial / retail floorspace.

For some time there has been a push to revitalise Central Tweed Heads. This would involve a restructure of the economic focus of the area. This would include reviewing the part that tourism and retail sectors will plan in the future of the area.

On 13 June 2002 Andrew Refshauge MP, the then minister for Urban Affairs and Planning, announced the establishment of a Ministerial Taskforce for Tweed Heads. The Taskforce was established after numerous requests were made to the Minister to establish comprehensive planning controls for Tweed Heads after the development application was received for the Latitude 28 high rise proposal.

The Taskforce's web page identifies its objective as follows;

*"The State Government is helping to develop a **Masterplan** for Tweed Heads to re-establish the Tweed Heads Central Business District as the economic and cultural centre for the region. As a starting point a Taskforce was formed to review and direct investigations. The taskforce comprises a large number of State and Local Government bodies and local community organisation".*

The Taskforce was co-chaired by State Member, Neville Newell MP and Council's General Manager, Dr John Griffin. The Masterplan was completed and placed on public exhibition in June.

Following the exhibition of the draft Masterplan Council resolved to make a submission to the Taskforce as follows;

*"That Council:*

- Generally supports the direction of the draft Masterplan,*
- Recommends that a group be established between the Tweed Heads Taskforce, State Government and Council to conduct a detailed investigation into the specific financial, policy and infrastructure components of the draft Masterplan,*
- Proposes to the State Government that funds should be made available from the Plan First strategic planning developer levy to undertake further detailed assessment of the final Masterplan and any subsequent drafting of statutory documents".*

The Taskforce has finalised the preparation of a draft Masterplan and has presented the Plan and recommendations to the Minister who released the final plan on 27 August. The Minister has also allocated \$200,000 to Council to implement some of the findings of the Masterplan into Council's policy documents.

## Masterplan

The Tweed Heads Masterplan represents a vision document which is detailed as individual proposals and specific elements. Their feasibility needs to be tested and if practical they will need to be established into Council land use and other policy documents.

## Vision

The Masterplan Vision is expressed as;

***"Tweed Heads 2015 - a place where people live, work and play in a vibrant, diverse and sustainable Town Centre".***

The vision for the Tweed Heads Masterplan incorporates 10 years of future development for the Tweed Heads town centre. It also incorporates a substantial shift from the existing urban design and character of Tweed Heads.

To achieve this vision the Masterplan puts forward a large amount of infrastructure development and capital expenditure will be required. Funding for this development will be reliant on both public and private investment. The issue of capital expenditure and sources of funding is considered in a later section of this report.

This report summarises the major features of the Masterplan, reviews the feasibility of the Plan and identifies the arrangements for Council to implement the Plan in terms of policy, funding and programming.



Figure 2: Tweed Heads Masterplan

## Masterplan Strategies

The Masterplan has identified several strategies to achieve the vision for Tweed Heads.

These strategies will be:

STRATEGY	DESCRIPTION
<b>Land Use Strategy</b>	Identifies the future land uses for particular precincts in the Masterplan.
<b>Movement Strategy</b>	A car parking strategy incorporating new multi-storey car parks as well as proposing a Tweed Heads CBD bypass along Recreation / Dixon St into Queensland. It also makes provision for the Gold Coast Light Rail project to be extended into NSW.
<b>Pedestrian and Bicycle Strategy</b>	This increases the pedestrian / bicycle accessibility for the CBD area.
<b>Water Strategy</b>	New wetland ponds as a natural filter treatment of stormwater.
<b>Open Space Strategy</b>	A new park on the existing school site, a cultural gardens and linear parkland adjoining Tweed River.
<b>Landscape Strategy</b>	Street tree and avenue plantings along most streets within Tweed Heads.
<b>Cultural and Tourism Strategy</b>	Interpret and promote local features and historical items to achieve a better urban design outcome.
<b>Visual Strategy</b>	Preservation and promotion of certain visual elements of Tweed Heads. This includes Vistas across Jack Evans Boat Harbour, Point Danger, Flagstaff Hill, CBD landmarks as well as preserving the 1982 Commission of Inquiry view cones across Durambah Beach, Letitia Spit, Tweed River Mouth and Pacific Ocean from Razor Back.
<b>Building Height Strategy</b>	The proposed building heights in the Masterplan attempts to respond to the topography, allow opportunities for water views and to prevent a "crew cut" effect for the Tweed Heads CBD. The Masterplan moves away from a high datum approach, as used in the current LEP.

## Design Guidelines

The main elements of the Masterplan's Design Guidelines include;

PRECINCT	CHARACTER
<b>Commercial Mixed Use Town Centre</b>	High Rise Apartments – reinforce town centre, underground carparking, break facade monotony, active street frontages.
<b>Commercial Mixed Use Town Centre</b>	Mid Rise / Mix Use – mix of commercial use on ground floor and tourism accommodation above, underground parking, built to boundary line.
<b>Commercial Mixed Use Town Centre</b>	Tweed Mall – create nexus between Town Centre and Jack Evans Boat Harbour, active street frontages.
<b>Residential</b>	Identifies elements which should be incorporated into residential buildings including architectural character, roof form, built form and setbacks.
<b>Campus / Civic Precinct</b>	Campus theme, pedestrian walkways, reinforce community ownership, courtyards.
<b>Special Character Zone (heritage provisions) - Beryl St</b>	Architectural integrity, potential 4 storey at rear of lots, protection of "border style" architecture.
<b>Specific Sites - Twin Towns</b>	Activate Twin Towns street frontage and ground floor area facing Jack Evans Boatharbour for commercial / retail opportunities, integrate Jack Evans Boat Harbour open space and ground floor level of Twin Towns.
<b>Specific Sites</b>	Cultural / Tourism Centre, activating boat harbour foreshore, marina, pedestrian bridge, boat ramp.
<b>Specific Sites - Coral Street Mixed Use</b>	Ground floor commercial opportunities, maximum 4 storey height limit with bonus provisions, underground carparking.
<b>Specific Sites</b>	VMR Commercial Facility Duranbah Beach – function room / kiosk, minimal visual impacts, 2 storey height limit.
<b>Specific Sites - Tweed Tce Public Building</b>	Community building / maritime museum, 3 storey limit, take advantage of views, café or tourism related commercial opportunity.

## Feasibility/Priorities

The Masterplan nominates a range of projects and works. In Appendix 2 a review has been undertaken to determine the feasibility of undertaking these elements of the Masterplan.

This assessment has identified the following elements as requiring a large amount of resources to develop:

- Lagoon – Jack Evans Boat Harbour

This proposal would require a large amount of capital to develop. Ongoing operational and maintenance costs may also be a restricting factor. Also there are issues regarding public safety and liability of a public access swimming area.

- Stormwater – Tweed Heads

The current stormwater arrangements in Tweed Heads run north-south. The Masterplan proposal would change this to an east-west axis. Capital costs associated with this change may be prohibitive. Also the development of wetland swale drains may not be feasible due to the low water table in Tweed Heads.

- **Tweed Heads Bypass**

This represents a major upgrade of the existing streets along the proposed route. Also it would require significant modification to existing traffic arrangements for the whole of Tweed Heads. Also this would require agreement and associated joint works to be undertaken by Gold Coast City Council.

It is considered necessary to investigate the feasibility of these elements further.

### **Implementation**

This Masterplan is intended as a broad scale strategic document that provides a future vision for Tweed Heads. It is not a formal policy document and it does not make any specific recommendations to amend the Tweed Local Environmental Plan 2000 (LEP), Development Control Plans (DCP), Plans of Management (crown reserves) and Section 94 Developer Contribution Plans (S.94 Plans).

### **Funding**

Before the adopted Masterplan can be established into specific land use policy the infrastructure requirements of the plan and the funding sources need to be established. If the public infrastructure components are undertaken early, this may help attract prominent developments and assist in providing a positive future for Tweed Heads.

Possible options would include:

- 5.1.1 Special Rate
- 5.1.2 S94 Developer Contributions
- 5.1.3 Commercial Ventures (ie. leasing, sale of land, development)
- 5.1.4 Bonus Provisions (land use policy) for construction and funding of public infrastructure
- 5.1.5 Grants

### ***Special Rate***

Currently there is a Special Rate in the Tweed Heads CBD area that has been levied to service the debt for the street beautification and upgrade works. This originally cost \$3.6 million, of which 20% was levied through the special rate. This rate was established to be paid over a 15 year period.

It must also be considered that Tweed Heads represents a substantial commercial area and many of the lessees and shop owners are likely to have a strong reaction to any increase in rates or lease fees as a result of public works being undertaken pre-emptively of any private development.

### ***S94 Developer Contributions***

Section 94 development contributions could be considered as a means of providing some of the funding for capital works associated with the Tweed Heads Master Plan. For example the Masterplan gives some indication that multi-storey car parking station might be a viable solution to the parking problems in Tweed Heads. However there needs to be a clear nexus between the proposed development and the need for the increased/improved amenities that are proposed under the Master Plan. This growth does not necessarily have to be in the immediate Tweed Heads central area – funds can be collected on a shire wide basis if the proposed works are considered of shire wide or regional importance.

It should be realized that it would take time for funds to accumulate and not all of the proposed capital works could be funded through Section 94 if the existing population also benefit from the improvements. **Therefore alternative funding options would also require consideration.**

### ***Infrastructure Requirements***

The Masterplan incorporates some significant upgrades of public infrastructure as well as providing for some significant public works. Some of the capital works projects would not qualify for inclusion in a Section 94 developer contribution plan as they represent a transfer of existing facilities (eg. Civic Center relocation proposal), or they are commercial in nature (Old Fire Station site and VMR Duranbah Beach development proposal). Below is a list of upgrades that may be suitable to be included into a S.94 plan;

- Parking
- Open Space upgrades (including embellishments such as bike/walk paths, park facilities)
- Streetscaping
- Landscaping
- Street Trees
- Traffic (Proposed Tweed Heads CBD Bypass)
- Upgrades to Jack Evans Boat Harbour (non-commercial) (including swimming lagoon, cultural gardens)
- Stormwater / Drainage



These components present significant implications for Council in maintaining the upgraded open space, and operating the recreation facilities proposed. Any increase in the size and number of parks and foreshore areas, standard of maintenance, or facilities will need to be fully costed. Detailed plans will need to be prepared and costed before any developer contributions can be levied. Resources will be required to undertake these tasks. Specific facilities with significant maintenance and operational implications include the pedestrian/cycle bridge over the harbour opening and street tree plantings.

There are also several of these elements would encroach into existing S94 contribution plans. Specifically these are;

- S94 Plan No 5 Open Space Contributions
- S94 Plan No 6 Street Tree Planting in Residential Areas
- S94 Plan No 12 Bus Shelters
- S94 Plan No 22 Cycleways
- S94 Plan No 23 Offsite Parking
- S94 Plan No 26 Shirewide / Regional Open Space

The preparation of a draft S.94 contribution plan will also need to review these areas and determine if the existing plan would need an amendment or if they can adequately be accommodated into a new plan.

### ***Commercial Ventures***

Funding arrangements to achieve funds for infrastructure could be established through leasing or sale of properties. This could bring forward some of the public infrastructure works that would hopefully act as a catalyst to encourage more private development.

There are several sites identified in the Masterplan that are crown reserves under Council's control which could be used to generate enough revenue to allow some of the infrastructure projects completed early. These areas are detailed in an Appendix 1 of this report and summarised below.

- Coral Street - Jack Evans Boatharbour:  
  
Site available for multi-storey mixed use development. This includes ground floor commercial and three floors residential.
- Old Fire Station Site - Bay Street, Tweed Heads.  
  
Potential for consolidation of adjoining lots and development of a transit centre and multi-storey residential development.
- VMR, Duranbah Beach.  
  
Redevelopment of existing building and Council lease out 2<sup>nd</sup> floor for commercial operation.

As these sites are Crown land it will be necessary to receive the early approval of the Minister of Lands before any commercial development can be undertaken. If it is not possible for these sites to be used for commercial purposes to assist Council in generating capital to undertake some of the infrastructure works required then other forms of capital generation will need to be investigated or the infrastructure not be included in planning for Tweed Heads.

### ***Jack Evans Boat Harbour Reserve***

The Masterplan identifies substantial modifications and improvements to Jack Evans Boat Harbour. These proposals are examined in detail in Appendix 1 to this report and are summarised below;

- Cultural gardens
- Cultural Centre
- Marina – Rescue craft
- Amphitheatre
- Joint facilities VMR building Durambah Beach
- Pedestrian access (switchback stairs) Point Danger
- Tourism facility – Flagstaff Hill
- Cultural / Museum, Old Pilot Station site, Flagstaff Hill
- Twin Towns, ground floor retail / restaurant / Café Boat harbour frontage
- Upgraded parkland Wharf St
- Market area, Bay St carpark

It is important that these proposals are examined in more detail and represented in an appropriate policy document. It is proposed that this be undertaken through the drafting of a Plan on Management for Jack Evans Boat Harbour.

To instigate this process the Jack Evans Boat Harbour Reserve Trust will need to request that the Minister of Lands endorse the preparation of a draft Plan of Management.

An area of the Reserve has been identified by the Tweed Heads Masterplan for commercial opportunities to provide capital funding for Council to assist in providing some of the public infrastructure identified in the Masterplan. The parcel is Lot 703 DP 877250 (Part of Reserve 88182) Pearl St, Jack Evans Boat harbour, Tweed Heads. More details on this parcel of land can be found in Appendix 1.

To undertake this development it is important that the parcel of land be established in Council ownership and classified as Operational Land so that the land can be strata titled and resold after being developed.

This can be achieved by compulsory acquisition under the provisions of the Crown Lands Act it is recommended as part of this report the Minister of Lands is requested to undertake this transfer at a nominal rate.

### ***Old Fire Station Reserve***

The Taskforce has identified another site that may be used to generate capital to assist Council in the development of the infrastructure identified in the Masterplan. This site is Lot 7035 DP 1053313 (Reserve 1000253) Corner of Bay St and Dixon St (Queensland), Tweed Heads. More details on this parcel of land can be found in Appendix 1.

This site has been identified as having potential to be developed as a high-rise residential tower with a transit centre on the ground floor.

Council owns the two adjoining lots that are classified as operational land. To successfully achieve a commercial development the three lots will need to be consolidated into one parcel.

To achieve this the following process will need to be undertaken;

- Compulsory acquisition of reserve
- Consolidation of the three lots
- Prepare a draft LEP amendment to rezone the land

This can be achieved by compulsory acquisition under the provisions of the Crown Lands Act. It is recommended as part of this report the Minister of Lands is requested to undertake this transfer at a nominal rate.

### ***Bonus Provisions***

Some of the major infrastructure projects identified in the Masterplan may be constructed as part of a private development. To stimulate private developers to undertake public infrastructure works it has been proposed in the Masterplan that developer bonus provisions be incorporated into the LEP amendment and an amendment to DCP 18. To achieve this Council will need to identify a bonus scheme plan and how it will benefit Council and the community.

### **Policy**

#### ***Amendment to Tweed Local Environmental Plan Arising from the Masterplan***

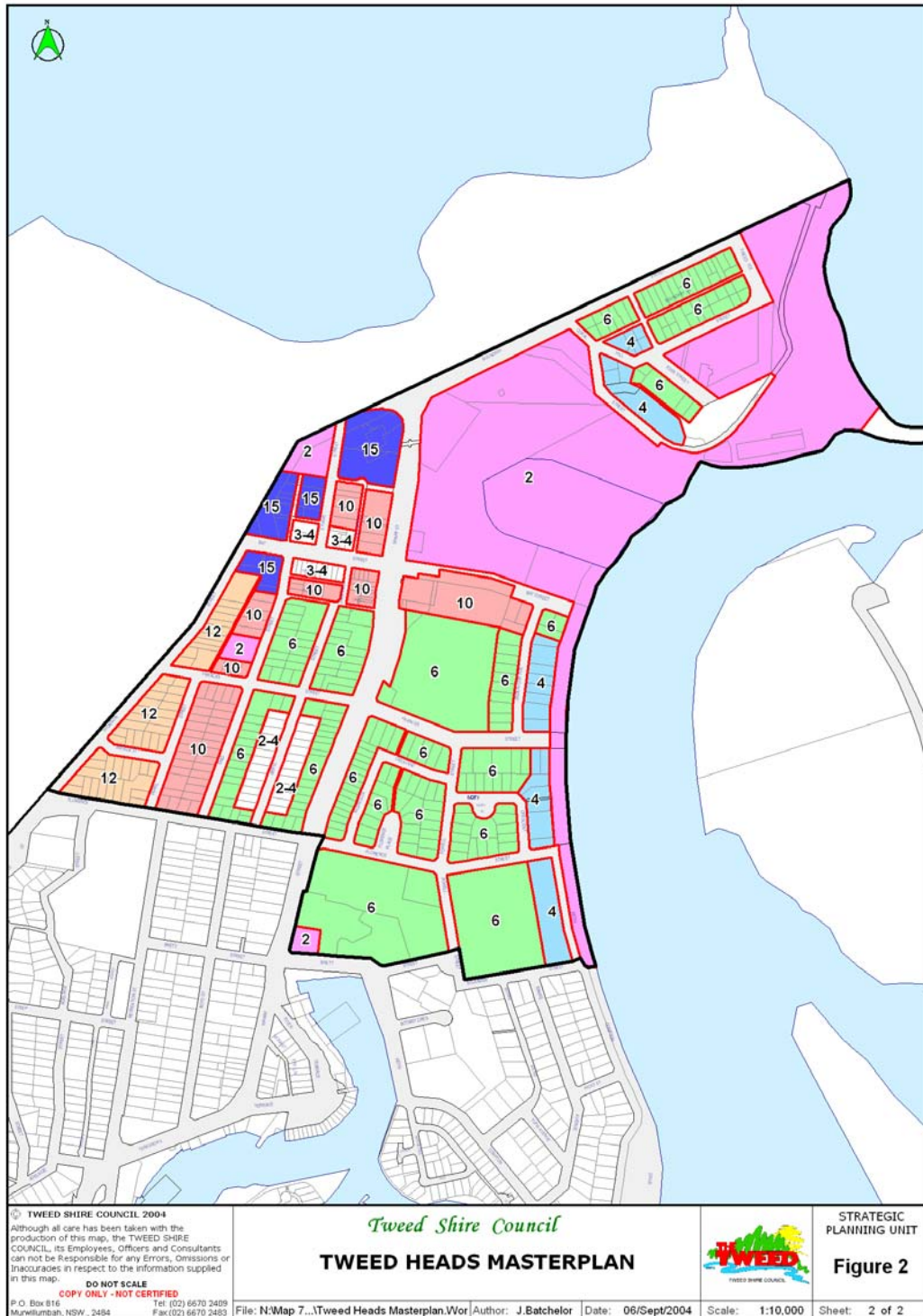
To successfully implement the vision of the Tweed Heads Masterplan it will be necessary to amend the current planning controls for the area. Below are details of the potential amendments arising from the Masterplan.

#### ***1. Include the Implementation of the Management Plan as an LEP Objective***

As an overarching policy the vision and implementation arrangements of the Tweed Heads Masterplan should be incorporated into a draft LEP amendment. This would best be achieved by including a new clause in the LEP.

## 2. Heights of Buildings

The Masterplan has made considerable modifications to the LEP heights of buildings map. The proposed building height limits is presented in Figure 2.



**FIGURE 2:** Tweed Heads Masterplan Proposed Heights of Buildings (Storeys)

These changes will need to be included into a draft LEP amendment.

### 3. Zoning

#### **Jack Evans Boat Harbour Reserve**

Currently the Jack Evans Boat Harbour contains a mix of 6(a) Open Space, 6(b) Recreation and 3(e) Special Tourism (Jack Evans Boat Harbour). These zoning arrangements will have to be reviewed.

As part of the implementation of the Tweed Heads Masterplan this report recommends that the Minister for Lands be requested to approve the preparation of a draft Plan of Management for the reserve. It is important that this draft plan be publicly exhibited and adopted by the Minister before any draft LEP for the Reserve is placed on exhibition. The contents of the adopted Plan of Management should guide the proposed zoning identified in any amendment to the LEP for the reserve.

#### **Tweed Heads CBD**

There are several elements in the Tweed Heads Masterplan within the CBD area that will require a zone change in the draft LEP amendment. Specifically these areas are;

<b>Site and Masterplan Proposal</b>	<b>Current LEP Zone</b>	<b>Proposed LEP Zone</b>
Old Fire Station Site (Bay St) to accommodate a transit centre and a accommodation residential accommodation	5(a) Special Uses and Uncoloured	3(a) Sub Regional Business
Tweed Heads School Site (Stuart St) to accommodate residential accommodation and a border park	5(a) Special Uses	3(a) Sub Regional Business and 6(a) Open Space
Heritage Provisions (Beryl St) to preserve an area of considerable heritage value	2(b) Medium Density Residential	Include heritage provisions
Residential zone (Cnr Enid and Bay St) to accommodate residential development at the western end of Bay St	3(b) General Business	2(b) Medium Density Residential
Residential zone (Frances St.) to accommodate residential development opposite Tweed Mall shopping centre	3(b) General Business	2(b) Medium Density Residential

#### **Bonus Provisions**

Developer bonus provisions are a method of allowing a developer to increase the size, scale or floor space of their development if they provide a desirable outcome which will have a community benefit.

The Tweed Heads Masterplan has identified that a process of developer bonus provisions could be established to encourage developers to provide some of the elements that will be incorporated into the open space. That is if a developer provides something identified in the Masterplan in the public realm then they may be allowed to increase their floorspace ratios.

This will need to be further explored and established into the LEP amendment process, but first it is necessary that the infrastructure requirements of the Masterplan be determined, otherwise the bonus provisions will not be capable of implementation.

### ***Environmental Study***

All land within the Masterplan area that is within 100m of the mean high water mark of the Tweed River, Jack Evans Boat Harbour or Durambah Beach is defined as *sensitive coastal location* under State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71).

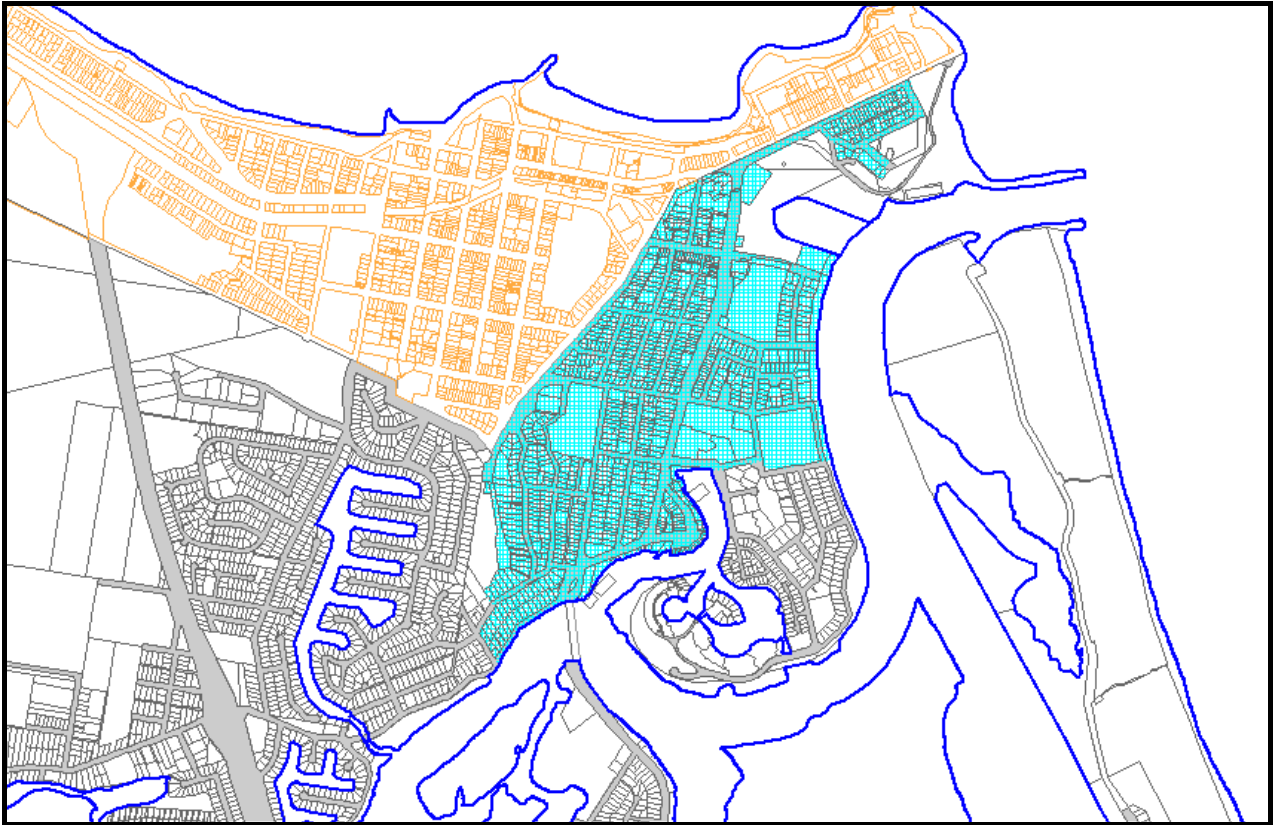
The implications and potential impacts of the proposed Masterplan developments were considered as part of the master planning process. Due to this it is considered that an environmental study is not necessary in this situation.

It is therefore recommended that Council advise the Department of Infrastructure, Planning and Natural Resources (DIPNR) that it believes that an Environmental Study is not considered necessary as part of the preparation of the draft LEP amendment.

### **Amendment to Development Control Plan 18 - Tweed Heads**

#### ***Area of Development Control Plan***

The specific purpose of the DCP is to provide a comprehensive set of guidelines, focus on good urban design, establish a set of design guidelines for commercial and residential development, provide bonus provisions to encourage preferred development and establish a policy document which expresses Council's intentions for Tweed Heads and in particular Tweed Heads CBD.



**Figure 3:** Development Control Plan 18 – Tweed Heads – DCP Area

The DCP 18 area includes additional land compared to the Masterplan. This includes Razorback, Recreation and Boyd St south to Boyds Bay Bridge. It is recommended that this area remain in the DCP as it provides a level of consistency and amenity for the smaller scale residential areas of Tweed Heads. The Masterplan does not focus on the smaller scale residential development in Tweed Heads but there are certain aspects that are covered in the DCP, such as protecting visual amenity of the Razorback Precinct as well as geo-technical issues.

The area of the Jack Evans Boat Harbour Reserve Trust is not currently included in the DCP. It is recommended that as part of drafting the DCP amendment that all the areas covered by the reserve trust be included. This would include Jack Evans Boat Harbour, Flagstaff Hill and Duranbah Beach.

### ***Additional Elements to be Included into DCP 18***

The Masterplan introduces a number of new elements that will need to be incorporated into the DCP 18. Specifically these include;

- Jack Evans Boat harbour – safe family environment
- Cultural Gardens – Aboriginal / European heritage celebrations - Jack Evans Boat Harbour
- Cultural Centre – Jack Evans Boat Harbour
- Performance amphitheatre – Rescue Helicopter - Jack Evans Boat Harbour
- VMR Duranbah Beach – New shared buildings – Duranbah Beach

- Border 'Switch Back' access- New pedestrian link – Point Danger
- Mixed Use / residential building - Jack Evans Boat Harbour
- Parkland – Entire DCP
- Market Plaza - Jack Evans Boat Harbour opposite Tweed Mall
- Gateway development site with potential transport interchange – Old Fire Station Site
- New high quality border park – Existing School Site
- High quality public domain treatment - Stuart Street
- Avenue trees (eg. Figs) planting to state border – Entire DCP
- Street tree plantings to key streets – Entire DCP
- New centre for excellence at the campus / civic precinct – Existing Tweed Heads Civic Centre
- Gateway park with stormwater quality treatment ponds – Southern Boat Harbour
- Rationalised hospital precinct with new opportunities for development of surplus land – Tweed Heads Hospital
- New high quality linear parkland – Adjoining Tweed River
- Improve street scaping and vistas to river – Adjoining Tweed River
- Public domain improvements - Wharf Street

### ***Urban Design Guidelines***

The current DCP 18 has an appendix that has very specific urban design guidelines for Tweed Heads. The Masterplan acknowledges these guidelines and proposes some additional principles to some of the areas in DCP 18. The specific guidelines that the Masterplan has identified have been discussed previously in this report.

DCP 6 - Multi-Dwelling Housing, outlines specific guidelines for multi-dwelling housing. The Masterplan would have some minor impact on this DCP and it should be review to ensure consistency.

The urban design guidelines in DCP 18 and DCP 6 will need to be reviewed in light of the framework for urban form proposed in the Masterplan. This will require specialised urban design skills to undertake.

### **Management**

Issues raised in the Tweed Heads Masterplan cut across all of Council's Divisions, involve a complex range of outcomes and require assistance of several government agencies. To ensure effective implementation an overall Council project manager is considered essential. This report recommends that the Manager of Strategic Planning be appointed to oversee this project in respect to all of the issues impacting on Council.



The implementation of the Masterplan will require Council to undertake the following individual projects:

- LEP amendment;
- Amendment to DCP 18;
- Preparation of Infrastructure Plans, in particular parking, landscaping and open space upgrading;
- Preparation of Section 94 Developer Contributions Plan;
- Preparation of Jack Evans Boatharbour Plan of Management.

The Minister allocated \$200,000 to Council to undertake the preparation of strategic land use policies.

It is proposed that the projects be undertaken in two (2) stages.

- Stage 1: - DCP 18 Amendment;  
- Plan of Management - Jack Evans Boatharbour;  
- LEP Amendment Stage 1: Heights of Buildings;  
- The following high priority infrastructure plans - parking, open space upgrading and landscaping.
- Stage 2: - Section 94 Contribution Plan;  
- LEP Amendment Stage 2: Zone Changes and Bonus provisions.

### **Conclusions**

It is recommended as part of this report that the Masterplan be adopted by Council as a vision document for Tweed Heads and that the recommendations of the Masterplan be implemented through the reserves trust as well as amendments to Council's planning policy documents.

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

As indicated, DIPNR will provide \$200,000 towards the cost of implementing the Masterplan. Preliminary estimates indicate that considerably more than this will be required to fully implement all of the policy amendments, infrastructure plans and economic viability assessments. In addition, resources will be required to manage all of these elements through to completion.

### **POLICY IMPLICATIONS:**

As discussed in the report.

### **UNDER SEPARATE COVER:**

Nil.

## Appendix 1

This appendix reviews three proposed commercial opportunities available to Council to assist in raising capital to undertake some of the infrastructure projects identified in the Masterplan.

### **Area 1 - Coral St (Opposite Jack Evans Boat Harbour) (Lot 703 DP 877250) Site Location**

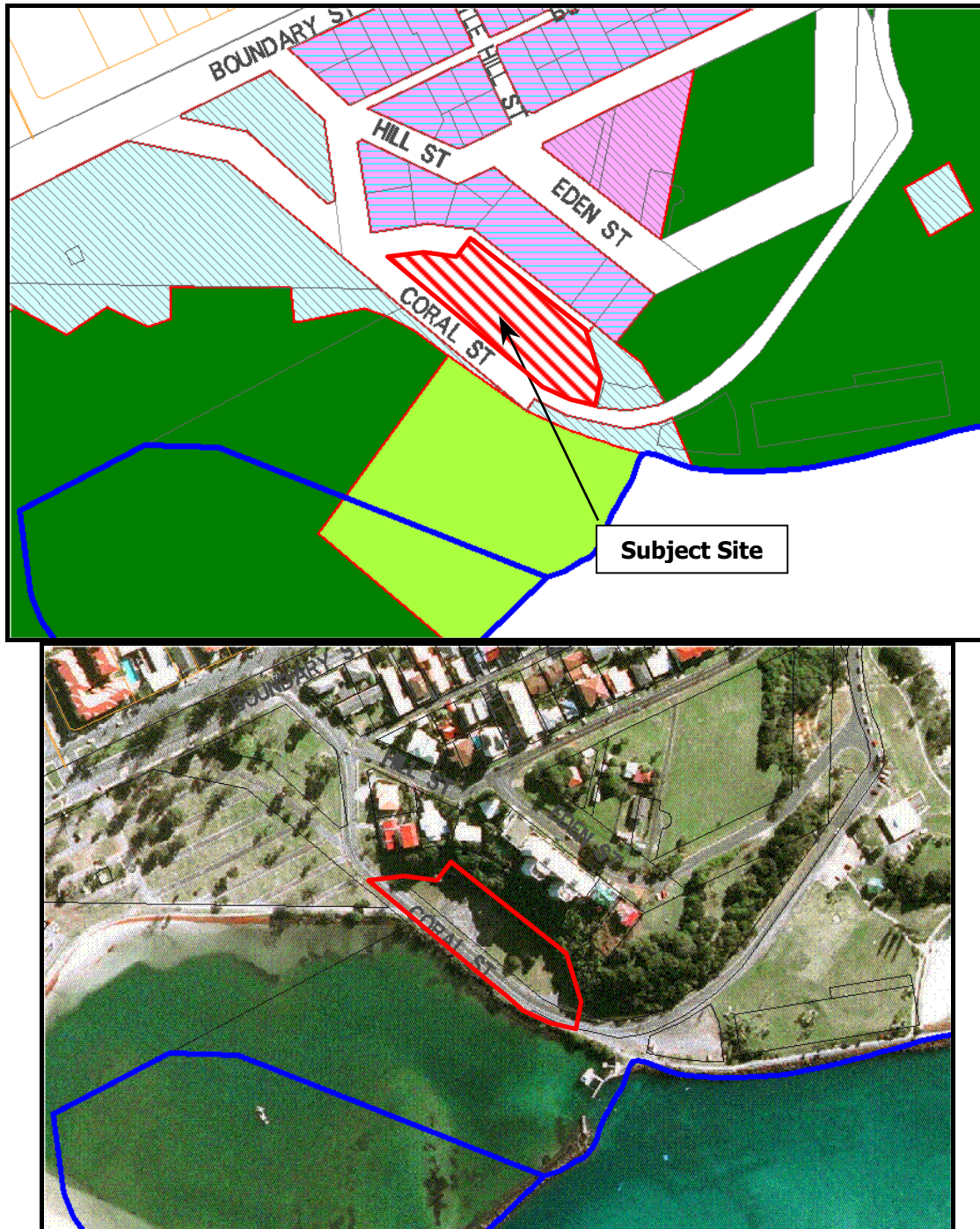


Figure 3: Coral St Redevelopment Site

*Ownership Status:*

The land is crown land under the care, control and management of Council's Jack Evans Boat Harbour Reserve Trust (Reserve 88182).

*LEP Zone Details:*

3(e) Special Tourism (Jack Evans Boat Harbour)

*LEP Building Height:*

- 3 Storey

*Tweed Heads Masterplan Proposal:*

- 4 Storey Building Height

*Other Environmental Constraints:*

The land is subject to significant risk of slope instability in the form of landslip and / or rock fall. This was confirmed by Soil Survey Engineers (1998) that was the cause for Council to issue a Notice to Quit to Fisherman's Cove restaurant that leased part of the reserve.

The report identified several methods that could be used to stabilise the slope;

- Insitu Stabilisation – Short term method of anchoring boulders with concrete and anchors
- Removal of Bolders – will not necessarily prevent further erosion and exposure of additional boulders
- Cable Fence – Must be located some distance from buildings. Flexible system which absorbs the rock's force on impact
- Rock Fall Protection Wall – Require extensive earthworks.

It should be noted that these systems were reviewed in light of preventing damage to the existing restaurant building. Other methods may be available in the construction and design of a new building.

Any development work in this location will have increased site preparation costs to ensure safety and public liability of the future development is suitably addressed.

*Potential Site Yield:*

Using density ratios the ultimate yield for a 4 storey development for an area of land this size would be approximately 40 units. However this would be considered impractical given the site constraints. As a general rule of thumb it could be considered feasible to achieve somewhere between 15 to 25 units in a 4 storey development on this site. These estimates leave the ground floor for commercial opportunities, in accordance with the proposed commercial zone.

**Area 2. Bay St, Tweed Heads (Lot 7035 DP 1053313, Lot 1 DP 880816 and Lot 8 Section 2 DP 759009)**

Site Location:

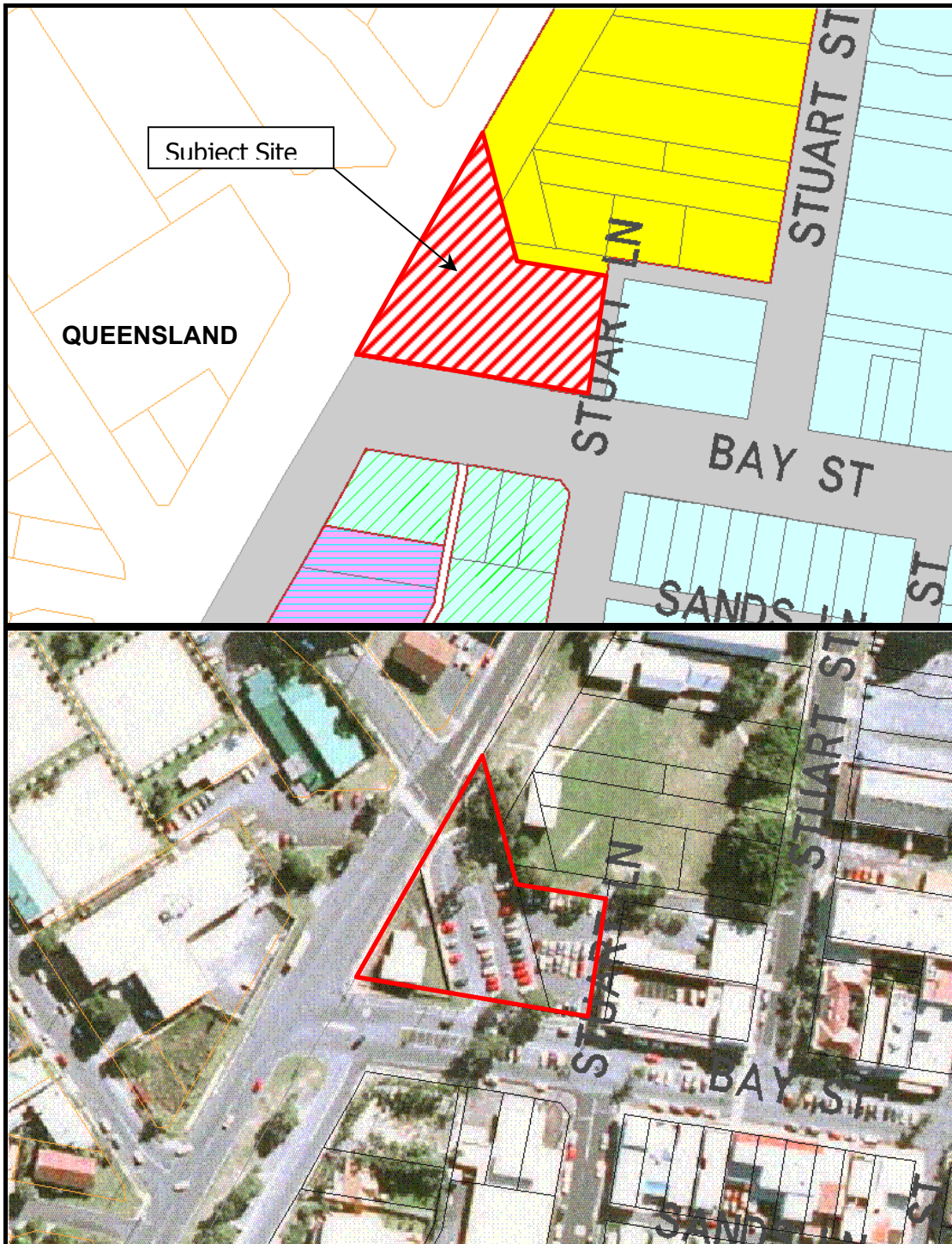


Figure 4: Bay St Redevelopment Site

*Ownership Details:*

- Lot 7035 DP 1053313      The land is crown land under the care, control and management of Council's Reserve Trust (R. 1000253)
- Lot 1 DP 880816      Council owned operational land
- Lot 8 Section 2 DP 759009      Council owned operational land

Lot 7035 is currently a crown reserve. To undertake the proposed development would require this land to be transferred to Council as operational land. This would most likely require Council to undertake a compulsory acquisition to acquire the land in fee simple.

*LEP Zone Details:*

- Lot 7035 DP 1053313      5(a) Special Uses (Fire Station)
- Lot 1 DP 880816      Uncoloured
- Lot 8 Section 2 DP 759009      5(a) Special Uses (Car Park)

These zones are inappropriate for private ownership and would require an LEP amendment. A suitable zone would be 3(a) Sub – Regional Business which would keep it consistent with the surrounding zone in the Tweed Heads CBD area.

*LEP Building Height:*

- 50 metres AHD

*Tweed Heads Masterplan Proposal:*

- 15 Stories

*Environmental Factors:*

The Masterplan identifies that the site, under its proposed building heights, would be able to accommodate 15 stories. The ground level in this location is approximately 10m AHD. A 15 storey development on this site would most likely reach 60m AHD. This would intrude into the airport's Obstacle Limitations Surface (OLS) and would require consideration of the OLS and any requirements of the Civil Aviation Safety Authority (CASA) in considering a development application which intrudes into the OLS. In this location, as for most of Tweed Heads, the OLS is 49.5m AHD. 12 Stories on this site would most likely reach 50m AHD.

*Potential Site Yield:*

It is estimated that the site could yield between 50 to 70 accommodation units. This does not include ground floor accommodation that is identified in the Masterplan for a transit centre.

**Area 3 Cudgen Beach VMR Building (Part Lot 7033 DP 1053088)**

Site Location:

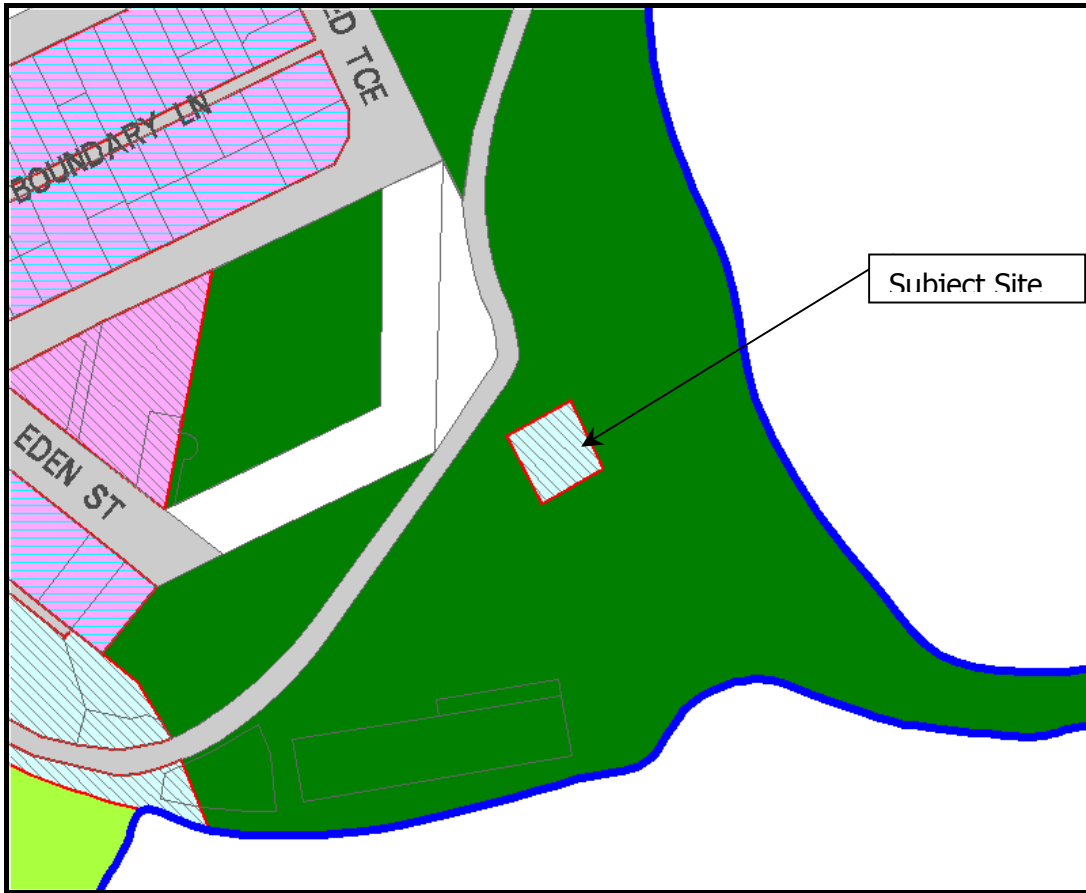




Figure 5: Durambah Redevelopment Site

*Ownership Details:*

The land is crown land under the care, control and management of Council's Jack Evans Boat Harbour Reserves Trust (Reserve: 57974)

To undertake any commercial activity on this site would require the exhibition and approval by the Minister for Lands of a plan of management for the Jack Evans Boat Harbour Reserve that identified the nature of the proposed commercial activity.

*LEP Zone Details:*

3(e) Special Tourism (Jack Evans Boat Harbour)

*LEP Building Height:*

- 3 Stories

Tweed Heads Masterplan Proposal:

- 2 Stories

*Proposal:*

Redevelopment of the existing building to a 2 storey complex with the top floor in Council's ownership with sub leasing rights for commercial operations. This would provide a commercial return to Council.

It is very difficult to determine a rental return for this lease area. There are many factors which need to be considered in determining the rent. Specifically, these are the unique location, design and use of the redeveloped building.

Any rent achieved from this proposed lease area will be a minor return on both the value of the land and the capital cost of redevelopment.



**Area 4. Jack Evans Boat Harbour**



Figure 6: Jack Evans Boatharbour Redevelopment Opportunities



Figure 7: Commercial Opportunities Surrounding Jack Evans Boat Harbour

#### *Jack Evans Boat Harbour Plan of Management*

Currently there is no adopted plan of management for the Jack Evans Boat Harbour Reserve. Therefore any commercial development on this reserve would require a plan to be drafted and considered in relation to the purpose of the reserve.

It would be preferable to undertake a plan of management for the entire boatharbour reserve but it is possible to prepare a plan for specific areas of the reserve. A draft plan of management needs to be publicly exhibited as well as adopted by the Minister for Lands as well as being adopted by the Reserve Trust. As part of the reserve is underwater it would also require concurrence with the Minister for Fisheries.

Jack Evans Boat Harbour covers all the crown land on Flagstaff Hill as well as Duranbah Beach.

The area to the north of the boat harbour has some area which will need to be reclaimed to accommodate the cultural centre (refer Masterplan above). This would represent considerable earthworks. This area is zoned both 6(a) Open Space and 6(b) Recreation, Earthworks is allowable with consent in both these zones.

#### *Area 4 Cultural Centre*

This represents a community building with some scope for a commercial return. However, it is questionable whether the return would represent a suitable return on the capital costs of the development.

This site is currently underwater. To achieve the development of a Cultural Centre on this site would require fill. It is unclear how this would be achieved, and whether the fill material would possibly come from the excavation of the pool lagoon to the north. This issue requires further assessment.

Depending on the size and scale of the building it is anticipated that a small to medium size Cultural Centre would be between \$2 to \$10 million. These cost estimates are based on the development costs of the Banora Point Community Centre project.

This area is zoned 6(b) Recreation, Community Buildings are allowable with consent in this zone.

#### *Area 5 Marina*

It is difficult to determine how this facility would operate from the information in the Masterplan. But it is considered it would be a joint facility between specific rescue craft and a private marina operator. Any private commercial operation would generate revenue. Given the size of the facility it is not considered that it would accommodate many craft, thereby reducing the amount of rent it could govern from a commercial operator.

This area is within the 6(b) Recreation zone where a marina is allowable with consent. Any development application for a marina would require concurrence with the Dept. of Natural Resources. This is after the Minister for Lands has adopted any plan of management identifying the marina in concurrence with the Minister of Fisheries.

#### **Area 12 – Twin Towns - Ground Floor Commercial / Retail**

The commercial viability of this proposal is not a concern of Council. The land occupied by Twin Towns is zoned 6(a) Recreation, Shops are a prohibited use within this zone Refreshment Rooms (Cafes and Restaurants) are allowable with consent.

Twin Towns have a lease over the footprint of their building, and a separate lease over the car park area fronting the Boat Harbour I believe the site of the proposed commercial area is in the car park area and consequently, would need to be include in a Jack Evans Boat Harbour plan of management.

**APPENDIX 2**

<b>MASTER PLAN ELEMENTS</b>						
<b>Feasibility and Implications for Council</b>						
<i>Feasibility:</i>						
Possible – Already being considered by Council,						
Achievable – The project could be developed if given priority by Council,						
Impractical – The project will take a large amount of capital and / or resources to undertake.						
	<b>Elements</b>	<b>Resources H High M Medium L Low</b>	<b>Policy Implications</b>	<b>Funding Sources</b>	<b>Priority</b>	<b>Feasibility H High M Medium L Low</b>
1	Jack Evans Boat Harbour – safe family environment	H	PLANNING /TRUST	S.94/LOANS	H	POSSIBLE
2	Swimming lagoon	H	TRUST	S.94/LOANS	M/H	<b>IMPRACTICAL</b>
3	Cultural Gardens – Aboriginal/European heritage celebration	M	TRUST	S.94/LOANS	M/H	ACHIEVABLE
4	Cultural Centre – Entertainment – tourism – exhibitions – outdoor exhibits	H	TRUST	S.94/LOANS	M	ACHIEVABLE
5	Rescue craft – dive boats, ferry	PRIVATE VENTURE				
6	Performance amphitheatre – Rescue helicopter	M	TRUST	S.94/LOANS	M	ACHIEVABLE
7	VMR Duranbah Beach – significant up-grade – refer to Management Plan New ‘shared’ building	M		JOINT VENTURE	M	ACHIEVABLE
8	Border ‘switch back’ access – New pedestrian link	L		S.94/GRANTS/LOANS	L	ACHIEVABLE
9	Possible tourism facility	PRIVATE VENTURE				
10	Cultural/Museum – Pilot station – Outdoor museum on grass slope	L			L	ACHIEVABLE
11	Mixed use/residential building	PRIVATE VENTURE				
12	Low rise retail/tourism/change rooms as focus for activity	PRIVATE VENTURE				
13	Parkland	L		S.94	H	POSSIBLE
14	Market Plaza	L		S.94	H	POSSIBLE
15	New terrace to food hall and activated street. New residential					
16	Norfolk Is. Pine planting and water themes	L		S.94	L	ACHIEVABLE
17	Public square with rationalised parking to Tweed Mall	PRIVATE VENTURE				
18	Village square retail/commercial cover 2/3 story	PRIVATE VENTURE				
19	Gateway development site with potential transport interchange	H	LEP	SELF FUNDING	H	ACHIEVABLE
20	New high quality border park	M		S.94	M	ACHIEVABLE
21	High quality public domain treatment to	M		S.94/LOANS	M	ACHIEVABLE

<b>MASTER PLAN ELEMENTS</b>						
<b>Feasibility and Implications for Council</b>						
<i>Feasibility:</i>						
Possible – Already being considered by Council,						
Achievable – The project could be developed if given priority by Council,						
Impractical – The project will take a large amount of capital and / or resources to undertake.						
	<b>Elements</b>	<b>Resources H High M Medium L Low</b>	<b>Policy Implications</b>	<b>Funding Sources</b>	<b>Priority</b>	<b>Feasibility H High M Medium L Low</b>
	Stuart Street					
22	New axis between park and harbour on navigation lane	L			L	ACHIEVABLE
23	Avenue tree (e.g. figs) planting to state border	M		S.94	L	ACHIEVABLE /IMPRACTICAL
24	Street tree plantings to key streets	M		S.94	L	ACHIEVABLE /IMPRACTICAL
25	Retain and enhance 'border style' housing as special character area	L	LEP		H	ACHIEVABLE
26	New twelve storey (high density) residential development area to ridgeline	L	LEP		H	ACHIEVABLE
27	Mixed use commercial/residential development to Wharf Street frontage	PRIVATE VENTURE				
28	New centre for excellence at the campus/civic centre precinct	H	LEP	SCU	M	ACHIEVABLE
29	Gateway park with stormwater quality treatment ponds	H	STORMWATER POLICY		L	IMPRACTICAL
30	Rationalised hospital precinct with new opportunities for development on surplus land	STATE GOVERNMENT				
31	New high quality linear parkland	M		S.94	L	ACHIEVABLE /IMPRACTICAL
32	Improve streetscaping and vistas to river	L		LOANS	L	ACHIEVABLE
33	Public domain improvements to wharf street	M		LOANS	L	ACHIEVABLE
<b>OTHER ISSUES</b>						
	<b>Element</b>	<b>Resources</b>	<b>Policy Implications</b>	<b>Funding Sources</b>	<b>Priority</b>	<b>Feasibility</b>
	Drainage	H	DRAINAGE POL.	S.64	M	IMPRACTICAL
	Town centre bypass	H	ROAD PLAN	S.94/WORKS	L/M	IMPRACTICAL
	Pedestrian boardwalks/bridge (Jack Evans)/stairs (Pt. Danger)	H	TRUST	S.94/LOANS	H	ACHIEVABLE
	LEP Amendments/Height Controls	L	LEP	GRANT	H	POSSIBLE
	Public Art	L	PUBLIC ART POL.	GENERAL FUND	L	ACHIEVABLE
<b>SPECIFIC ISSUES</b>						
	<b>Element</b>	<b>Resources</b>	<b>Policy Implications</b>	<b>Funding Sources</b>	<b>Priority</b>	<b>Feasibility</b>
	Wharf/Bay Street Intersection	M			M	ACHIEVABLE
	Stabilised Duranbah	M	TRUST		L	ACHIEVABLE

**MASTER PLAN ELEMENTS**

**Feasibility and Implications for Council**

**Feasibility:**

**Possible – Already being considered by Council,**

**Achievable – The project could be developed if given priority by Council,**

**Impractical – The project will take a large amount of capital and / or resources to undertake.**

Elements	Resources H High M Medium L Low	Policy Implications	Funding Sources	Priority	Feasibility H High M Medium L Low
Beach					
Switchback walkway & viewing platform Pt. Danger	L		S.94	L	ACHIEVABLE
Duranbah Beach parking improvement	M		S.94	L	ACHIEVABLE
Upgrade local park (Enid Street)	L		S.94	L	ACHIEVABLE
Upgrade intersection (Frances & Enid Streets)	M		? WORKS	M	ACHIEVABLE
Upgrade to Unioke Park, Botany Cres.	L		S.94	L	ACHIEVABLE
Upgrade to Park, Civic Centre, Wharf Street	L		S.94	L	ACHIEVABLE
Water feature, Wharf/Bay Streets	M	PUBLIC ART POL.	GENERAL FUND	L	ACHIEVABLE
Multi-Story carpark, Frances Street	H	PARKING POL.	S.94/Private	M/H	ACHIEVABLE
Quality public space, water feature/Porte cochin, Wharf Street	M		S.94/Private	M	ACHIEVABLE

## REPORTS THROUGH THE GENERAL MANAGER

### REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT

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

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

#### MATTERS FOR CONSIDERATION

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

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**1 [PE] Development Application D95/0176.02 for an Amendment to Development Consent D95/0176 for a Sand Quarry (Extractive Industry) at Lot 71 DP 819194, Loders Road, Duranbah**

**ORIGIN:**

**Development Assessment**

**FILE NO: PF3090/162 Pt3**

**SUMMARY OF REPORT:**

A section 96 amended application has been received for the sand extraction operation at Loders Road, Duranbah. The purpose of the amended application is to facilitate the filling process at the SALT site. Hydraulic pumping of the required amount of fill from the extraction site to the SALT site via a pipeline is proposed in a separate development application.

The consent is proposed to be amended to increase the volume of sand to be extracted, the depth of extraction and the rate of extraction.

Advice was sought from Council's solicitors regarding the appropriateness of considering the proposal as an amended application. The advice indicates that the proposal can be dealt with as a S.96 amendment.

Detailed discussions have taken place between the proponents and Council Officers regarding protection of the existing water main that runs through the extraction site. Suitable arrangements have been regarding this matter including additional conditions.

The Department of Infrastructure, Planning and Natural Resources and the Department of Environment and Conservation have considered the proposal and require a number of conditions to be applied to the amended consent.

**RECOMMENDATION:**

That Development Application D95/0176.02 for an amendment to Development Consent D95/0176 for a sand quarry (extractive industry) at Lot 71 DP 819194, Loders Road, Duranbah be approved subject to the following amendments -

**Condition1 of Schedule B to read-**

1. The development is to be completed generally in accordance with the plans and Environmental Impact Statement prepared by Jim Glazebrook & Associates Pty. Ltd. Dated May 1995 **as modified by the modification application report and annexures prepared by Darryl Anderson**

Consulting Pty. Ltd. dated January 2004 and plan numbers 7083/03/72-SK04, 7083/03/72-SK05, 7083/03/72-SK06 prepared by Cardno MBK dated 30 August 2004 and plan numbers CD148-011 Rev. D dated 16 June 2004, SL148-011 Rev A dated 12 July 2004, SL148-012 Rev A dated 12 July 2004, GA148-051 Rev. C dated 9 July 2004, GA148-052 Rev. C dated 9 July 2004 and GA148-053 Rev A dated 27 July 2004 prepared by R.J. Robbins and Associates except where varied by the following conditions.

**Condition 2 of Schedule B to read-**

2. 750,000m<sup>3</sup> of sand fill material shall be conveyed from the to the SALT development by hydraulic means over a period not exceeding 18 months in accordance with the modification application report and annexures prepared by Darryl Anderson Consulting Pty. Ltd. dated January 2004. In this regard documentary evidence prepared by a suitably qualified person is to be submitted to Council demonstrating that not more than 750,000m<sup>3</sup> of sand has been extracted within 14 days of completion of the pumping.

**Condition 3 of Schedule B to read**

3. This consent is valid until 28 February 2008. In this regard all extraction activities including the topsoil operation and site rehabilitation are to be completed by this date.

**Addition of the following conditions-**

- #. The Environmental Management Plan is to be updated to reflect the modified operation. In this regard the updated EMP is to be submitted to Council for approval within one month of the date of this amended consent.
- # An easement shall be created over the water main of sufficient width to encompass the entire zone of influence affecting the pipeline. The terms of the easement shall include the following:
  - All truck or vehicle movements shall be excluded from the easement except at nominated transverse crossing points
  - No filling or excavation shall occur within the easement
  - No quarry operations shall occur within the easement

The easement shall be created within six months of the issue of the amended development consent.

- # The applicant shall construct transverse crossing points, a protected spillway, fencing, lowering of the embankment above the water main and undertake embankment profiling generally in accordance with drawings 7083/03/72-SK04, SK05 & SK06 prepared by Cardno MBK and dated 30-8-04.

- # At the completion of the quarry activities the external perimeter bund shall be removed and the site shall be rehabilitated to the satisfaction of the Director Development Services.
- # Residential grade exhaust silencers and engine acoustic shielding to be installed on all mechanical plant associated with the removal and hydraulic transport of the material.
- # All wastes shall be collected, stored and disposed to the satisfaction of the Director of Environment & Community Services.
- # 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".

[PCW0190]

- # 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]

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

[DUR0880]

- # All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR0980]

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

[USE0160]

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

[USE0170]

- # Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

[USE0190]

- # Groundwater shall not be lowered so as to expose acid sulfate soils. Groundwater levels shall be monitored and sufficient volumes of water shall be returned from the SALT development site so as to maintain groundwater levels on the quarry site.
- # The LA10 noise level emitted from any extraction, pumping or associated activities shall not exceed the background noise level (LA90) by more than 5dB(A) at the boundary of any affected residence. Notwithstanding the above, noise from pumping or associated operations shall not be audible within any habitable room in any residential premises between the hours 10pm and 7am.
- # Noise shall not be permitted to impact the amenity of any premise. Where noise is deemed by the DECS to be 'offensive' works shall cease until such time as acoustic controls have been implemented to reduce noise levels.
- # Acid sulfate soils material and any fines material shall be removed from sand fill material prior to pumping it from the quarry site. All fines material shall be returned to the extraction dam.
- # The pH of waters within the extraction dams shall be maintained above 6.5.
- # Pyritic acid sulfate fines material separated from extracted sand shall not be exposed to air for a longer period of 72 hours without the prior written approval of Council.

### **Department of Environment and Conservation Conditions**

1. Noise from the premises must not exceed:
  - (a) 37 dB(A)  $LA_{eq(15\text{ minute})}$  during the day (7am to 6pm) Monday to Friday and 7am to 1 pm Saturday
  - (b) 35 dB(A)  $LA_{eq(15\text{ minute})}$  during the evening (6pm to 10pm) Monday to Friday; and at all other times, 35 dB(A),  $LA_{eq(15\text{ minute})}$  except as expressly provided by the Environment Protection Licence for the premises.

Where  $L_{Aeq}$  means the equivalent continuous noise level - the level of noise equivalent to the energy-average of noise occurring over a measured period.

To determine compliance with this condition noise must be measured at or computed for the nearest effected residence in close proximity to the premises. A modifying factor correction must be applied for tonal, impulsive or intermittent noise in accordance with the "Environment Noise Management – NSW Industrial Noise Policy (January 2000)"

The noise emission limits identified in this condition apply under all meteorological conditions except;

- (a) during rain and wind speeds(at 10 metres height) greater than 3m/s; and
- (b) under “non-significant weather conditions”

Note:Field meteorological indicators for non-significant weather conditions are described in the NSW Industrial Noise Policy, Chapter 5 and Appendix E in relation to wind and temperature inversions.

2. Noise Compliance Audit:

Within 3 months of commissioning the sand transfer system to the Salt development, the occupier of the premises must commission an independent noise consultant to conduct a noise compliance audit of the development under all operating conditions, in accordance with the *NSW Industrial Noise Policy*.

The occupier must provide the DEC with a copy of the audit results within one month of the date of the audit. If the noise from the activity is found to be exceeding any of the limits referred to above, the occupier must also provide the DEC with details of measures taken or proposed to achieve compliance with those **limits**.

3. Air Monitoring

Location

DEC Identification no.	Type of Monitoring Point	Type of Discharge Point	Description of Location
1	Dust monitoring		Dust gauge labelled 1 located at the boundary of the premises in a direct line between the works and the closest residence.
2	Dust monitoring		Dust gauge labelled 2 located at the boundary of the premises and a location to be advised.

Limit

Pollutant	Units of limit measure

Pollutant	Units of limit measure	Limit
Particulates – deposited matter	g/m <sup>2</sup> /month	4 g/m <sup>2</sup> /month

Monitoring

**POINT 1 and 2**

Pollutant	Units of measure	Frequency	Sampling Method
Particulates – deposited matter	g/m <sup>2</sup> /month	monthly	AM-19

**Department of Infrastructure, Planning and Natural Resources Conditions**

**1. CONDITIONS OF APPROVAL FOR A MONITORING LICENCE UNDER THE WATER ACT 1912**

General Conditions

The purposes of these conditions are to -

- define certain terms used in other conditions
- specify the need to obtain a license, permit or authority before commencing any works
- specify that, in most cases an approval will only be issued to the occupier of the lands where the works are to be located (as required by the Water Act)
- require existing approvals to be cancelled or let lapse when a license is issued (if applicable)
- require the safe construction and operation of all works
- require the use of appropriate soil conservation measures
- limit vegetation destruction or removal to the minimum necessary
- require the separate authorisation of clearing under the NVC Act
- allow conditions to be imposed for management of fuel (petroleum)
- require the payment of fees on the issuing of an approval

In the following conditions relating to an approval under the Water Act 1912:

“**the Department**” means the Department administering the Water Act 1912;

“**approval**” means a license, permit, authority or approval under that Act;

“**river**” has the same meaning as in Section 5 of the Water Act 1912;

“**work**” means any structure, earthwork, plant or equipment authorised under the approval to be granted, as defined in Section 5 and 105 of the Water Act 1912;

“**controlled work**” means any earthwork, embankment or levee as defined in Section 165 of the Water Act 1912.

- Before commencing any works or using any existing works for the purpose of Monitoring Bores, an approval under **Part 5** of the Water Act

1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.

- An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
- When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
- All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
- All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
- The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.

### **Conditions for Bores and Wells**

The purpose of these conditions are to -

- set a limited time for bore construction
  - require the bore to be properly completed and sealed
  - require certain information to be provided on completion of the work, including a location plan
  - allow DIPNR access for inspection and testing
  - restrict the bore diameter
  - specify procedures if the bore is abandoned
- Works for construction of bores must be completed within such period as specified by the Department.

- The Department must be notified if a supply of useable water is obtained and the bores shall be suitably lined and capped to the standard required by the Department.
- Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
- Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
- All works must be constructed and maintained to properly control the water extracted to prevent wastage or any reduction in quality of the sub-surface water. The Department may direct that any necessary repairs or alterations be undertaken to maintain the works in good working order.
- If the bore ceases to be productively used, the Department must be notified and the aquifer must be sealed by a method acceptable to the Department.
- The use of water shall be conditional on no tailwater drainage being discharged into or onto -
  - any adjoining public or crown road
  - any other person's land
  - any crown land
  - any river, creek or watercourse
  - any groundwater aquifer
  - any area of native vegetation
  - any wetlands
- The management of groundwater at the quarry site shall be in accordance with the Groundwater Management Plan, as detailed in the report titled "Groundwater Impact and Assessment Plan – Duranbah Sand Quarry, Duranbah" produced by Gilbert and Sutherland, dated July 2004, held by this Department.
- The management of potential and acid sulfate soils at the quarry site shall be in accordance with the Acid Sulfate Soil Management Plan, as detailed in the report titled "Acid Sulfate Management Plan – Duranbah Sand Quarry, Duranbah" produced by Gilbert and Sutherland, dated July 2004, held by this Department.



## 2. CONDITIONS OF APPROVAL FOR A PRODUCTION BORE LICENCE UNDER THE WATER ACT 1912

### General Conditions

The purposes of these conditions are to -

- define certain terms used in other conditions
- specify the need to obtain a license, permit or authority before commencing any works
- specify that, in most cases an approval will only be issued to the occupier of the lands where the works are to be located (as required by the Water Act)
- require existing approvals to be cancelled or let lapse when a license is issued (if applicable)
- require the safe construction and operation of all works
- require the use of appropriate soil conservation measures
- limit vegetation destruction or removal to the minimum necessary
- require the separate authorisation of clearing under the NVC Act
- allow conditions to be imposed for management of fuel (petroleum)
- require the payment of fees on the issuing of an approval

In the following conditions relating to an approval under the Water Act 1912:

**“the Department”** means the Department administering the Water Act 1912;

**“approval”** means a license, permit, authority or approval under that Act;

**“river”** has the same meaning as in Section 5 of the Water Act 1912;

**“work”** means any structure, earthwork, plant or equipment authorised under the approval to be granted, as defined in Section 5 and 105 of the Water Act 1912;

**“controlled work”** means any earthwork, embankment or levee as defined in Section 165 of the Water Act 1912.

- Before commencing any works or using any existing works for the purpose of Industrial (Sand and Gravel) Use, an approval under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
- When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.

- All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
- All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
- The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
- Any license so issued, from the date of issue, will be subject to Annual Cost Recovery Water Management Charges as set by the Independent Pricing and Regulatory Tribunal.

### **Conditions for Excavations, Bores and Wells**

*See also "general conditions" and "conditions for water use"*

The purpose of these conditions is to -

- set a limited time for bore construction
  - require the bore to be properly completed and sealed
  - require certain information to be provided on completion of the work, including a location plan
  - allow DIPNR access for inspection and testing
  - restrict the bore diameter
  - specify procedures if saline or polluted water found
  - specify procedures if the bore is abandoned
  - require advice if water found
  - define domestic use
  - specify the volumetric allocation for each purpose of the entitlement
  - identify lands that may be irrigated
  - specify the volumetric allocation for the works purpose
  - allow DIPNR to alter the volumetric allocation at any time
  - provide for a review of allocation if any subdivision occurs
  - require regular measuring of water levels to provide information needed to manage aquifers
- Works for construction of bores must be completed within such period as specified by the Department.

- Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
- Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
- All works must be constructed and maintained to properly control the water extracted to prevent wastage or any reduction in quality of the sub-surface water. The Department may direct that any necessary repairs or alterations be undertaken to maintain the works in good working order.
- An approval will be granted for the annual volumetric allocation of 2250 megalitres. This volume has been determined based on the proposed 1:3 ratio of sand:water and proposed 750 000m<sup>3</sup> of fill sand.
- A total of 2137.5 megalitres must be returned to the same excavation to that supplying the abovementioned allocation via a return pipeline from the sand deposition site. This volume allows for the expected 112.5 megalitre (5%) water loss.
- The dimensions of the excavation recorded on the water license will set in accordance with the relevant figure supplied to this Department in the report titled "Groundwater Impact and Assessment Plan – Duranbah Sand Quarry, Duranbah" produced by Gilbert and Sutherland, dated July 2004
- The water table is to be managed to ensure that the natural water levels are maintained within the excavation.
- The management of groundwater at the quarry site shall be in accordance with the Groundwater Management Plan, as detailed in the report titled "Groundwater Impact and Assessment Plan – Duranbah Sand Quarry, Duranbah" produced by Gilbert and Sutherland, dated July 2004, held by this Department.
- The management of potential and acid sulfate soils at the quarry site shall be in accordance with the Acid Sulfate Soil Management Plan, as detailed in the report titled "Acid Sulfate Management Plan – Duranbah Sand Quarry, Duranbah" produced by Gilbert and Sutherland, dated July 2004, held by this Department.
- A \$300 000 Bond is to be lodged prior to the issuing of the Water License to ensure that if corrective action is required to rehabilitate the site, funds would be available. The value of the bond required can be

reassessed by the Department every 2 years through the assessment of current site rehabilitation and investigations undertaken into the occurrence of impacts from acid sulfate soils.

**REPORT:**

**Applicant:** South Kingscliff Developments  
**Owner:** South East Excavations  
**Location:** Lot 71 DP 819194 Loders Road, Duranbah  
**Zoning:** 1(a) Rural

**BACKGROUND:**

On 28 August 1996 Council issued a deferred commencement consent for a sand quarry (extractive industry) at the subject site. The consent became operational following acceptance by Council of an Environmental Management Plan. On 9 July 1999 a modified consent was issued that amended conditions of consent relating to contributions and truck movements.

On 24 April 2003 consent was issued for a sand pumping line from the Tweed River (Action Sands site) to the SALT site. Satisfactory arrangements between the proponents and Action Sands were not made and applications were lodged to source the sand from the Guinane Pty. Ltd. site at Cudgen. These applications were withdrawn as arrangements once again could not be finalised.

The Duranbah site is the third attempt by the proponents to secure a sand source.

A separate development application has been lodged for the pipeline (DA 04/0456).

**Proposal**

The SALT site requires 750,000m<sup>3</sup> of fill. The available volume of fill under the current approval is 586,000m<sup>3</sup>. Allowing for losses due to fines removal an additional 195,000m<sup>3</sup> is required.

The sand will be transported from the site by a pipeline. Trucks will continue to be utilised as 30,000m<sup>3</sup> of top soil will be transported from the site over a three year period.

It is not proposed to increase the size of the extraction area only the depth of the northern pit.

The following elements of the consent are proposed to be amended-

Extraction volume

Approved- 834,500m<sup>3</sup>

Proposed- 1,029,500m<sup>3</sup>

Extraction depth

Approved

Southern pit RL – 4.0m AHD

Northern pit RL – 6.0m AHD

Proposed

Southern pit RL – 4.0m AHD

Northern pit RL – 8.1m AHD

Extraction rate

Approved

67,000m<sup>3</sup> in any 12 month period. The consent for the quarry is valid until August 2010.

Proposed

499,999m<sup>3</sup> per year or 41,666m<sup>3</sup> per month. This equates to a quarry lifespan of 18 months. It is proposed that all operations will cease at the quarry 3 years from commencement of the pumping. Eighteen months for the pumping and 18 months to satisfy conditions regarding rehabilitation. Topsoil operation will also be completed in this 3 year period.

Equipment/machinery

It is proposed to locate the washing and fines separation equipment to the central western corner of the site and construction of a pump house shed at this location. The shed is proposed to be 10m x 12 m.

**Key Issues**

S.96 or fresh DA

Council sought legal advice regarding the s.96 application and whether it was substantially the same development. The advice concludes the proposal can be considered as an amendment to the consent. The advice is provided in the attachments.

Council's solicitors advise that Council can determine the matter as a S.96 on the basis that-

1. Any consent on the S.96 application would be linked to the development application for the hydraulic pumping system and therefore stands or falls with that consent; and

2. The S.96 application is now to be amended by the applicant to include all of the licensing and other issues arising from the concurrence or consent of the State Government instrumentalities.

The applicants have agreed to the addition of conditions to the consent.

#### Groundwater impact

A groundwater impact report and management plan has been prepared to accompany the application. The report summarises the groundwater issues as follows-

*Since the hydraulic transportation of sand off-site would result in a net loss of groundwater from the aquifer at the Duranbah Sand Quarry, it is proposed that a pipeline would be used to transport water back from the SALT development to the site. The volume of water removed and received at the Duranbah Sand Quarry will be calculated so as to maintain a neutral water balance at both ends of the pipeline (ie. at the Duranbah Sand quarry and SALT development site). To ensure there are no deleterious effects on water quality from the proposed pumping scheme, a detailed monitoring program has been prepared for both groundwater and surface water. These management measures form the basis of the Groundwater Management Plan (GMP) for the site and will ensure the early detection and treatment of any potential problems associated with surface or groundwater.*

The GMP sets a course of action for groundwater issues, performance criteria, implementation, monitoring, auditing, reporting, failure identification and corrective action. The GMP is divided into sections covering background groundwater monitoring, extraction phase groundwater monitoring, surface and water quality management.

The approved Environmental Management Plan also incorporates groundwater monitoring including water quality monitoring for two years following completion of the operational phase.

The proponents are required to apply for a license from DIPNR. DIPNR have imposed conditions regarding groundwater issues including the payment of a \$300,000 bond to cover corrective action if site rehabilitation is required.

It is considered that the proposed operation and associated management and monitoring will minimise any significant impact on groundwater in the vicinity of the quarry site. In addition to this the activity is required to be licensed by DIPNR under the provisions of the Water Act.

#### Acid sulfate soil

An acid sulfate soils management plan has been prepared to accompany the proposal. The plan identifies a series of actions to manage acid sulfate soils.

The excavated sand is to be screened and treated onsite by a hydro-cyclone to remove pyritic fines prior to being mixed with water from the main lake in a clarifying unit and hydraulically transported to the SALT site.

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The management plan summarises acid sulfate soils as follows-

*The separated pyritic fines would be strategically reburied at depth in the existing western lake at the quarry. The use of this former extraction area will prevent the oxidation of fines and any subsequent generation of acidity. The processed fines will be transported via a closed pipeline into the deepest portion of the nominated fines storage pond and covered by water at all times during excavation works. Following the completion of excavation, background groundwater levels shall be maintained to ensure that the processed fines remain at depth in anoxic conditions. Surface water monitoring will be undertaken in accordance with Section 5.3 of the Groundwater Management Plan to ensure that reducing (anoxic) conditions are being maintained at depth in this water body and the fines remain wet and below the water surface.*

Conditions are proposed regarding acid sulfate soils management including maintaining the ph level of the extraction pond above 6.5 and a condition preventing exposure to the air of pyritic acid sulfate fines to no longer than 72 hours without prior approval from Council.

#### Noise impact

The noise generating activities produced by the development are truck movements and extraction and pumping machinery and equipment. An electric pump will be used at the quarry site for the pumping operation. The closest residence to the quarry machinery is 537 metres away. With regards to noise levels the report submitted with the application makes the following comments-

There is no proposed increase in the amount or type of machinery used for the extraction or onsite transportation of quarry material. In fact it is expected that the same machinery will be employed as is currently in use. While this equipment will obviously work for increased periods of time in comparison to existing conditions, this will not impact on maximum noise levels generated on the site. Therefore it is reasonably stated that there will be no increase in maximum noise levels experienced at receiver locations arising from these sources.

It is proposed to install exhaust silencers and engine acoustic shielding on mechanical plant where appropriate.

The DEC has advised that the Department has an ongoing regulatory role regarding licensing of the quarry. The DEC are satisfied that subject to implementation of appropriate control measures the activity can be undertaken without any significant environmental impacts.

The DEC are requiring conditions to be imposed on the amended consent regarding noise including a noise compliance audit within 3 months of commencement of the sand pumping.

Dust monitoring conditions are also required with monitoring stations located at the boundary of the site.

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### Rehabilitation

The approved Environmental Management Plan and accompanying Soil and Water Management Plan provide for rehabilitation of the site. The rehabilitation plan be brought forward in the timeline of the quarry. The approved rehabilitation of the site is not proposed to be altered. A condition is to be imposed regarding updating the EMP to reflect the proposed operating conditions.

The extraction area is proposed to be divided into a northern and southern lake with a causeway in between as a final landform. Revegetation is proposed around the shores of the lakes. A wetland regeneration area is also proposed at the southern end of the lakes.

### Lifespan of quarry

The current consent includes a condition that limits the operation of the quarry to 14 years from the date of consent. The consent is therefore valid until 28 August 2010. The amendment proposes to reduce the lifespan of the consent by 3 years. It is proposed to complete the sand extraction within 18 months of commencement of the pumping operation and complete rehabilitation and topsoil removal within 3 years of commencement of the pumping operation.

Given the exact date for commencement of pumping is not known at this point it is considered reasonable to reduce the lifespan of the quarry consent by two and a half years. This will mean the consent is valid until 28 February 2008 and will give the proponents six months to put the pumping operation in place and complete the pumping, rehabilitation and topsoil extraction within the stated 3 year timeframe.

It is considered that if the environmental management and monitoring actions are fulfilled the accelerated extraction rate will not have significant impact on the environment.

### Water main

An existing 600mm diameter water main presently traverses the quarry site. This water main is currently not protected within an easement. Fortunately, the applicants have indicated that they are prepared to grant an easement over this main with Tweed Shire Council being the benefiting party.

The applicants have stressed however that they do not wish the creation of this easement to "hold up" the development application approval. In this regard an appropriate condition of consent can be drafted requiring the creation of this easement to TSC requirements within six months of the issue of the amended development consent.

The applicants have agreed to carry out certain works along the alignment of a water main which traverses the quarry. These works will protect the integrity of the water main. The proposed works are shown on drawings 7083/03/72-SK04, SK05 & SK06 prepared by Cardno MBK Pty Ltd and dated 30-8-04.

## Geotechnical/Earthworks

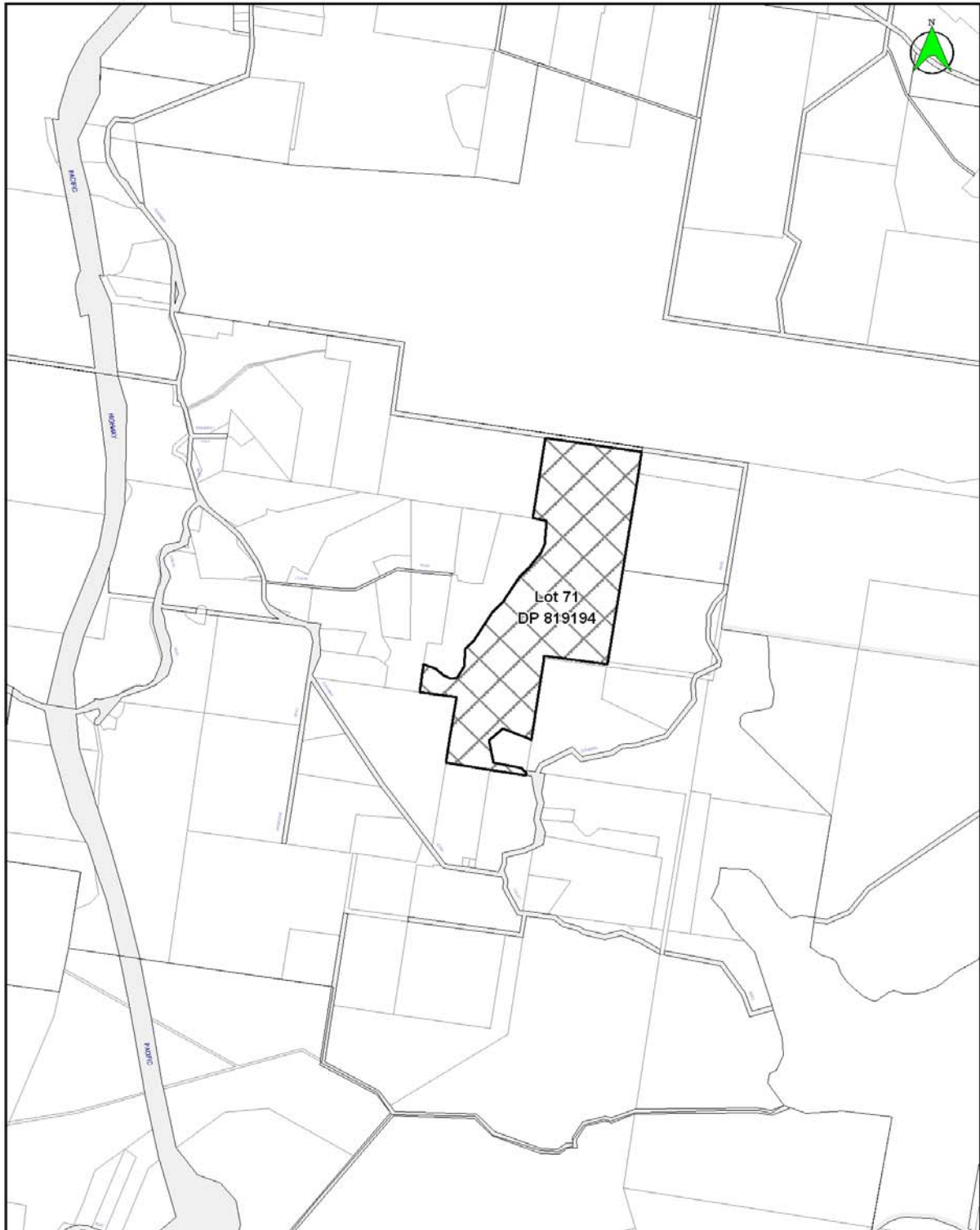
Concerns exist regarding the stability of the embankment within which the water main has been laid. Council's concerns have been addressed following comprehensive negotiations with the applicant. The applicant has proposed changes to the batter slopes to improve the stability of the embankment. They have also agreed to a lowering of the embankment above the water main. These proposed changes have been detailed on plan 7083/03/72-SK06(30-8-04)


The water main is located between the two borrow pits. The excavation of these borrow pits has essentially formed an embankment within which the water main is embedded. Following discussions with the applicants they have agreed to the following measures designed to protect the integrity of the water main.

- An easement shall be created over the water main of sufficient width to encompass the entire zone of influence affecting the pipeline. The terms of the easement shall include the following-
  - All truck or vehicle movements shall be excluded from the easement except at nominated transverse crossing points
  - No filling or excavation shall occur within the easement
  - No quarry operations shall occur within the easement
- The easement shall be created within six months of the issue of the amended development consent.
- The applicant shall construct transverse crossing points, a protected spillway, fencing, lowering of the embankment above the water main and undertake embankment profiling generally in accordance with drawings 7083/03/72-SK04, SK05 & SK06 prepared by Cardno MBK and dated 30-8-04.

At the completion of the quarry activities the external perimeter bund shall be removed and the site shall be rehabilitated to the satisfaction of the Director Development Services.

**SITE DIAGRAM:**



<p>© TWEED SHIRE COUNCIL 2004                  Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.  <b>DO NOT SCALE</b>  <b>COPY ONLY - NOT CERTIFIED</b>                  P.O. Box 816                  Murwillumbah, NSW, 2484                  Tel: (02) 6670 2409                  Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i>                  Lot 71 DP 819194                  Loders Road, Duranbah</p>		<p>STRATEGIC                  PLANNING UNIT  <b>Site Plan</b></p>	
<p>File: N:\MapInfo 7...V4P Site Plan.Wor</p>	<p>Author: J.Batchelor</p>	<p>Date: 16/Sept/2004</p>	<p>Scale: 1:20,000</p>	<p>Sheet: 1 of 1</p>

**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 site is zoned 1(a) Rural and is permissible with consent under the provisions of the Tweed LEP 2000.

North Coast Regional Environmental Plan 1988

The proposal is not contrary to the provisions of the North Coast REP.

State Environmental Planning Policies

The proposal is not contrary to any SEPP.

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

None applicable.

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

The proposal is not contrary to any DCP.

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

All matters are acceptable.

**(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**

See comments above regarding groundwater, acid sulfate soil, noise and rehabilitation.

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

The site is suitable for the proposal.

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

The application was exhibited in accordance with the Regulations and six submissions were received. The submissions mainly raised issues regarding groundwater, acid sulfate soils, noise, site rehabilitation. These issues have been discussed in the key issues section of this report.

It was raised in one submission that the sand should come from the original proposed source. Whilst the Tweed River source site had a significant benefit by removing sand build up in the River, Council is required to consider each proposal on their merits.

One of the submissions suggested that the proposal should be dealt with via a fresh development application and not by way of amendment. Council is required to be satisfied that the amended development will be substantially the same as the approved development. Given Council's legal advice and the nature of the proposal it is considered that the proposal can be dealt with as an amended application.

**(e) Public interest**

It is considered that that the objectives of the proponents by completion of the earthworks program at the SALT site can be achieved as well as the community objective of appropriate resource and environmental management. It is considered that these matters are in the public interest and the proposal will facilitate achieving both.

**OPTIONS:**

1. Approve the application as per the recommendation.
2. Approve the application with an altered recommendation.
3. Refuse the application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicants have a right of appeal in the Land and Environment Court if they are dissatisfied with the determination.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

It is considered that the impacts of the amended proposal can be adequately managed including a range of monitoring and approvals from DIPNR and DEC.

**UNDER SEPARATE COVER:**

1. Legal advice from Stacks the Law Firm (DW 1093743)
  2. Copy of site plan
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**2 [PE] Development Application DA03/0998 for an Attached Dual Occupancy at Lot 22 Section 4 DP 8568 No. 40 Charles Street, Tweed Heads**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA03/0998 Pt1**

**SUMMARY OF REPORT:**

An application has been received for a multi-dwelling (dual occupancy) development over a land parcel that has significant site constraints. The primary issue with the amended design proposal is that it does not comply with prescribed two-storey height limitation. The application was referred to the Council meeting of 15 September 2004 where it was request by Council's Director Planning and Environment that the matter be deferred, to permit further assessment, until the meeting of 6 October 2004. The application was previously referred to the Development Assessment Panel Meeting of 1 September 2004 and 3 September 2004. These reports are attached.

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

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

**RECOMMENDATION:**

That: -

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

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Planit Consulting dated July 2004 and Plans (as amended in RED) - nos.DWG 03-0503 Sheets 1 to 5 dated August 2004 prepared by Glen Peterson Architect Pty Ltd, except where varied by these conditions.  
[GEN0010]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0120]
3. The erection of a building in accordance with a development consent must not be commenced until:
  - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (b1) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

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



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

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

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

- a. Tweed Road Contribution Plan: \$1,288  
S94 Plan No. 4 (Version 4.0)  
**Sector1\_4**

**Heavy Haulage Component**

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

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

where:

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

and:

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

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

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

Admin. Administration component - 5% - see Section 6.5

- b. Open Space (Structured): \$780  
S94 Plan No. 5
- c. Open Space (Casual): \$167  
S94 Plan No. 5

d.	Shirewide Library Facilities: S94 Plan No. 11	\$688
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$126
f.	Emergency Facilities (Surf Lifesaving) (REMSHIRE)	\$215
g.	S94 Plan No. 16 Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$344.81
h.	Cycleways S94 Plan No. 22	\$160
i.	Regional Open Space (Structured) S94 Plan No. 26	\$1,177
j.	Regional Open Space (Casual) S94 Plan No. 26	\$221

[PCC0050/PSC0005]

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

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

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

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

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

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

- [PCC0070/PSC0004]
6. Prior to issue of a Construction Certificate Council is to be furnished with a full geotechnical assessment of the land, which is to be undertaken after demolition and removal of existing site improvements, to the satisfaction of Council's Director Planning and Environment.
- [PCCNS01]
7. A) Legally binding easements to drain water shall be created on Lot 11 Section 4 DP 8568 and Lot 12 Section 4 DP 8568, to provide a legal point of stormwater discharge for the subject development.  
B) Full engineering details of drainage services to be constructed within the subject easements must be submitted for approval by Council prior to the issues of a Construction Certificate. Minor and major drainage systems shall be sized to convey (as a minimum) all runoff generated by the ARI 20 year storm event from the subject site to existing public drainage infrastructure in Adelaide Street.
- [PCCNS02]
8. Prior to the issue of a Construction Certificate Council is to be furnished with a NatHERS Energy Star rating for each Unit. The minimum acceptable rating is 3.5 Stars.
- [PCCNS03]
9. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.
- [PCC0190]
10. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
  - installation of stormwater quality control devices
  - erosion and sediment control works

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

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

[PCC0240]

11. Erosion and Sediment Control During the Construction Phase of Development
- (a) Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.
  - (b) The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

[PCC0320]

**PRIOR TO COMMENCEMENT OF WORK**

12. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
  - (b) if that is not practicable, an accredited sewage management facility approved by the council, or
  - (c) if that is not practicable, any other sewage management facility approved by the council.

[PCW0060]

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

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

[PCW0070]

14. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing. [PCW0090]
15. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site. [PCW0210]
16. Prior to the commencement of works on the site all required erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

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

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

17. The existing sewer connection is to be capped off by a licensed drainer and inspected by Council prior to commencement of building work. [PCW0280]

[PCWNS01]

#### **DURING CONSTRUCTION**

18. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made). [DUR0010]
19. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction. [DUR0080]
20. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council. [DUR0130]
21. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority. [DUR0160]
22. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
  - i. All required erosion and sedimentation control devices have been installed and are operational.
  - ii. Required toilet facilities have been provided on the site.
  - iii. A sign has been erected on the site identifying:

- Lot number
  - Builder
  - Phone number of builder or person responsible for site.
- iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
- v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.

[DUR1200]

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

[DUR1210]

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

[DUR0170]

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

[DUR0200]

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

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

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

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

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

[DUR0220]

27. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.

[DUR0900]

28. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- a. internal drainage, prior to slab preparation;

- b. water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
  - c. external drainage prior to backfilling.
  - d. completion of work and prior to occupation of the building. [DUR1020]
29. A. A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- B. The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage. [DUR1030]
30. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises. [DUR1070]
31. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR1090]
32. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR1160]

**PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

33. In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications and conditions of Consent. [POC0020]

**REPORT:**

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

**BACKGROUND:**

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

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

The site is located within an area known as 'Razorback Hill' and it is characterised by existing older style single dwelling houses. Although, examples of medium density developments and newer dwelling houses are starting to emerge as the locality redevelops. A number of existing dwelling houses, generally older buildings, in the locality possess a three-storey component. The existing dwelling house on the subject site is approximately 40-50 years old and has minimal heritage and architectural value. Its condition has deteriorated. The applicant contends that the existing dwelling house incorporates a three-storey component and visual inspection of the site suggests that this is likely. There are a number of mature and significant trees within an existing vegetation stand toward the rear that includes a large mature mango tree. This vegetation provides significant visual buffering to adjacent properties, however it is presently unattended and in an undesirable state of maintenance.

The application is of particular importance in this locality because approving the departure from the height limitation will have policy implications for future applications. In this regard it is noted that Council has before it several other three-storey non-compliant development proposal's within the same catchment, see Table 1.



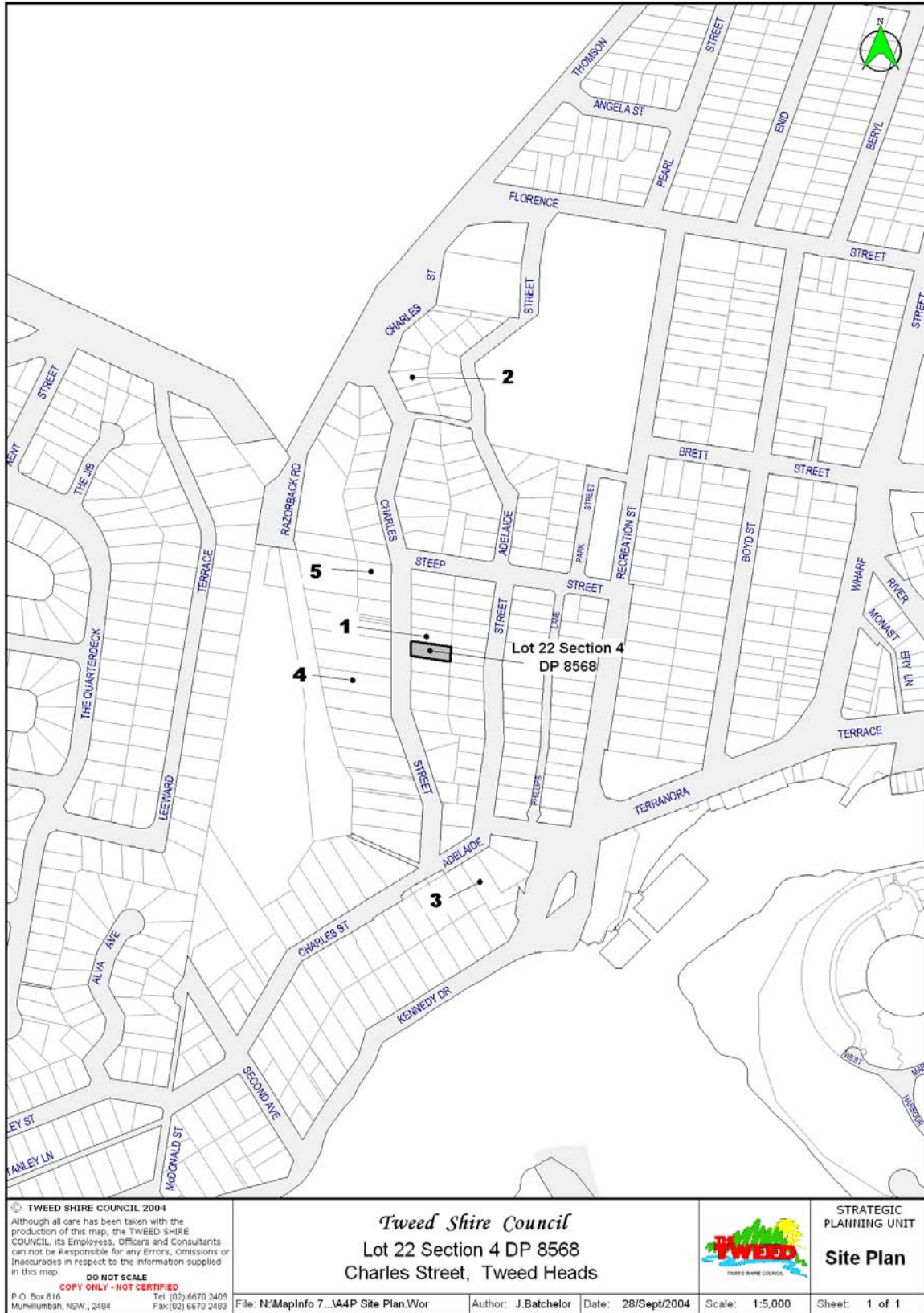
**Table 1**

No. on Site Plan	DA Number	Definition	Storeys	Address	Status
(1)	DA03/1842	Dual occupancy	3-storey	38 Charles Street	Held in abeyance
(2)	DA04/0449	Dual occupancy	3-storey	10 Charles Street	Held in abeyance
(3)	DA04/1024	Residential flat building (6-units)	3-storey	70 Adelaide Street	Assessment
(4)	DA03/0925	Subdivision: This application is supported with a dwelling design illustrating that a house can be erected on the proposed allotment - the house design is three-storeys		27 Charles Street	Assessment
(5)	DA04/1129	Residential flat building (6 units)	3-storey	15B Charles Street	Assessment

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

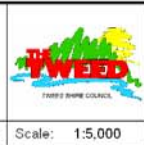
- SEPP 1 Objection to TLEP 2000 building height restriction
- Building design (bulk, aesthetics)
- Public submission

**SITE DIAGRAM:**



TWEED SHIRE COUNCIL 2004  
 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.  
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*Tweed Shire Council*  
 Lot 22 Section 4 DP 8568  
 Charles Street, Tweed Heads  
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 28/Sept/2004



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

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

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

**Tweed LEP 2000**

**Clause 8 - Zone objectives**

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

***Primary objective***

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

***Secondary objectives***

- *to allow for non-residential development which supports the residential use of the locality.*
- *to allow for tourist accommodation that is compatible with the character of the surrounding locality.*
- *to discourage the under-utilisation of land for residential purposes, particularly close to the Tweed Heads sub-regional centre.*

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

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

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

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

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

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

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

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

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

The originally submitted design had quite a significant three-storey component. The design was not considered aesthetically representative of the existing nor desired character of the area. The amended design is a stark contrast, providing a reduced third-storey component and a much improved overall design that has consideration to the sites elevation. The extent of third-storey component is characterised by two forms. Firstly, the area in the central portion of the building comprises three residential floors. Secondly, the area at the rear of the building comprises two residential floors but is located in excess of 1.5metres above the natural ground level, the sub floor void area is then defined as a storey.

The level of non-compliance over the residential floor component has been estimated in the application at approximately 47 m<sup>2</sup> per dwelling, opposed to the initial 77 m<sup>2</sup> per dwelling. Using a series of transparent overlays it would appear that the actual area of non-compliance is approximately 35m<sup>2</sup> per unit, this is excluding the stairwell areas that serve more as a void than having the capacity to serve as a floor.

The three-storey component comprising the two residential floors and void area consists of part of the bedroom, living area and rear decking of both units, refer Figure 1 - Cross Section, and Figure 2 - Floor Plan, which illustrates the extent of the third floor residential component in the central area of the building.

Figure 1 - Cross section

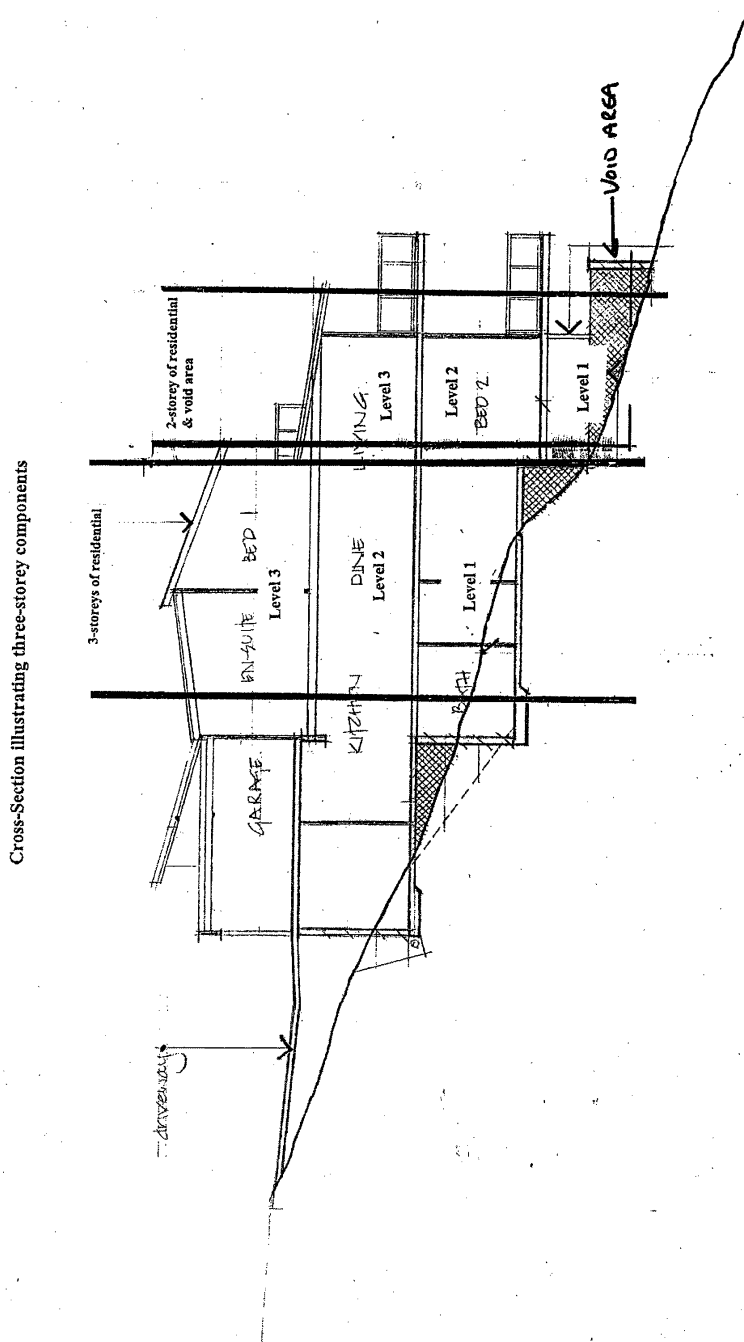
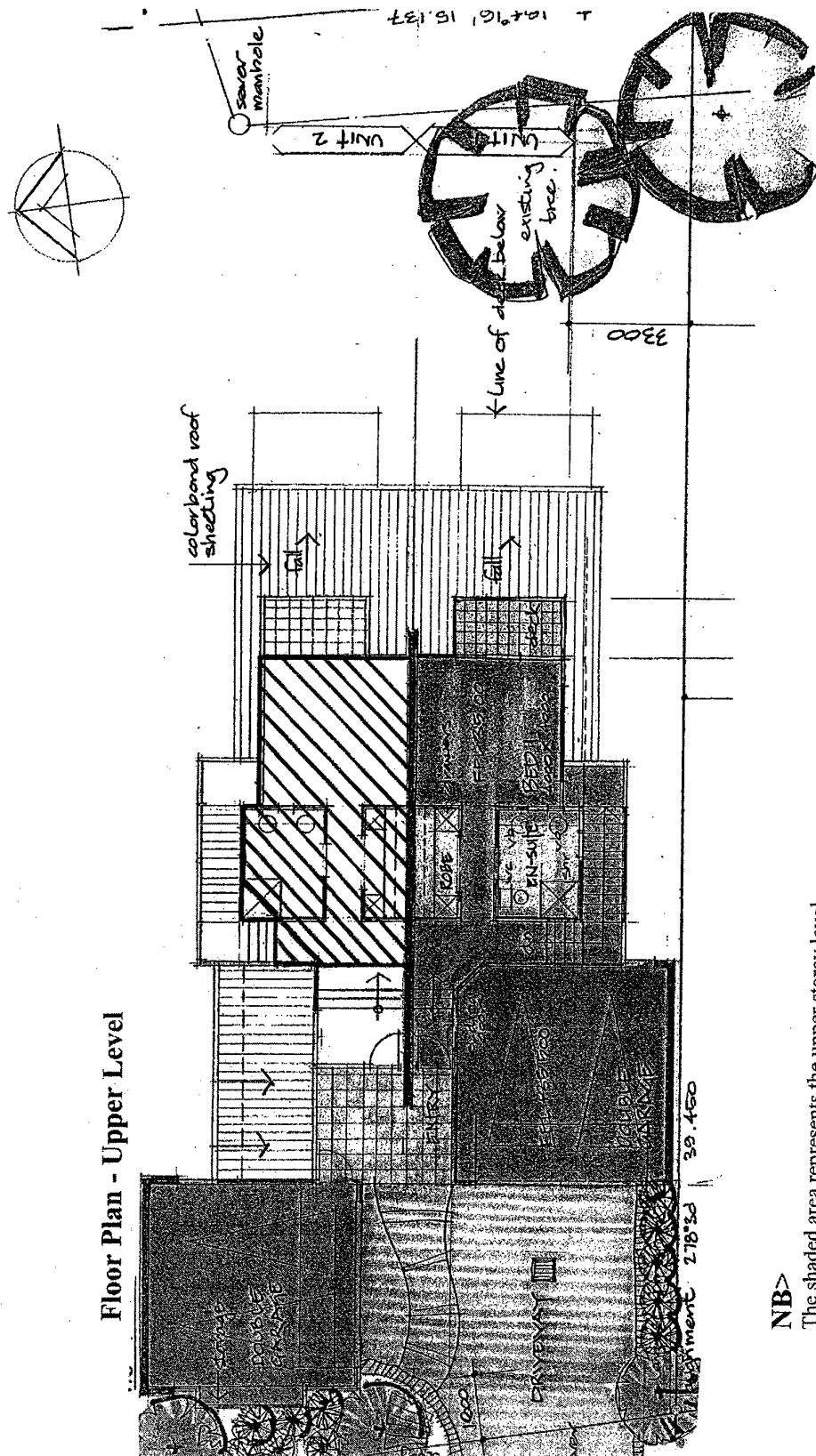


Figure 2 - Site / upper floor plan



Floor Plan - Upper Level

**NB>**

The shaded area represents the upper storey level

The hatched area represents the area of three-storey residential component

Both units are very similar in configuration: shading and hatching relates to both units

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

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

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

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

**Clause 16 states:**

(1) *Objective*

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

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

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

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

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



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

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

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

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

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

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

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

In considering the merit of the SEPP 1 objection it should be noted that Council has previously resolved on a Tweed LEP amendment, No.46, that seeks to alter the definition of a storey, in particular the reference from natural ground level to finished ground level. Under the proposed amendment the void area at the rear of the building may constitute the finished ground level. In this event the rear portion of the building would not be categorised as three-storey. In adopting the Tweed LEP amendment, which is presently with Parliamentary Counsel, Council has indicated that the existing mechanism for determining the number of storeys, from natural ground level, has surpassed its original purpose. The proposed amendment reflects more succinctly the land constraints inherent in many parts of the Shire and the changing community expectations in the design quality of development. In this regard the principal area of non-compliance, which is the three-levels of residential floors is not considered significant when assessed against the land constraints and the architectural merit of the building design. Whilst approving non-conforming developments can act as a catalyst for further non compliant applications it is considered in this instance that the quality of this design could be used as a benchmark for the future assessment of development in the locality. Adopting this process will mitigate the policy implications on the Tweed LEP and ensure that the future development of the area attains a high level of design. The SEPP 1 objection is considered satisfactory. It is recommended that the concurrence of the Director-General of the Department of Infrastructure, Planning and Natural Resources be assumed.

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

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

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

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

#### **State Environmental Planning Policies**

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

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

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

Draft Tweed Local Environmental Plan No. 46 was exhibited between 16 April 2003 and 14 May 2003 and detailed an amendment to the definition of a storey to reflect the finished ground level rather than the natural ground level in addition to incorporating that any space in excess of 4.5 metres should be categorised as two storeys. This amendment could have the effect of reducing the area of non-compliance in this development.

Having reviewed the Draft amendment it is considered that the proposed changes to the LEP would alter the assessment of the application to a small degree but would not alter the recommendation for this application.

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

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

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

**Table 2**

<b>Standard</b>	<b>Requirement</b>	<b>Complies/variation</b>
On site car parking	2 per dwelling where GFA exceed 125m <sup>2</sup> = 4	Each dwelling is provided with a double garage (4 spaces) and is compliant

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

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

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

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

**Table 3**

**TABLE OF COMPLIANCE – MULTI DWELLING HOUSING – RESIDENTIAL 2(b)  
Zone**

<b>DEVELOPMENT PROVISIONS</b>	<b>DCP SOLUTION</b>	<b>PROPOSED DEVELOPMENT</b>	<b>COMPLIANCE (Y/N –See Comment)</b>
Site Analysis (s.3.1.1)	Submission of a detailed site analysis plan	Information provided in the application sufficiently supports on-site observations	Yes
Site Area	Not specified	602.95m <sup>2</sup>	--
Site Density	0.5:1 Floor space ratio (GFA) (301.4.m <sup>2</sup> )	The development provides for 374m <sup>2</sup> GFA representing a ratio of 0.62:1. This is 72.6m <sup>2</sup> greater than the DCP example criteria: equivalently 36.3m <sup>2</sup> per unit	Given the nature of the sites topographic constraints and the inherent difficulties in achieving the TLEP objectives with respect to multi-dwelling housing the floor space ratio of the proposed development is considered satisfactory
Boundary Set Backs (s.3.2.1(A2)): Front Secondary frontage Side Rear	6m N/A BCA BCA	Min 6m to dwellings  Complies Complies	The building is setback a minimum 6m from the street frontage. The garage for Unit 2 is located within the front setback. Council's Building and Traffic Officers raise no objection. Side setbacks comply with the Building Code of Australia

Building Envelope (s.3.3.1(A1)): Max Height  Envelope	(NGL) 12m  3.5m @ 45 <sup>0</sup>	The applicant has provide on request a height plane illustrating the example criteria. The illustration is taken of three sections: having regard to the slope of the land	The illustrations indicate that the building is largely compliant, although it appears the envelope line passes through the upper floor / roof area of the rear of the building. The building height is satisfactory and consistent with like developments within the Shire.
Landscaping  s.3.1.3 (A4)	30% of site or sum of number of dwellings multiplied by ratio in table 2 4 (180.m <sup>2</sup> )	Using a Planimeter the area is calculated at a minimum 255m <sup>2</sup>	Complies
Private Open Space	20% of site area (120.m <sup>2</sup> )	225m <sup>2</sup> total	Complies

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

***Objective 1***

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

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

**Objective 2**

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

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

**Objective 3**

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

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

**Objective 4**

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

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

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

**DCP 6 Design Element 3.2: Streetscape**

**Objective 1**

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

The existing character of the area is fast succumbing to change that will result in a move away from the existing older characterised houses to contemporary larger dwellings. This is reinforced by the number of applications and their designs presently before Council, as referred to in Table 1. In addition, a site inspection of the site and surrounds identified that many dwellings, both new and old, comprise of three-storeys. In the immediate vicinity it was noted that Nos.21, 38, 40, 42, & 46 Charles Street are clearly three storey developments, whilst No.25 supports a single dwelling it is of scale not dissimilar to the proposed duplex. Council's file contains photographic illustrations of these properties.

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

**Table 4**

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

***Objective 2***

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

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

### **Objective 3**

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

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

### **Objective 4**

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

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

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

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

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

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

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

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

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



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

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

The proposed development requires, as a result of lowering the building, some minor excavation works to approximately 1.5metres over a small area. Council's Environmental Health Officer, Council's Infrastructure Engineer and Council's Building Surveyor have all reviewed these plans, with no objections raised subject to the recommended conditions of consent.

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

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

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

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

**Demolition**

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

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

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

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

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

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

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

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

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

**(e) Public interest**

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

**OPTIONS:**

1. Refuse the application and provide grounds for refusal.

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

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

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

### **POLICY IMPLICATIONS:**

The proposed development will have implications in terms of the two-storey height limit as defined under Tweed LEP 2000 for the Razorback Hill Residential Precinct. The circumstances of the site are not unusual or unique for the Razorback Hill Area in terms of topographical characteristics. A precedence will be perceived to have been established should the application be supported that will lead to expectations from other land owners that departing from the Tweed LEP height limitation provision is acceptable. This report identifies in Table 1 other non-conforming development applications presently before Council that are located in the same catchment area. However and as previously stated, whilst approving non-conforming developments can act as a catalyst for further non compliant applications it is considered in this instance that the quality of this design could be used as a benchmark for the future assessment of development in the locality. Adopting this process will mitigate the policy implications on the Tweed LEP and ensure that the future development of the area attains a high level of design.

### **CONCLUSION:**

This is an application of great importance for the Charles Street locality. In determining to approve the subject application with its three-storey height variation will, notwithstanding that all development applications are assessed on their individual merit and circumstance, be perceived as a precedence that will make way for further departures to the two-storey height limitation. In this regard, the proliferation of non-compliant applications / approvals could compound to undermine the objectives of the Tweed LEP clause 16 Height of Buildings provision. In this regard should Council resolve to adopt the recommendations of this report it may be prudent for Council to initiate a review of the two-storey height limitation within this catchment.

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

Having consideration to the issues raised in this report and the advice of Council's Strategic Planning Unit, the proposed development is considered, on merit, to achieve the objectives of the relevant planning controls. The departure from the two-storey height limitation, whilst not considered favourable from a policy perspective, is considered acceptable having regard to the site constraints and the architectural merit of the design. On balance of a merit assessment it is concluded that the application, as amended, is acceptable for a conditional approval.

**UNDER SEPARATE COVER:**

1. Development Assessment Panel Report of 1 September 2004
  2. Development Assessment Panel Report of 3 September 2004
-

**3 [PE] Development Application DA04/0456 for a Pipeline Construction -  
Hydraulics Transport & Placement of Fill over various lots, Casuarina**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0456**

**SUMMARY OF REPORT:**

A development application has been received for a pipeline to hydraulically transport sand fill material from the Loders Road, Duranbah extraction operation to the SALT development at South Kingscliff. The pumping operation is proposed to be conducted for 18 months. The bulk earthworks at the SALT site were approved as part of the original application for the SALT project.

A S.96 amended application has also been lodged for the sand extraction operation and the report is included in this Business Paper agenda.

The pipeline is approximately six kilometres in length with a nominal diameter of 315mm and will be predominantly constructed of polyethylene. The pipe is proposed to be located at ground level and no excavation or vegetation removal is proposed.

The pipeline route traverses the Kings Forest property, Depot Road, Tweed Coast Road, Dianella Drive, Lot 197 DP1064327 owned by Kings Beach (No.2) and Casuarina Way. The pipe crosses two Crown Roads within the Kings Forest property. Consent from all the relevant landowners has been received.

Pumping will be conducted during the day and water will be returned via the pipeline to the extraction pit during the night to replenish the groundwater at the pit site.

An electric pump will be utilised at the pit site and an intermediate diesel pump will be located at the western end of Depot Road.

The Department of Infrastructure, Planning and Natural Resources have issued terms and conditions regarding groundwater issues.

**RECOMMENDATION:**

That Development Application DA04/0456 for a pipeline construction - hydraulics transport & placement of fill at Lot 71 DP 819194 Loders Road, Duranbah, Lot 2 DP 819015, Lot 40 DP 7482, Lot 1 DP 781633 Duranbah Road, Kings Forest, Lot 194 DP 755701, Lot 301 DP 755701, Lot 312 DP 755701 Tweed Coast Road, Kingscliff, Lot 197 DP 1064327 Casuarina Way, Casuarina, Road 1570 - Depot Road, Road 3840 - Old Bogangar Road, Road 1591 Dianella Drive & Road 989 Casuarina Way be approved subject to the following conditions: -

**GENERAL**

1. The route of the pipeline shall be completed in accordance with **Figure 1- Plan of Sand Delivery Line** dated 10.12.2003 and the plan titled **proposed pipeline alignment** and the Statement of Environmental Effects prepared by Darryl Anderson Consulting Pty Ltd, except where varied by these conditions of consent.
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject route.
3. The construction of the pipeline or any ancillary structures in accordance with this development consent must not be commenced until:
  - a. detailed plans and specifications of the pipeline or structures have been endorsed with a construction certificate by:
    - (i) the consent authority; or
    - (ii) an accredited certifier; and
  - b. the person having the benefit of the development consent:
    - (i) has appointed a Principal Certifying Authority; and
    - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
  - c. the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the construction of the pipeline.
4. The Construction Certificate application must include details showing how the hydraulic pipeline will be temporarily secured under the Cudgen Creek Bridge. These details shall be to the satisfaction of Tweed Shire Council.
5. Slurry pumping to the SALT site shall be limited to the hours of 7am to 5pm Monday to Saturday. Return water pumping to the extraction site may be undertaken between 5pm and 7am Monday to Saturday.
6. Any pipeline placement and removal operations shall be limited to the hours 7am to 5pm Monday to Saturday.
7. The pipeline is to be removed within one month of completion of the pumping operation.

8. The LA10 noise level emitted from any pumping or associated activities shall not exceed the background noise level (LA90) by more than 10dB(A) at the boundary of any affected residence between 7am and 5pm, and shall not exceed the background noise level (LA90) by more than 5dB(A) at the boundary of any affected residence between 6pm and 10pm. Notwithstanding the above, noise from pumping or associated operations shall not be audible within any habitable room in any residential premises between the hours 10pm and 7am.
9. Water shall not be permitted to discharge from any fill slurry settlement pond unless those waters comply with the limits for pH and SS stipulated in Part 4.2 of the submission - *Revised Earthworks Management Plan (Cardno MBK, April 2003)*. Waters shall be monitored prior to any such discharge and the results recorded on site, and provided to Council upon request.
10. The water storage area (collection of excess runoff water as well as pumped groundwater from the site) shall be lined with spray bitumen so as to be impervious and prevent seepage losses.
11. All works shall comply with the *Revised Earthworks Environmental Management Plan (Rev. C Cardno MBK, April 2003)*.
12. Sand fill material proposed to be pumped to the site shall be tested for acid sulfate soil potential and neutralised where necessary, prior to being pumped to the site, strictly in accordance with Part 4.1 of the submission - *Revised Earthworks Management Plan (Cardno MBK, April 2003)*. Verification testing of any treated material shall also be conducted at the rate of 1 test per 1,000m<sup>3</sup> of material. Records of this testing shall be maintained on site and provided to Council upon request.
13. All works shall comply with the *Acid Sulfate Soils Management Plan SALT, South Kingscliff (Rev. C Cardno MBK, March 2003)*.
14. All works shall comply with the *Detailed Site Radiation Investigation Report & Remediation Action Plan SALT, South Kingscliff (Rev. B Cardno MBK, March 2003)*.
15. All works shall comply with the *Water Quality Monitoring Programme SALT, South Kingscliff (Rev. B Cardno MBK, March 2003)*.
16. Groundwater levels at the groundwater extraction location shall be monitored at the two proposed monitoring bores as follows:

Weekly	Groundwater level, pH, conductivity, temperature
Monthly	Total phosphorus, aluminium, iron, total nitrogen
17. Groundwater levels shall be maintained so as to not expose acid sulfate soils.
18. All fuels and chemicals shall be kept in a bunded area and shall not be permitted to spill or discharge to any watercourse.
19. This consent is valid for 18 months from the date of commencement of pumping. In this regard Council is to be notified in writing of the pumping commencement date one week prior to the commencement date.
20. No vegetation removal or excavations are to be undertaken for construction of the pipeline.

21. The recommendations contained in section 6.1 of Fauna and Flora assessment dated 6 February 2004 are to be carried out. In this regard koala pipeline crossings are to be constructed at 50 metre intervals across the entire Kings Forest property and four koala underpasses are to be strategically located within the Kings Forest property.

[GENNS01]

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

22. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director of Environment and Community Services PRIOR to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

23. 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 in respect to works on public roads. Safe public access shall be provided at all times.
24. 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*.

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

25. 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, Development Services. The sign is to remain in place until the pipeline is decommissioned.



26. 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 decommission and rehabilitation works have been completed.
27. Bunding of an adequate size to contain any spills are to be constructed around all pump booster stations and work areas. Details to be submitted and approved by the Director of Development Services prior to commencement of works.
28. Any works within a public road reserve, including the placement of the pipe will require an approval to be granted by Council under Section 138 of the Roads Act prior to commencement of works. Council will require the payment of an agreed fee for the usage of the road reserve.

#### **DURING CONSTRUCTION**

29. 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.
30. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
31. 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 Council is satisfied that the site is fully rehabilitated.
32. 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.
33. All necessary precautions shall be taken to minimise impact from dust during the installation of the pipeline and also from construction vehicles.
34. The burning of builders waste on site by open fire is prohibited.

35. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
36. Access to existing properties affected by the works authorised by this consent is to be maintained at all times. At the time the pipe is decommissioned all accesses affected are to be reinstated to their original condition.
37. At the conclusion of the pumping operations any disturbed areas are to be rehabilitated to the satisfaction of the Director Development Services.  
[DUR0040]
38. 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]

## **GENERAL TERMS OF APPROVAL FOR A PRODUCTION BORE LICENCE UNDER THE WATER ACT 1912 for DA 04/0456**

### **General Conditions**

The purposes of these conditions are to -

- define certain terms used in other conditions
- specify the need to obtain a license, permit or authority before commencing any works
- specify that, in most cases an approval will only be issued to the occupier of the lands where the works are to be located (as required by the Water Act)
- require existing approvals to be cancelled or let lapse when a license is issued (if applicable)
- require the safe construction and operation of all works
- require the use of appropriate soil conservation measures
- limit vegetation destruction or removal to the minimum necessary
- require the separate authorisation of clearing under the NVC Act
- allow conditions to be imposed for management of fuel (petroleum)
- require the payment of fees on the issuing of an approval

In the following conditions relating to an approval under the Water Act 1912:

“**the Department**” means the Department administering the Water Act 1912;

“**approval**” means a license, permit, authority or approval under that Act;

“**river**” has the same meaning as in Section 5 of the Water Act 1912;

“**work**” means any structure, earthwork, plant or equipment authorised under the approval to be granted, as defined in Section 5 and 105 of the Water Act 1912;

“**controlled work**” means any earthwork, embankment or levee as defined in Section 165 of the Water Act 1912.

- Before commencing any works or using any existing works for the purpose of Industrial Use, an approval under **Part 5** of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.

- When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
- All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
- All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
- The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
- Any license so issued, from the date of issue, will be subject to Annual Cost Recovery Water Management Charges as set by the Independent Pricing and Regulatory Tribunal.

#### **Conditions for Excavations, Bores and Wells**

The purpose of these conditions are to -

- set a limited time for bore construction
  - require the bore to be properly completed and sealed
  - require certain information to be provided on completion of the work, including a location plan
  - allow DIPNR access for inspection and testing
  - restrict the bore diameter
  - specify procedures if saline or polluted water found
  - specify procedures if the bore is abandoned
  - require advice if water found
  - define domestic use
  - specify the volumetric allocation for each purpose of the entitlement
  - identify lands that may be irrigated
  - specify the volumetric allocation for the works purpose
  - allow DIPNR to alter the volumetric allocation at any time
  - provide for a review of allocation if any subdivision occurs
  - require regular measuring of water levels to provide information needed to manage aquifers
- Works for construction of bores must be completed within such period as specified by the Department.

- Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
- Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
- All works must be constructed and maintained to properly control the water extracted to prevent wastage or any reduction in quality of the sub-surface water. The Department may direct that any necessary repairs or alterations be undertaken to maintain the works in good working order.
- An approval will be granted for the annual volumetric allocation of 135 megalitres to be extracted from 6 points.
- All works must be constructed so that the lowest end of the screened interval is above -4.0m AHD
- The management of groundwater at the site shall be in accordance with the Groundwater Management plan that will be prepared for the site, which must be agreed upon by Department of Infrastructure Planning and Natural Resources Hydrogeologist, prior to the issue of a license. The Groundwater Management plan will be based on the SALT site Water Quality Monitoring Program (Rev B, prepared Cardno MBK March 2003), with the alterations as detailed in the following documents:
  - Letter titled "Salt Development Hydraulic Transport and Placement" produced by Cardno MBK, dated 18 June 2004
  - Fax titled "Salt – Hydraulic Placement Development Application" from Trevor Johnson of Cardno MBK to Tim Rabbidge of DIPNR dated 20 August 2004.
- The salinity of monitoring bores at sites GW4 and GW5 (including the 2 proposed deeper bores) will not be permitted to exceed 850 milligrams per litre (mg/L). Monitoring is to be undertaken as detailed in the documents as outlined in the above condition.
- Should the salinity increase above the trigger level of 850mg/L then this Department should be notified and extraction should cease until levels have dropped below 850mg/L.
- Quarterly monitoring reports are to be forwarded to this Department for review.

**CONDITIONS OF APPROVAL FOR A MONITORING BORE LICENCE UNDER THE WATER ACT 1912 for DA 04/0456**

**General Conditions**

The purposes of these conditions are to -

- define certain terms used in other conditions
- specify the need to obtain a license, permit or authority before commencing any works

- specify that, in most cases an approval will only be issued to the occupier of the lands where the works are to be located (as required by the Water Act)
- require existing approvals to be cancelled or let lapse when a license is issued (if applicable)
- require the safe construction and operation of all works
- require the use of appropriate soil conservation measures
- limit vegetation destruction or removal to the minimum necessary
- require the separate authorisation of clearing under the NVC Act
- allow conditions to be imposed for management of fuel (petroleum)
- require the payment of fees on the issuing of an approval

In the following conditions relating to an approval under the Water Act 1912:

**“the Department”** means the Department administering the Water Act 1912;

**“approval”** means a license, permit, authority or approval under that Act;

**“river”** has the same meaning as in Section 5 of the Water Act 1912;

**“work”** means any structure, earthwork, plant or equipment authorised under the approval to be granted, as defined in Section 5 and 105 of the Water Act 1912;

**“controlled work”** means any earthwork, embankment or levee as defined in Section 165 of the Water Act 1912.

- Before commencing any works or using any existing works for the purpose of Monitoring Bores, an approval under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
- When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
- All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
- All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
- The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.

### Conditions for Bores and Wells

The purpose of these conditions is to -

- set a limited time for bore construction
  - require the bore to be properly completed and sealed
  - require certain information to be provided on completion of the work, including a location plan
  - allow DIPNR access for inspection and testing
  - restrict the bore diameter
  - specify procedures if the bore is abandoned
- 
- Works for construction of bores must be completed within such period as specified by the Department.
  - The Department must be notified if a supply of useable water is obtained and the bores shall be suitably lined and capped to the standard required by the Department.
  - Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
  - Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
  - All works must be constructed and maintained to properly control the water extracted to prevent wastage or any reduction in quality of the sub-surface water. The Department may direct that any necessary repairs or alterations be undertaken to maintain the works in good working order.
  - If the bore ceases to be productively used, the Department must be notified and the aquifer must be sealed by a method acceptable to the Department.
  - The use of water shall be conditional on no tailwater drainage being discharged into or onto -
    - any adjoining public or crown road
    - any other person's land
    - any crown land
    - any river, creek or watercourse
    - any groundwater aquifer
    - any area of native vegetation
    - any wetlands
  - The management of groundwater at the site shall be in accordance with the Groundwater Management plan that will be prepared for the site, which must be agreed upon by Department of Infrastructure Planning and Natural Resources Hydrogeologist, prior to the issue of a license. The Groundwater Management plan will be based on the SALT site Water Quality Monitoring Program (Rev B, prepared Cardno MBK March 2003), with the alterations as detailed in the following documents:

1. Letter titled "Salt Development Hydraulic Transport and Placement" produced by Cardno MBK, dated 18 June 2004
  2. Fax titled "Salt – Hydraulic Placement Development Application" from Trevor Johnson of Cardno MBK to Tim Rabbidge of DIPNR dated 20 August 2004.
- The installation of deep monitoring bores must be undertaken at monitoring sites GW4 and GW5 as recommended in the letter titled "Monitoring and Production Well Construction details, Salt Development, Kingscliff" written by Gilbert and Sutherland dated 24 August 2004. These are to be included in the monitoring program as detailed in (2) above.
  - The salinity of monitoring bores at sites GW4 and GW5 (including the 2 proposed deeper bores) will not be permitted to exceed 850 milligrams per litre (mg/L). Monitoring is to be undertaken as detailed in the documents as outlined in the above 2 conditions.
  - Should the salinity increase above the trigger level of 850mg/L then this Department should be notified.
  - Quarterly monitoring reports are to be forwarded to this Department for review.

**REPORT:**

**Applicant:** South Kingscliff Developments Pty Ltd  
**Owner:** Tweed Shire Council, Department of Lands, South East Excavations Pty Ltd, Project 28 Pty Ltd, South Kingscliff Developments and Kings Beach (No. 2) Pty Ltd  
**Location:** Lot 71 DP 819194 Loders Road, Duranbah, Lot 2 DP 819015, Lot 40 DP 7482, Lot 1 DP 781633 Duranbah Road, Kings Forest, Lot 194 DP 755701, Lot 301 DP 755701, Lot 312 DP 755701 Tweed Coast Road, Kingscliff, Lot 197 DP 1064327 Casuarina Way, Casuarina, Road 1570 - Depot Road, Road 3840 - Old Bogangar Road, Road 1591 Dianella Drive & Road 989 Casuarina Way  
**Zoning:** Various  
**Cost:** \$600,000.00

**BACKGROUND:**

Consent was issued on 24 April 2003 for the SALT development. A component of the approval was for bulk earthworks and filling. Development consent was also issued at the same time for a pipeline to hydraulically transport fill from the Action Sands site at Chinderah to the SALT site.

Suitable arrangements could not be finalised for the Action Sands site nor the Guinane site at Cudgen. The Duranbah site is the third attempt by the proponents to secure a sand source and pipeline route.

A S.96 application has been lodged for the Duranbah extraction site to enable the required volume of fill to be extracted (750,000m<sup>3</sup>). The report for the s.96 application is on this Business Paper agenda.

**Proposal**

The applicant summarises the proposal as follows-

- Continued extraction of sand from the Duranbah Sand Quarry in accordance with the terms of Development Consent No. 95/176 (as proposed to be modified);
- Installation of an electronically driven pump at the quarry site to deliver sand and water to the Salt site via a pipeline through Kings Forest;
- Construction of a steel and polyethylene (PE) pipe with a nominal diameter of 315 mm through Kings Forest and the existing public road network. The pipeline will be placed on the ground without any excavation or vegetation removal. Where possible the pipeline will be placed on the edge of existing farm tracks to avoid disturbance and minimize impacts, including through the State Environmental Planning Policy No. 14 wetland area.
- Construction of diesel powered booster pump at the western end of Depot Road;



- Construction of bores within the Salt site to provide water to replenish the resource at the quarry site;
- The pipeline is expected to remain in place for up to 18 months following which it will be removed and any necessary rehabilitation of the route will be undertaken.

The pipe was originally proposed to be located underground along the western side of Casuarina Way. However Stage 6b of the Casuarina development has been constructed in the mean time with infrastructure and landscaping along the route. The pipeline has been realigned to the western side of the 6b lots that front Casuarina Way. The pipeline will be located behind the existing retaining wall and fence. The pipeline will then join Casuarina Way opposite Riberry Drive.

The pipe is proposed to cross Tweed Coast Road at Cudgen Creek. The pipe is proposed to be carried in the existing services cavity located beneath the walkway on the south-western side of the bridge. At the southern abutment it will then turn north-east and be carried across the bridge beneath the deck level.

The application summarises the fill operation as follows. The existing borrow pit at the SALT site will be filled with material pumped from the Loders Road sand extraction site. A water storage area to collect excess runoff water from the placement process as well as pumped groundwater from the site, will be constructed at the south western corner of the site. This pit will be lined using sprayed bitumen to provide an impervious barrier against seepage losses. Water quality monitoring is to occur on a weekly (water level, temperature, pH, conductivity) and monthly basis (phosphorous, nitrogen, aluminium and iron).

A construction certificate is required for the pipeline and any ancillary structures ie. pump station housing. A condition is to be imposed limiting the consent to 18 months from the date of commencement of pumping and a requirement that Council be notified one week prior to the commencement of pumping. A condition is also to be imposed requiring the pipeline to be removed within one month of the completion of pumping.

#### **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 pipe traverses land located within the following zones-

- 1(a) Rural
- 1(c) Rural Living
- 2(f) Tourism
- 2(e) Residential Tourist
- 2(c) Urban Expansion
- 7(a) Environmental Protection (Wetlands)

- Unzoned Land

The pipeline is for the purposes of earthworks as defined by the Tweed LEP. The pipeline is ancillary to the earthworks to be carried out at the SALT site. Earthworks are permissible with consent in each zone.

Part of the pipeline passes through land zoned 7(a). The provisions of Clause 8(2) of the LEP must be satisfied for this part of the pipeline. The applicant has put forward the following points regarding the clause 8(2) matters.

8(2)(a)(i)

The selected pipeline route represents the optimal alignment having regard to the opportunities and constraints of the land between the quarry site and Salt. It also represents the shortest practical route given that the sand source and delivery points are fixed and the nature of the development (pipeline) is such that it needs to follow a relatively direct route. It is simply impractical and uneconomical to avoid crossing the relatively short section of 7(a) zoned land because of the "nature and service catchment" of the development.

8(2)(b)

To avoid passing through the 7(a) zoned land the pipeline route would need to be located west of the wetland for a length of some 1300 m northerly and then return to Depot Road over a distance of some 800 m within land zoned 2(c).

The selected route follows an existing track which facilitates placement, monitoring and maintenance of the pipeline with negligible disturbance. The alternate route to avoid the wetland is not appropriate because there are no suitable tracks or corridors within which the pipeline could be placed and maintained efficiently and effectively.

8(2)(c)

Having regard to the size of the pipeline (315mm diameter) over a length of some 400 m within the 7(a) zone, and given its temporary nature, it will be generally consistent with the scale and character of existing development in the area;

8(2)(d)

Installation of the pipelines will facilitate filling of the Salt site in accordance with the current consent. Approval of this application would therefore be consistent with the LEP aims relating to the Tweed 2000+ Strategic Plan and to encourage sustainable economic development.

The application is also consistent with the secondary primary zone objective in that the design, siting and construction of the development proposed will ensure that the wetland is not damaged or destroyed. Approval of the development will also be consistent with the second secondary objective as it is compatible with a primary objective.

In summary, it is submitted that the proposal satisfies the relevant matters contained in Clause 8 and therefore Council may consent to development in the 7(a) zone.

It is considered that the clause 8(2) matters have been satisfied.

Clause 13 Development of uncoloured land.

The roads which the pipeline follows are uncoloured and Council is required to be satisfied that the proposed development will be compatible with development in adjoining zones. Given the temporary nature of the pipeline it is considered that this matter is satisfied.

Clause 25 Development within zone 7(a).

Council is required to consider various environmental matters when assessing applications for development within the 7(a) zone. The pipeline will be located along an existing gravel road within the 7(a) land in the Kings Forest property. The Flora and Fauna report makes recommendations regarding koala crossings and threatened species monitoring.

Council is also required to take into consideration comments from NSW Fisheries and the Department of Environment and Conservation. These authorities raise no objection to the proposal provided the recommendations of the Flora and Fauna report are fulfilled, noise during construction is managed and a contingency plan for pipeline breakage is prepared.

A management plan is required to be prepared. The plan has been prepared and is considered acceptable.

#### North Coast Regional Environmental Plan 1988

The matters contained in the REP have been satisfied.

#### State Environmental Planning Policies

The pipeline passes through a designated SEPP-14 Wetlands area within the Kings forest property. The pipeline will be located on an existing gravel road. There will be no filling, draining, clearing or levee construction as such the wetland will not be disturbed and the requirements of the SEPP will be satisfied.

Part of the pipeline is located within the SEPP-71 coastal zone. The matters for consideration in clause 8 of the SEPP are considered to be satisfied.

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

A draft LEP has been prepared for the Kings Forest site however the pipe line will not affect the draft plan given that the pipeline is temporary.

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

None applicable.

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

The matters contained in the Coastal Policy are considered to be satisfied.

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

The application has identified the following potential impacts and mitigation measures.

- Disturbance of acid sulphate soils;
- Land, soil and water degradation;
- Diminution in downstream water quality;
- Potential inconvenience to road users;
- Potential impacts on property accesses;
- Changes to wetland hydrology.

**Mitigation measures**

- Substantial compliance with Council's codes, Development Control Plans and relevant environmental planning instruments;
- Compliance with the 7(a) zoned land Plan of Management;
- Implementation of the recommendations contained in the Flora and Fauna Report);
- Acoustically treating all motors and pumps to mitigate noise impacts;
- Limiting hours of operation for pumping of sand;
- Recycling of conveyance water to ensure that water table levels are not significantly reduced;
- Monitoring pipeline performance during the operational phase;
- Careful selection of the pipeline route to avoid the need to carryout clearing or excavation and to follow, where possible, existing tracks within the Kings Forest site;
- Locating the pipeline on an existing track and culvert within the State Environmental Planning Policy No. 14 and 7(a) areas to avoid impacting on wetland hydrology.

- Implementation of monitoring for water quality and acid sulphate soil presence during the operational phase.

### **Groundwater**

- The Department of Infrastructure, Planning and Natural Resources are requiring a management plan to be prepared prior to issuing of a licence. The applicants have demonstrated that groundwater issues can be adequately managed. A monitoring regime is proposed. The management plan will compliment the existing management plans for the SALT development and the proposed management plan for the Duranbah extraction site.

### **Noise Impact Assessment**

Two pumps will be utilised for the transportation of the material within the pipeline. One electric pump will be located at the quarry site and the other diesel pump will be located at the western end of Depot Road. This pump will be specifically silenced to reduce noise levels and will be installed in a sound proofed shipping container to provide extra noise shielding.

The placement of the pipe will occur during normal working hours being 7.00am to 5.00pm Monday to Saturday.

### **Sediment control**

It is expected that sediment control along the pipeline can be managed with conventional measures such as silt fences, bunds or turfing. Appropriate conditions can be placed on the consent.

### **Cudgen Creek Bridge**

The applicants propose to install the pipeline under Cudgen Creek Bridge. It will be located beneath the walkway panels. The applicants propose to hold the pipeline in place with straps that are connected to the bridge elements by either hold down bolts or epoxy adhesives. These connection details must be shown on the construction certificate and approved accordingly. An appropriate condition of consent will be drafted to address this matter.

### **Flooding**

The pipeline will be subject to flooding in two separate locations. The first location is the channel crossing immediately north of the pit. In this location the pipeline will be of steel construction and strengthened to ensure structural stability during flood flows.

The second location is in Kings Forest within SEPP 14 area. It is likely that this area will be subject to regular inundation however it is expected that the flooding will be shallow sheet flow with relatively low velocities. Consequently, the applicants advise that the pipeline will be held down with appropriate measures such as pre-cast concrete blocks and prevented from lateral movement with timber stakes.

It is considered that these measures are satisfactory to prevent movement of the pipeline under flood flows.

### **Road Reserve**

The Division of Engineering Operations has advised that they will be seeking some form of financial compensation for the placement of the pipeline within the public road reserve. This will be addressed with the S.138 application.

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

The various sites are considered suitable for the pipeline.

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

The application was exhibited in accordance with Regulations and 9 submissions were received.

The dominant issue raised in the submissions relates to the location of the pipeline along Casuarina Way in the Casuarina estate. The original proposal involved locating the pipe underground on the western side of Casuarina Way. Due to the construction of stage 6b of Casuarina the applicants have realigned the pipeline in this location to the western side of the allotments in stage 6b behind the existing fence. The amended location will not require the disturbance of any landscaping or infrastructure.

The submissions also raised the issue of the pipeline breaking. The applicants have made the following points regarding this issue. It should also be noted that a management plan regarding this issue has also been prepared.

- Electronic control devices will be installed at the pump heads that will, within seconds, shut down the pumps should there be a breakage in the pump line. The electronic controls operate on flows and pressures and instantly record any fluctuation in the pipeline and automatically trigger an immediate shut down sequence, hence substantially minimising any volume and water and sand that can flow from a breakage in the pipe. This is just as important to the pump and engine life cycle and maintenance as it is to ensure that any pipeline breakages are minimised.

- The proposed pipeline construction will be engineered using the highest standards of materials and couplings. This pumping process is not new and the relevant contractor and engineer have substantial expertise in this type of process, particularly Cardno MBK who have designed, managed and supervised major pumping operations throughout Southeast Queensland over many years, hence the likelihood of a break in the pipeline is extremely minimal and it should be remembered that sound engineering of the pipeline is something not only required by the authorities and the community but by the contractor himself as every breakage will delay the process and cause financial impact to the contractor for rectifying the problem.

Other issues raised regarding the size and duration of pumping have been discussed in previous sections of this report.

### **Government Authorities**

#### Department of Infrastructure, Planning and Natural Resources

The application is classified as integrated development as the proposal requires approvals under Part 5 of the Water Act. DIPNR have issued there terms and conditions for the proposal.

#### Department of Environment and Conservation

The DEC have requested that the Flora and Fauna report recommendations be applied as conditions of consent. The DEC have also recommended that koala crossings be provided at 50m intervals across the Kings Forest site and four koala underpasses be provided within the Kings forest site.

The DEC also recommend that a management plan for pipeline breakage be prepared. A plan has been prepared.

#### NSW Fisheries

NSW Fisheries raised no issues.

### **(e) Public interest**

It is considered that the proposal does not have any associated adverse public interest issues provided the management regime for construction and operation of the pipeline and pumping is carried.

### **OPTIONS:**

1. Approve the application as per the recommendation.
  2. Approve the application with an altered recommendation.
-

3. Refuse the application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicants have a right of appeal in the Land and Environment Court if they are dissatisfied with the determination.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

It is considered that the proposal is acceptable given the limited duration of the pipeline and that no vegetation is proposed to be removed for the placement of the pipeline and monitoring of groundwater and water quality is proposed.

**UNDER SEPARATE COVER:**

1. Site Plan
-



**4 [PE] Extinguishment of Various Restrictions on the Use of Land - Casuarina Beach Estate Stage 6B**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA02/0626 Pt4**

**SUMMARY OF REPORT:**

Various Restrictions have been created over large residual lots in previous stages of the Casuarina Beach Estate. As subsequent stages are developed, it is necessary to extinguish some Restrictions as they are not relevant to the new residential lots being created, with some Restrictions being re-created over the remaining residual parcel.

It is necessary to seek a resolution to execute and endorse the necessary documents for the extinguishment of four (4) Restrictions that were previously created but will now become defunct through the creation of replacement restrictions where necessary, or they are not relevant to the new residential lots being created.

**RECOMMENDATION:**

That: -

1. Council approves the extinguishment of the following Restrictions on the Use of Land as created over Lot 197 DP 1064327: -
  - (a) Restriction thirdly referred to on the plan – referring to access denial to the Coast Road;
  - (b) Restriction fourthly referred to on the plan – referring to retention of an acoustic bund;
  - (c) Restriction ninthly referred to on the plan – referring to roofwater from dwellings to be discharged via infiltration pits;
  - (d) Restriction tenthly referred to on the plan – referring to forbidden plant species and pet (dog and cat) requirements;
2. All necessary documentation be endorsed and executed under the common seal of Council.

**REPORT:**

**BACKGROUND:**

The current residential release of land within the Casuarina Beach (north) Estate that this report deals with is known as Stage 6B. It will create 26 residential lots along Casuarina Way, from a large residual lot of 17.29 ha (Lot 197 DP 1064327), and a former closed road of 8140m<sup>2</sup> (Lot1 DP 1042119). The residual lot has a minor frontage to the Coast Road on the south-western side. The 26 residential lots comprise approximately 10% of the overall site.

As a consequence of the registration of DP 1064327, being the previous plan of subdivision in this Estate, numerous Restrictions on the Use of Land were created over Lot 197.

**Proposal.**

Four (4) of the Restrictions created over Lot 197 are now required to be extinguished. The Restrictions and corresponding reasons for extinguishment and replacement action are addressed as follows;

- (a) Restriction thirdly referred to in DP 1064327:

“Direct vehicular access to and from the Coast Road from the lot burdened is prohibited other than from approved junctions”

- (b) Restriction fourthly referred to in DP 1064327:

“Alteration of the finished ground levels of the acoustical bund within 1 metre of the boundary of the lots burdened and the Coast Road is prohibited”

Both of the above Restrictions only relate to the south-western frontage of Lot 197 and are not relevant to the 26 residential lots being created. If not extinguished, these Restrictions will show up on the titles of the residential lots.

Both of the above Restrictions will be recreated over the resulting residual lot in this subdivision.

- (c) Restriction ninthly referred to in DP 1064327: this restriction requires roofwater from dwellings to be discharged via infiltration pits.

This Restriction is not repeated here as it will be replaced by a similar restriction which merely includes extra information that better addresses and clarifies how future owners are required to discharge their roofwater.

- (d) Restriction tenthly referred to in DP 1064327: this restriction nominates prohibited plant species, as well as dog and cat ownership requirements.

This restriction is nearly three pages long and is not necessary to be repeated here, as it will be recreated over the residential lots. The process of extinguishment and recreation is necessary in this instance as the residential lots all include part of the former closed road - Lot 1 DP 1042119 - which did not have any such restrictions originally imposed on it.

In all above instances, Council is the benefiting authority, and must consent to extinguishment or modification of the Restrictions.

It is now necessary to seek a resolution to execute and endorse the necessary documents, to enable the subdivision process to create the 26 new residential lots to be finalised.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**5 [PE] Social Plan 2005-2009 - Exhibition**

**ORIGIN:**

**Strategic Town Planning**

**SUMMARY OF REPORT:**

This report seeks Council endorsement for public exhibition of a new Social Plan for Tweed Shire for the period 2005-2009.

It describes the processes undertaken to prepare the Plan, including a community consultation exercise and a needs assessment, and the changes made to the previous Social Plan.

It describes the principal strategies and actions recommended in the Plan, particularly the Quality of Life Program.

**RECOMMENDATION:**

That Council endorses the draft Social Plan 2005-2009 for public exhibition for a period of 28 days, prior to its final adoption and forwarding to the Department of Local Government in November 2004.

## **REPORT:**

### **Background: Requirements of the Local Government Department:**

Since 1999 the Social Plan has been updated annually. Under the NSW Social Planning Regulations a Social Plan must be reviewed after 5 years, which falls in 2004. A programme to prepare a new Social Plan was therefore required this year.

The Department of Local Government has reviewed its 1998 Social Planning and Reporting Guidelines/Manual, which define the essential components of a Social Plan as:

- A demographic profile of the community,
- A human needs assessment using a participatory process,
- Identification of target groups, and the assessment of the needs of seven mandatory groups,
- Assessment of the effectiveness of the council's previous social/community plan in terms of implementation of recommended actions and community outcomes,
- A list of recommended actions to improve community well-being and to enable Council to choose priority activities.

The primary purpose of the Social Plan is to provide Council with a list of recommended actions to improve community well-being, so that it can choose priority activities to be included in the Management Plan.

### **Preparation of the Social Plan**

#### **Work Programme**

To meet the requirements for a new Social Plan the following processes were undertaken:

- A review of the consultation carried out from October 03 to March 04 for the Tweed Futures 04/24 Strategic Plan. This had a broad scope, but included many social issues, and did not need to be repeated in a similar Social Plan exercise,
- A review of the eleven Community Development Plan Issue Papers on various social groups prepared between 1999 and 2001,
- A review of the previous annual Social Plan Updates,
- Social planning input to the Management Plan Review during February 04, to present the 2003 Social Plan priorities for consideration,

- Preparation of a current Needs Assessment for each of the 7 mandatory social groups specified in the Department of Local Government Guidelines, plus Affordable Housing and Community Transport (see Attachment 1 to the Draft Social Plan). For each group the Assessment included summary demographics, telephone survey opinions and quotations, current issues affecting the group, conclusions about wellbeing of the group, suggested social indicators, comment on integration with other plans, and implications for sustainability,
- Condensation of the Needs Assessments into an Issues Statement for circulation to 85 community organisations and human services agencies, for further feedback on priority issues,
- Engagement of a consultant to update the 1999 Tweed Shire Community Profile to include 2001 ABS Census and other more recent data,
- Production of a First Draft Social Plan by July 04, and further drafts for consideration at EMT on 18 August, 01 and 22 September,
- Council adoption of the draft Social Plan on 6 October will allow exhibition from 8 October to 5 November, for submission to Department of Local Government later that month.

## **Principal Features of the Plan**

### **Plan Structure**

The new Social Plan builds on the earlier social plans, which were organised as four Strategies dealing with:

Community Planning  
Community Facilities  
Community Services  
Community Groups

Each Strategy includes a range of projects and actions for Council consideration, and recommendations for priorities to improve community well-being in the Shire. The Strategies are supported by the Needs Assessments (Attachment 1), a demographic summary, and discussion of Council's role in building social capital in the community. There is one addition, a quality of life program to incorporate a package of projects over the five year period.

### **The Quality of Life Program**

Council will develop and execute an enhanced 'Quality of Life Program'. It has highlighted quality of life strategies as its response to the community Needs Assessment. It will incorporate some existing activities and programs, and a range of new activities in the area of community support and cultural activities and events, aimed at community capacity building.

These will be funded through a mixture of grants, S94 contributions and a general rates package of 'Quality of Life' projects. Thus for example, existing libraries, art gallery, museums and local halls will be promoted and funded to expand their roles in the community, while a new program of community services and facilities for particular groups could be formulated to expand community resources in caring for these groups over the five year period.

The Social Plan Strategies for 2004-2009 will allow for the evolution of this 'Quality of Life Program' as partnerships are formed and resources to implement it are identified and targeted. Most are not yet at the stage of funding commitment. Examples of specific projects include an Older Persons Housing Policy, support for Services for Children with Disabilities, a Neighbour Aid Scheme, and Youth Club initiatives.

**Headline Initiatives include measures to:**

- Initiate a Quality of Life Program to maintain service levels for the community,
- Encourage social participation and development of young people,
- Place young adults in permanent employment, especially by promoting locally owned enterprise,
- Increase capacity for care of the frail aged, including respite, appropriate housing arrangements and improved accessibility,
- Develop tertiary education and training resources in the Shire,
- Increase the capacity of human and health services, and coordinate their delivery in the community,
- Promote affordable housing, sustainable active transport and mixed-use local centres in new urban neighbourhoods,
- Establish a long-term funding program for community facilities.

Further details are set out in the draft Social Plan attached with this report.

**Financial Implications**

EMT and Council will determine which community projects and actions, and any associated costs, are included in the 2005-2009 Management Plans to implement the Quality of Life Program.

Strategic Planning budget has provided for the cost of a consultant to update the Community Profile.

There will be minor costs associated with holding consultations and forums.

**Conclusions**

The proposed draft Social Plan will establish a more effective and integrated process to plan for the future wellbeing, facility requirements and human service needs of the growing Shire community.



The Social Plan needs to be exhibited for a period of 28 days to allow for community feedback, prior to adoption of a final Plan for submission to the Minister for Local Government.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

1. Tweed Shire Council Social Plan 2005-2009
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**6 [PE] Amendment to Development Control Plan No 40 - Exempt and Complying Development, and Tweed Local Environmental Plan 2000, Amendment No 41**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/LEP/2000/41 Pt1; GT1/DCP/40 Pt2**

**SUMMARY OF REPORT:**

At its Ordinary meeting of 17 December 2003, Council resolved to amend and exhibit Development Control Plan No 40 – Exempt and Complying Development (Version 3). At this meeting Council also resolved to exhibit LEP Amendment No 41 which proposes to amend the new date Council will adopt Development Control Plan No 40. Both documents were publicly exhibited.

**Draft Development Control Plan No 40 and Draft LEP Amendment No 41**

Draft DCP 40 and draft LEP Amendment No 41 were exhibited between 30 June 2004 and 28 July 2004. Between the date of Council's resolution of 17 December 2003 and the exhibition of the draft DCP there were a number of further minor changes to the document that were included in the exhibited document. These changes are highlighted in this report.

There was only one response to draft DCP 40 and the suggested change has been added into the document.

It should be noted that recent changes in legislation require changes to the standard Complying Development conditions, and these were not included in the exhibited document. In this regard it is considered that as these changes purely reflect the current legislation they cannot be challenged and therefore it would be unnecessary to re-exhibit these particular changes.

All the above amendments are highlighted in bold and strikethrough in the attached Draft DCP 40.

**RECOMMENDATION:**

That Council:

1. Adopts the amended exhibited Development Control Plan No 40 – Exempt and Complying Development.

2. Gives public notice in the Tweed Link of its decision in accordance with the Environmental Planning and Assessment Regulations 2000, specifying that the amended Development Control Plan comes into effect on the date of the notice.
3. Adopts the amendment to Tweed LEP 2000 (Amendment No 41), with the amendment referring only to the date of adoption of the amended exhibited DCP 40 by Council.
4. Forwards the draft LEP 2000, Amendment No 41, to the Department of Infrastructure, Planning and Natural Resources and requests the Minister to make the Plan in accordance with Section 70 of the Environmental Planning and Assessment Act 1979.
5. Amends the Complying Development conditions without further exhibition to reflect the current changes in legislation.

## REPORT:

At its Ordinary meeting of 17 December 2003, Council resolved to amend and exhibit Development Control Plan No 40 – Exempt and Complying Development (Version 3). At this meeting Council also resolved to exhibit LEP Amendment No 41 which proposes to amend the new date Council will adopt Development Control Plan No 40. Both documents were publicly exhibited.

### Draft Development Control Plan No 40

Draft DCP 40 was exhibited between 30 June 2004 and 28 July 2004. Between the date of Council's resolution of 17 December 2003 and the exhibition of the draft DCP there were a number of further minor changes to the document that were included in the exhibited document. These additional amendments are highlighted below in bold:-

- In Paragraph 3.3 When can a complying Development Certificate be issued?

A Complying Development Certificate may be issued by either Council or an accredited private certifier provided the proposal meets the requirements set out in subclause 3.1 and includes the relevant conditions in subclause 3.2 and that:

(a) is not subject to a provision in Parts 5, 6, 7, or 8 of Tweed Local Environmental Plan 2000 that prohibits the development, requires the Council's consent or requires the Council to be satisfied as to certain **(development greater than 30m from designated road frontages not requiring new road access are deemed not to be subject to Part 5 provisions)**

(b) the portion of the allotment on which the proposal is to stand is not on land that:

(viii) is identified as being below the 1:100 year flood level unless the proposed development is contained within an existing building, contaminated, within a buffer area, subject to subsidence, slip or erosion or in an area having significant bushfire risk as identified in the Rural Fires and Environmental Assessment Legislation Amendment Act 2002 **(swimming pools are not subject to the restriction relating to bushfire risk)**

- In Schedule 1 – Exempt Development Requirements

Bushfire Hazard Reduction

#### In any zone if

**carried out for, or on behalf of, the Council and in accordance with the documents 'Planning for Bushfire Protection, NSW Fire Service'**

The following exempt developments into Schedule 1:

- **Footpaths/cycleways on public land up to 2.0m wide**
- **Maintenance of Council controlled flood gates**
- **Maintenance of water quality control ponds and drainage channels**
- **Maintenance of water quality management devices**
- **Pedestrian barriers fences (on public roads) for, or on behalf of, Council**
- **Vehicular access tracks to public infrastructure**

### **Public Submission**

The only submission from the public proposes the following:

- New sub-clause (i) to be added to Clause 2.2 (which lists circumstances in which exempt development provisions do not apply):
  - development which constitutes a 'controlled activity' pursuant to the *Airports Act* for which approval is required under the *Airports (Protection of Airspace) Regulations*.
- New sub-clause (d) to be added to Clause 3.3 (which lists circumstances in which a Complying Development certificate may be issued):
  - is not development which constitutes a 'controlled activity' pursuant to the *Airports Act* for which approval is required under the *Airports (Protection of Airspace) Regulations*.

The aim of these clauses is to highlight development that may project into prescribed airspace or create other prescribed hazards so that this type of development will be brought to the attention of Council. This addition is supported by Council officers and has been included into the draft DCP.

As the amendments to DCP 40 are only minor; the only Government agency notified for comment was NSW Rural Fire Service in relation to the additional clause on Bushfire Hazard Reduction. No comments were received.

As indicated in the Summary several of the current conditions of consent now also require amending due to the recent changes in legislation resulting from recommendations of the Joint Select Parliamentary Inquiry into the Quality of Buildings.

It is considered that as these changes purely relate to conditions that reflect the now current legislation and cannot be challenged that the changes could be adopted without further exhibition.

All the above amendments are highlighted in bold in the attached draft DCP 40.

## **Draft Tweed Local Environmental Plan 2000, Amendment No 41**

Draft LEP No 41 was exhibited between 30 June 2004 and 28 July 2004. No comments were received from the public regarding this Amendment. It is recommended that the proposed LEP Amendment, which proposes to only reflect the adoption date for DCP 40, can be forwarded to the Minister Assisting the Minister for Infrastructure, Planning and Natural Resources.

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

Nil.

### **POLICY IMPLICATIONS:**

Amendment to DCP 40 will require a change of Council policy on Exempt and Complying Development.

### **UNDER SEPARATE COVER:**

1. Draft Development Control Plan No 40 - Exempt and Complying Development.
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**7 [PE] Northern Rivers Farmland Protection Project**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/LEP/2000/42**

**SUMMARY OF REPORT:**

The Northern Rivers Farmland Protection Project was placed on public exhibition during September 2004. This culminates in the Project's second consultation phase. The Project seeks to protect important farmland from development pressures to keep farming options open for the future. Significant farmland is mapped as State and Regionally significant lands. Urban and rural residential development is intended to be restricted from areas identified as State or Regionally significant farmland.

**RECOMMENDATION:**

That this report be received and noted.

## **REPORT:**

The Northern Rivers Farmland Protection Project was exhibited during September 2004. This culminates in the Project's second consultation phase. The Project seeks to protect important farmland from development pressures to keep farming options open for the future. Significant farmland is mapped as State and Regionally significant lands. Urban and rural residential development is intended to be restricted from areas identified as State or Regionally significant farmland.

### **Background**

The Farmland Protection Project Maps were previously exhibited during May/June 2003. Since then the maps have been amended slightly. The changes to the mapping include:

- Locally significant farmlands have been deleted from the mapping, concentrating primarily on State and Regionally significant lands.
- Mapping eliminating land already zoned for urban purposes throughout the Shire.
- Some minor changes as a result of submissions received during the first period of exhibition from local Councils, farming organisations and the general public.

### **Implications**

The most significant implications of the proposed planning rules intended to be implemented through the Farmland Protection Project include:

1. Urban and Rural Residential rezoning would only be considered on State significant farmland if it has already been included in an existing settlement strategy as of December 2004.
2. Rural Residential rezoning would only be considered on regionally significant farmland if it is included in an existing Council Settlement Strategy.
3. Regionally significant farmland could be earmarked for urban development in a future Strategy only under restricted circumstances.
4. Industrial development would only be considered on regionally significant farmland under restricted circumstances.
5. Public infrastructure would be allowed in State and Regionally significant land if there are no suitable alternatives.

The two most significant implications for Council relate to its Settlement Strategies (Urban Residential and Rural). The planning measures to be implemented propose to exclude urban residential strategies that are more than 10 years old. Council's Residential Development Strategy was adopted in 1991. Hence, areas identified within Council's Strategy as potential future urban release areas that have been identified as State Significant Farmland by the Project would no longer be considered for future urban investigation.

Council does not currently have a Rural Settlement Strategy in force. The Farmland Protection Project stipulates that rural residential development would only be considered on land identified as Regionally Significant Farmland, if it is included within a Rural Settlement Strategy adopted by December 2004. As it is not envisaged that Council will have a Rural Settlement Strategy in place by 2004 all Regionally Significant Farmland identified by the Project within the Shire will be excluded from future rural residential considerations/investigations.

### **Implementation**

It is proposed to implement the Farmland Protection Project through State and Local Governments. It is expected that the broader objectives of the Project would be implemented through State Legislation such as the North Coast Regional Environmental Plan. Local Government Authorities would protect significant farmlands through the zonings within their LEPs in accordance with the REP objectives. Correspondingly, development applications would be assessed in accordance with relevant REP and LEP provisions.

### **Mapping**

The Northern Rivers Farmland Protection Project mapping is based on Soils Landscape mapping undertaken at a scale of 1:100,000. This is a very broad scale upon which to delineate significant farmland in the locality. The documentation accompanying the maps states that Councils would be expected to "protect state and regionally significant farmland in their local environmental plans". Mapping based on data of a scale 1:100,000 is not considered to be an appropriate scale to delineate agricultural protection zones in a local environmental plan. The accepted map scale for coastal Councils is 1:25,000 or larger (ie, 1:10,000). Therefore, the accuracy of the mapping for the delineation of agricultural protection zones in TLEP 2000 is of concern and not considered practical or acceptable. Council is aware of better mapping at a more appropriate scale undertaken in the past by NSW Agriculture (1998 Agricultural Suitability documentation and Agricultural Land Classification Maps). Although the scale of these were marginally useful for an LEP map, the scale of their mapping is considered more relevant for producing LEP maps than maps produced for the Farmland Protection Project.

## **Analysis**

The Northern Rivers Farmland Protection Project is based on soils landscape mapping and is targeted toward identifying and protecting prime agricultural land considered to be state or regionally significant. Although the objectives of the project are acknowledged, it is considered that farmland and farming practices/operations are not solely one dimensional. Soils analysis is certainly an important element of the farming industry the project is trying to protect, however it is considered that there are also social, environmental and economic considerations that need to be addressed to ensure a holistic and sustainable approach is undertaken and implemented to properly deal with the farming industry. Social, environmental and economic issues do not appear to have been considered and addressed thoroughly during the course of this project and this is considered to be a significant shortfall of the project.

## **Conclusion**

The intent and objectives of the Northern Rivers Farmland Protection Project are supported. Significant farmland throughout the Shire and the Region is a valuable resource and should be protected. However, this report has highlighted a number of shortfalls of the project, and it is considered these need to be addressed to ensure a comprehensive and holistic strategy is implemented. The scale of mapping utilised for the project is of concern, especially when attempting to apply it at an LEP level through relevant zoning designations. Also, it is considered the project would benefit from a holistic approach that also addresses social, environmental and economic concerns of the farming industry.

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

Nil.

## **POLICY IMPLICATIONS:**

Nil.

## **UNDER SEPARATE COVER:**

Nil.

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

**8 [OGM] First Round Donations 2004/2005**

**ORIGIN:**

**Administration Services**

**SUMMARY OF REPORT:**

The Working Group met on Friday, 24 September 2004 to allocate the donations as resolved by Council at its meeting of 1 September 2004.

**RECOMMENDATION:**

That the following donations be made to the various organisations for the amounts as stated:

Burringbar School of Arts	\$1,000.00
Burringbar Village Arts Centre	\$500.00
Caldera Environment Centre Inc.	\$1,000.00
Kids in Need	\$1,500.00
Murwillumbah Musicians Club	\$1,000.00
Pottsville Community Association Inc.	\$450.00
Tweed Combined Country Halls Association Inc.	\$1,000.00
Tweed District Safety House	\$1,500.00
Tweed Parkinson Support Group	\$500.00
Twin Towns & District Garden Club Inc.	\$410.00
Tyalgum Literary Institute	\$1,000.00
Uki Village & District Residents Associations Inc.	\$700.00
<b>TOTAL</b>	<b>\$10,560.00</b>

**REPORT:**

Council at its meeting of 1 September 2004 resolved to form a Working Group of Councillors Bell and Carroll and the Acting General Manager to bring forward to Council a recommendation on the allocation of funds to applicants.

The Working Group met on Friday, 24 September 2004 in response to the resolution. It was decided by the Working Group that applications that fell within the following criteria would not be eligible for a donation:

- Preschools.
- Priority to organisations that have no other source of funding from – State, Council, Local Businesses eg. Registered Clubs.
- Low priority where previous In-Kind/Cash support from Council.
- Elimination of Service Clubs – ability to raise their own funds.
- Elimination of funding to Council owned assets.
- Churches/Religious based Groups.
- Other Government agency functions.
- Residents Associations.
- Sporting Groups.

Based upon this criteria it is recommended that the following donations be made:

Burringbar School of Arts	\$1,000.00
Burringbar Village Arts Centre	\$500.00
Caldera Environment Centre Inc.	\$1,000.00
Kids in Need	\$1,500.00
Murwillumbah Musicians Club	\$1,000.00
Pottsville Community Association Inc.	\$450.00
Tweed Combined Country Halls Association Inc.	\$1,000.00
Tweed District Safety House	\$1,500.00

Tweed Parkinson Support Group	\$500.00
Twin Towns & District Garden Club Inc.	\$410.00
Tyalgum Literary Institute	\$1,000.00
Uki Village & District Residents Associations Inc.	\$700.00
<b>TOTAL</b>	<b>\$10,560.00</b>

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**9 [OGM] Review of Council's Festivals Policy**

**ORIGIN:**

**Administration Services**

**SUMMARY OF REPORT:**

A Workshop was held on Wednesday, 22 September 2004, to allow Councillors to review Council's Festivals Policy. Suggestions arising from the Workshop have been incorporated into this report and the information is presented for consideration in the implementation of a policy for future festival funding.

**RECOMMENDATION:**

That Council determines this report.

## REPORT:

Following the Workshop held on Wednesday, 22 September 2004, which reviewed the current Festivals Policy, suggestions were put forward by Councillors and are now presented to be considered in the implementation of a policy for future festival funding.

The current policy (adopted 21 April 1999) is reproduced following with the proposed amendments from Cr B Carroll appearing in ***Bold Italics*** directly underneath the relevant clauses:-

### INTRODUCTION

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

#### ***INTRODUCTION***

***Tweed Shire Council recognises the need to assist non-profit community groups and organisations which are interested in conducting festivals which enhance the well being and community participation of residents and the Shire.***

### FUNDING GUIDELINES

- a. Programs will not be funded retrospectively.
- b. Only one application per community group/individual will be considered per year.

***b. Only one application per community group/organisation will be considered per year.***

- c. Festivals must be held within 12 months of funding.

***c. Festivals must be held within twelve (12) months of funding allocation.***

### POLICY - FINANCIAL ASSISTANCE FOR FESTIVALS - SECTION 356 OF THE LOCAL GOVERNMENT ACT

**Objective:**

1. To encourage openness and fairness in the allocation of Council funds for the promotion of the Shire through the support of festivals. And also to ensure that all interested parties are aware that there are budgetary allocations made each year within Council for the promotion of the Shire through festivals.
2. To enhance the cultural life of the Shire and allow a forum for local artists and crafts people to showcase their talents.

***To encourage openness and fairness in the allocation of Council funds for the promotion of the Shire through the support of festivals.***

***To ensure that the capacity for groups and organisation to apply for this funding is widely promoted with adequate time for applications to be prepared.***

**Section Responsible:** Corporate Services

**Eligibility:**

Non - profit organisations and individuals who can adequately demonstrate that their proposed festival will promote tourism, cultural benefits, community development and economic activities within the Tweed Shire through the proposed festival.

**Policy:**

1. Council will provide an estimate allocation to a festivals program in future Management Plans/Budgets.
2. Council will advertise that it has made an allocation and invite applications twice a year for grant funds under Section 356 of the Local Government Act (1993) NSW - 70% of funds allocated to first round application and 30% to second round application.
3. The applications will be submitted on a standard form available from Council.
4. Each application will provide a Plan of Management outlining the following;
  - The festival's objectives
  - The festival's theme and content;
  - Projected benefits for residents and businesses;
  - Amenity and traffic impacts, including noise, lighting, parking, public transport and altered traffic flows;
  - Any potential conflict of interest arising from the festival sponsors and organisers;
  - Sources of the festivals funding including in-kind contributions;
  - Proposed distribution of any surplus arising from the festival.

5. Applications for funding of festivals for amounts less than \$250 should be applied for as a donation under Tweed Shire Council's Donation Policy.

**5. Non profit groups/organisations.**

6. Council will receive all first round applications prior to end of August and second round prior to end of February and Council officers to prioritise applications in accordance with the applicant's ability to meet criteria for eligibility to prepare a report to Council etc for Council's determination in accordance with budget allocations for festivals before 30 March (first round) and 30 September (second round) for Council's determination in accordance with budget allocations for festivals.

**6. Council will receive all first round applications prior to the end of August and second round prior to the end of February.**

**Council officers will prioritise applications in accordance with the applicant's ability to meet criteria for eligibility.**

**A Report will be prepared for Council's determination in accordance with budget allocations for festivals before February.**

7. When considering these applications Council will give due consideration to the number of festivals held in each of the Shire's urban/rural locations.
8. Council will advise all applicants of the outcome of their applications and payment will be made upon commencement of the festivals activities/cost incursion.
9. A recipient of a donation must report to Council and account for donation expenditure on or before the date which is two months after expenditure of the donation, or which on or before the date which is two months after expenditure of the donation, or which is two months after completion of the activity for which the donation was sought. A recipient shall also provide a statement identifying any surplus or loss resulting from the activity for which a donation or in kind assistance was received from Council.

Any loss, retention or distribution of a surplus will be taken into account by Council in consideration of any subsequent requests by the recipient for donations or assistance.

**9. The recipient of the festival's grant must report to Council within three months after the conclusion of the festival as follows:-**

- **provision of an income/expenditure statement accounting for all funds received and expended on festival activities and identifying any surplus or loss**

- a report outlining the outcomes of the festival in regard to its stated objective
  - the proposed due date for the required reports will be included in the application and the recipient will notify Council if it needs an extension of time by that due date. Non-compliance with reporting requirements will result in exemption from consideration in ensuing rounds.
10. Tweed Shire Council's Public Funding Accountability Policy is to be implemented for effectively managing the accountability of Council publicly funding bodies. The funds are not to be used for a social activity for members of the organisation exclusively.
11. In the Annual Report Council will publish a list of the amounts and recipients of festival grants which have been made. It will also report that Council keeps a register of in-kind support including donation back of charges and reduction or waiting or headwork charges.
12. Council is to be acknowledged as a sponsoring body through all publicity used to promote the festival.

### **Current Festivals Application Form**

Before completing this application, please ensure the attached Policy on Financial Assistance for Festivals has been read and understood to ensure that the application will receive full consideration by Council. If you have any enquiries please phone Maree Morgan on (02) 6670 2471.

Applications are to be posted to Tweed Shire Council, PO Box 816, Murwillumbah 2484 or faxed on (02) 6670 2483.

Name of Organisation:	
Address:	
Contact Person:	
Position:	
Phone No:	

Are you a non-profit organisation?                      Yes / No  
Are you GST registered?                                      Yes / No

**PART A**

**APPLICATION FOR FINANCIAL ASSISTANCE**

1. Amount Requested        \$\_\_\_\_\_

2. Details of Festival objectives, theme and content:

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3. Projected benefits for residents and businesses:

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4. Outline the effect that the Festival will have on the amenity and traffic impacts, including noise, parking, public transport and altered traffic flows:

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5. Is there any potential conflict of interest arising from the Festival sponsors and organisers?

Yes / No

If yes, what are potential conflicts?:

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6. Sources of the Festivals funding, including in-kind contributions:

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7. Proposed distribution of any surplus funds arising from the Festival:

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8. Details of your organisation/individual membership current activities:

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9. Does your organisation have a provision in its Articles of Association for distribution of funds to another group or entity in the event the applicant entity is wound up?

Yes/No

If Yes, state the name of such group or entity:

10. Any additional information that you consider would assist your application:

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#### **APPLICATION CRITERIA**

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

**Proposed Application form (submitted by Councillor John Murray)**

***Festival Funding Application***

**1 Organisation requesting funding**

*Name of Organisation*

*Address*

*President*

*Date of last AGM*

*Has the proposed event been sanctioned by resolution within your organisation?*

*Yes / No      If Yes, date of resolution*

*Is this organisation registered for GST?*

*Level of funding requested \$      Estimated total cost of Event \$*

*Is this the first time funding has been requested for this event?*

**2 Proposed Event**

*Proposed Name of Event*

*Business Name Registration Number*

*Proposed start date of event                      Time*

*Proposed end date of event                      Time*

*Details of Festival theme, objectives & content*

*Projected benefits for the community, businesses, etc*

*Brief summary on the possible or known effects on the local amenity and traffic impacts including noise, parking, public transport, pedestrian flows, altered traffic flows, negative impact on existing businesses, etc.*

*(Note 1 - a more details report may be required)*

*(Note 2 - minimum lodgement period may be required eg road closures)*

*Provide a critical path timeline (lodgement dates, public notices, etc)*

*Provide details on recourse procedures (complaints)*

*Provide details of Public Liability Insurance details*



*Name of Insurer*                      *Policy Number*

*List Events & specific \$ coverage*

**3**    ***Event Organiser Details***

*Name of Event Organiser*

*Phone (Mob)*                      *(Bus)*                      *(A/H)*

*Qualifications / past history with event management*

*Details of Events Risk Management Courses undertaken*

**4**    ***Financial***

*Provide a proposed budget covering the event.*

*Provide a list of proposed in-kind Sponsors and \$ amounts*

*Does the event have minimum safeguards for financial control (cash handling, dual signatures for cheques, etc)?*

*Will the event be able to meet minimum reporting requirements back to Council (certified Profit & Loss statement within 3 months of the event being held)?*

*Creditor payment performance &/or reporting standards?*

*Provide details on where event surplus may be directed i.e. charity etc (Please nominate)*

*Who will underwrite the event in the case of a loss?*

*First Round Festival Funding Application*                      *Yes / No*  
*Must be received by end of August*

*Second Round of Festival Funding*                      *Yes / No*  
*Must be received by end of February*

*Will this be a recurring request*                      *Yes / No*

*(Ongoing reporting required with regards financial statements, complaints received, outstanding creditors summary, budgets, surplus details, etc)*

### **Supplementary Notes**

- 1 *Where road closures or alterations to traffic required the minimum processing period shall be (2) months before the intended start date of the event.*
- 2 *Where an event is recurring a statement must be made with regards payment of creditors. Outstanding payments should be declared with reasons given for non payment*
- 3 *Where there is significant disruption to businesses or residents through road closures, noise, loss of normal lifestyle, etc public notices should be made with allowances made for feedback and appropriate action to be taken. These notices should occur no less than 30 days prior to the event for residents and 45 days before the event for businesses*
- 4 *A summary report should be given to Council on the outcome of the event within 3 months of the event being held. With recurring events a summary should also list areas for improvement etc.*
- 5 *Comprehensive budget to be supplied with the application for the proposed event*
- 6 *Certified P &L required to be furnished to Council within (3) months of the event being held.*
- 7 *For recurring events, a statement to be provided on the previous year with regards outstanding creditor payments including why payments withheld.*
- 8 *For recurring events, a statement to be provided on the previous years log of complaints, follow up and action to remedy future events.*
- 9 *A timeline to be provided for those events deemed to have significant impact on residents and / or businesses showing planned dates for lodgement of public notices, lodgement of traffic plans, community consultation, etc*

The above information is presented for Council's determination of the Festivals Policy.

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

Funding for festivals is allocated in Council's budget.

### **POLICY IMPLICATIONS:**

Should the current policy be amended, the new policy will be implemented for second round 2004/2005.

### **UNDER SEPARATE COVER:**

Nil.

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**10 [OGM] Pecuniary Interest Returns and Register**

**ORIGIN:**

**Administration Services**

**SUMMARY OF REPORT:**

The Pecuniary Interest Returns for the period 1 July 2003-30 June 2004 are tabled in accordance with Sections 449 and 450A of the Local Government Act 1993.

**RECOMMENDATION:**

That this report be received and noted.

**REPORT:**

Section 449 of the Local Government Act 1993 requires the General Manager to obtain returns disclosing interest of councillors and designated persons.

Section 450(a)(2) of the Local Government Act 1993 requires the General Manager to table such returns at the first meeting of Council held after the last day for lodgement of the returns, that date being 30 September 2004.

The returns relate to the period 1 July 2003-30 June 2004 and are available for inspection by members of the public.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS

### 11 [EO] River Foreshore - Chinderah

#### ORIGIN:

Recreation Services

#### SUMMARY OF REPORT:

At its meeting held 15 September 2004 Council resolved:

*"That a report be prepared on possible ways to beautify and enhance the river foreshore at Chinderah."*

Council has recently advertised for the position of Landscape Architect within the Engineering and Operations Division. It is recommended the requested report be bought forward after the appointment of a landscape architect

#### RECOMMENDATION:

That the requested report on possible ways to beautify and enhance the river foreshore at Chinderah be bought forward after the appointment of a landscape architect.

**REPORT:**

As per Summary of Report.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**12 [EO] Lease and Licence Agreements - Peninsula Street, Cudgera Creek, Hastings Point**

**ORIGIN:**

**Design**

**FILE NO: DA1180/425 Pt2**

**SUMMARY OF REPORT:**

Pursuant to a Development Application lodged by Tweed Coast Sea Rescue Inc. for a storage and launching facility in Peninsula Street Hastings Point, Council's Notice of Determination dated 11 November 2003 stated interalia:-

*"Pursuant to Section 81(1)(a) of the Act, notice is hereby given of the determination by the Tweed Shire Council of Development Application No.0689/2000DA relating to the land described as ROAD 4210 Peninsula Street Hastings Point to be developed in accordance with plans and details submitted for the purpose of Storage and launching facility for Tweed Coast Sea Rescue Squad".*

Prior to entering into a Licence Agreement with Tweed Coast Sea Rescue Inc (ABN 28 807 466 438) consideration needs to be given to the term of licence and licence fee.

**RECOMMENDATION:**

That:-

1. Council enters into a Licence Agreement with Tweed Coast Sea Rescue Inc, to operate a storage and launching facility for the 5 year Licence Period for a \$1 per annum nominal Licence Fee from Peninsula Street adjacent to Cudgera Creek at Hastings Point.
2. All necessary documentation be executed and endorsed under the Common Seal of Council.

**REPORT:**

Pursuant to a Development Application lodged by Tweed Coast Sea Rescue Inc. for a storage and launching facility in Peninsula Street Hastings Point, Council's Notice of Determination dated 11 November 2003 stated interalia:-

*"Pursuant to Section 81(1)(a) of the Act, notice is hereby given of the determination by the Tweed Shire Council of Development Application No.0689/2000DA relating to the land described as ROAD 4210 Peninsula Street Hastings Point to be developed in accordance with plans and details submitted for the purpose of Storage and launching facility for Tweed Coast Sea Rescue Squad".*

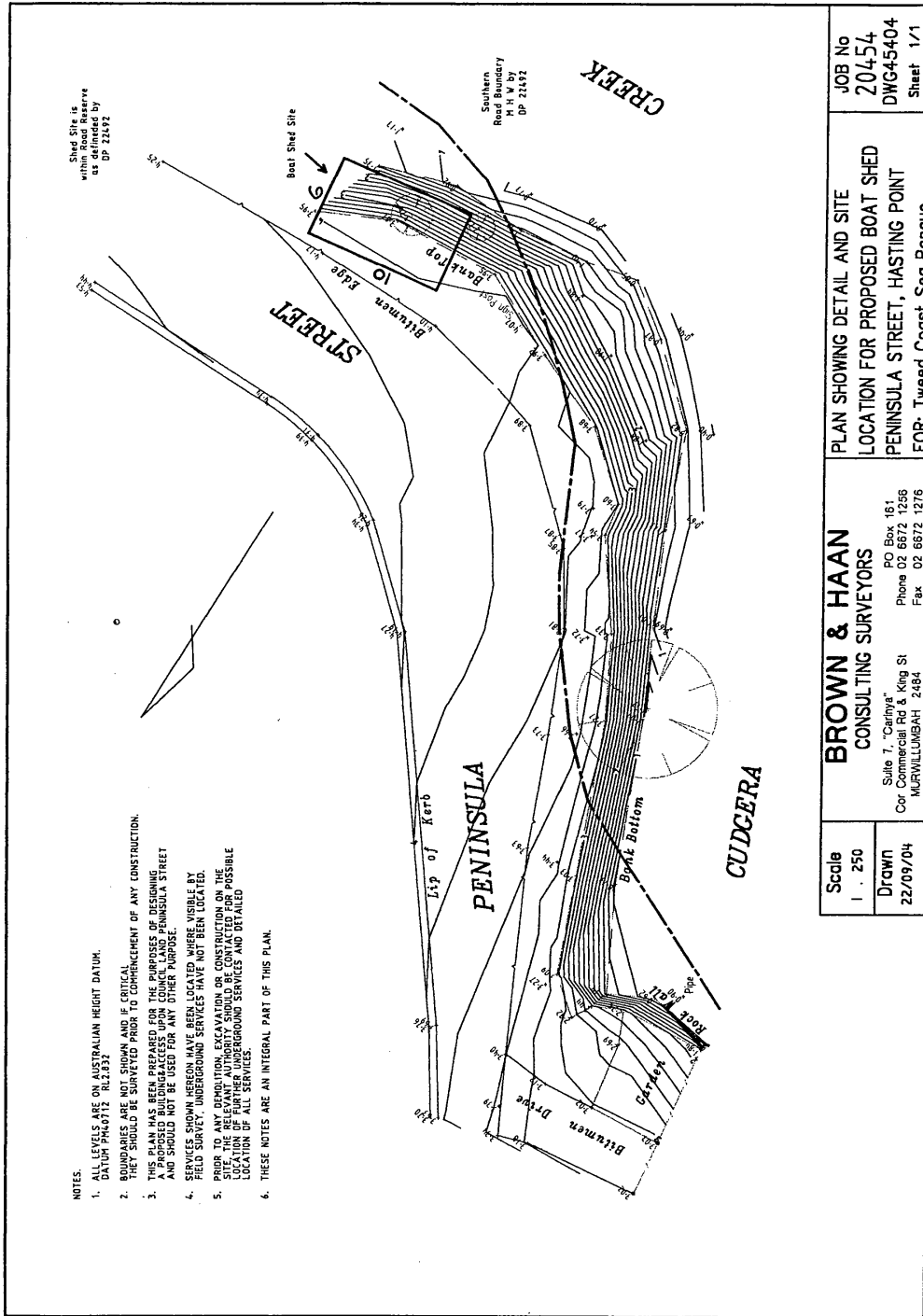
Prior to entering into a Licence Agreement with Tweed Coast Sea Rescue Inc (ABN 28 807 466 438) consideration needs to be given to the term of the licence and licence fee. It is proposed that the following apply to this licensed area:-

Term of licence: Five (5) years with an option of renewal for a further five (5) year period. Upon determination of the initial period and exercising of the option, a further option of renewal for a five (5) year period.

Licence fee: A nominal figure of \$1.00 per annum has been suggested.



A copy of the survey plan for the Licensed Area follows:-



- NOTES:
1. ALL LEVELS ARE ON AUSTRALIAN HEIGHT DATUM.
  2. BOUNDARIES ARE NOT SHOWN AND IF CRITICAL THEY SHOULD BE SURVEYED PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION.
  3. THIS PLAN HAS BEEN PREPARED FOR THE PURPOSES OF DESIGNING A PROPOSED BUILDING/ACCESS UPON COUNCIL LAND PENINSULA STREET AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE.
  4. SERVICES SHOWN HEREON HAVE BEEN LOCATED WHERE VISIBLE BY FIELD SURVEY. UNDERGROUND SERVICES HAVE NOT BEEN LOCATED.
  5. PRIOR TO ANY DEMOLITION, EXCAVATION OR CONSTRUCTION ON THE PENINSULA STREET SITE, THE LOCATION OF ALL POSSIBLE SERVICES AND THEIR LOCATION OF ALL SERVICES.
  6. THESE NOTES ARE AN INTEGRAL PART OF THIS PLAN.

<p><b>BROWN &amp; HAAN</b> CONSULTING SURVEYORS</p> <p>Suite 7, "Cairnya" Cor Commercial Rd &amp; King St MURWILLUMBAH 2484</p> <p>PO Box 161 Phone 02 6672 1256 Fax 02 6672 1276</p>		<p>JOB No <b>20454</b> DWG45404 Sheet 1/1</p>
<p>Scale 1 : 250</p>	<p>PLAN SHOWING DETAIL AND SITE LOCATION FOR PROPOSED BOAT SHED PENINSULA STREET, HASTING POINT FOR: Tweed Coast Sea Rescue</p>	
<p>Drawn 22/09/04</p>		

A copy of the proposed License Agreement follows:-

## LICENCE AGREEMENT

**BETWEEN:** THE COUNCIL OF THE SHIRE OF  
TWEED ("Licensor")

**AND:** TWEED COAST SEA RESCUE INC.  
ABN 28 807 466 438 ("Licensee")



3. The Licensee agrees that there shall be no additional construction of buildings on the Licensed Area without the prior written consent of the Licensor which consent may be withheld by the Licensor in its absolute discretion.
4. The Licensee will yield up the Licensed Area with the fixtures fittings and additions thereto at the expiration or earlier determination of this Agreement in good and substantial repair and condition PROVIDED THAT the Licensee will be entitled to remove from the Licensed Area such fixtures fittings and additions as are the property of the Licensee.
5. The Licensee shall not use nor permit to be used the Licensed Area or any part of it for any purpose other than as a storage and launching facility and shall at all times duly and punctually comply with and observe all regulations statutory or otherwise made by any competent authority, including the Maritime Services Board, relating to or affecting the sea rescue facilities.
6. The Licensee shall insure and keep insured the Licensor and the Licensee with a recognised insurance company against public risk liability for an amount of not less than FIVE MILLION DOLLARS (\$5,000,000).
7. The Licensee shall keep the Licensed Area in a clean and neat and tidy condition and will not permit any accumulation of rubbish on any part of the Licensed Area.
8. On the determination of this Agreement from whatever cause the Licensee will remove all signs and restore the Licensed Area as nearly as possible to its former condition.
9. This Agreement is personal only to the Licensee and may not be assigned.
10. The Licensee will indemnify the Licensor against all actions, claims, demands, costs and expenses which the Licensor may incur by reason of any neglect or default on the part of the Licensee, its servants, agents or workmen in respect of any property damage or personal injury arising from the negligence of the Licensee its servants, agents or workman and in respect of any accident however occurring other than through the negligence of the Licensor which may arise in connection with the Licensee's use of the Licensed Area.

11. The Licensee shall not at any time:
  - (a) hold himself out or allow himself to be held out as being an officer or employee of the Licensor;
  - (b) hold himself out as having authority to pledge the credit of the Licensor.
  
12. If the Licensee shall become bankrupt or dissolve, then, and in any such case, the Licensor may immediately or at any time thereafter terminate this Agreement and remove all the effects of the Licensee from the Licensed Area.
  
13. The Licensor hereby reserves its rights under this Agreement to continue to enjoy possession of the Licensed Area in conjunction with the Licensee and nothing herein contained or implied in this Agreement shall create or be construed as creating any tenancy or as conferring upon the Licensee any estate or interest in the Licensed Area other than as is hereby granted.
  
14. All costs involved in the preparation of this Agreement and of its stamping shall be paid by the Licensee.
  
15. The Licence fee and all other monies payable to the Licensor be exclusive of Goods and Services Tax. Whenever the Licensee becomes liable to pay the Licensee fee or other monies payable under this Agreement in respect of a taxable supply made by the Licensor, the Licensee must also pay an additional TEN PERCENT (10%) to cover Goods and Services Tax. This percentage of TEN PERCENT (10%) assumes that Goods and Services Tax payable on the value of a taxable supply is TEN PERCENT (10%). If the Goods and Services Tax rate is different then this percentage will instead be the Goods and Services Tax rate.

IN WITNESS WHEREOF the parties hereto have signed this Agreement on the date first before written.

THE COMMON SEAL of TWEED SHIRE COUNCIL )  
was hereunto affixed in accordance with a resolution )  
passed at a meeting held on )  
in the presence of: )

.....  
General Manager

.....  
Mayor

For and on behalf of TWEED COAST SEA RESCUE )  
INC ABN 28 807 466 438 in the presence of: )

.....  
Name  
.....  
Witness  
.....  
Name of Witness  
.....  
Address of witness

FIRST SCHEDULE  
(see attached plan)

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY

### 13 [EC] Membership of the Community Cultural Development Advisory Committee

#### ORIGIN:

Environment & Health Services

#### SUMMARY OF REPORT:

On 8 June 2004 Expressions of Interest for the Tweed Shire Council Community Cultural Development Advisory Committee were advertised in the Tweed Link. Expressions of Interest were received from the following:

1. Judith Sutton
2. Bill Bainbridge
3. Dr Glenda Nalder

All of the above nominees have previously served on the Committee and have professional experience in the field of arts and cultural development.

The Terms of Reference for the Committee allow for a maximum of twelve (12) community representatives and that membership should reflect a wide range of arts and cultural development issues.

#### RECOMMENDATION:

That Council approves the following suggestions for membership of the Tweed Shire Council Community Cultural Development Advisory Committee for the term of this Council:

1. Judith Sutton
2. Bill Bainbridge
3. Dr Glenda Nalder

**REPORT:**

On 8 June 2004 Expressions of Interest for the Community Cultural Development Advisory Committee were advertised in the Tweed Link. Expressions of Interest were received from the following:

1. Judith Sutton
2. Bill Bainbridge
3. Dr Glenda Nalder

All of the above nominees have previously served on the Community Cultural Development Advisory Committee and have professional experience in the field of arts and cultural development.

The Committee also comprises the following representatives of Council:

Cr Max Boyd  
Cr Barbara Carroll  
Geoff Edwards, Manager Environment and Health Services  
Gary Corbett, Tweed Art Gallery Director  
Lesley Buckley, Cultural Development Officer

The Terms of Reference for the Committee allow for a maximum of twelve (12) community representatives, and that the membership should reflect a wide range of arts and cultural development issues. Accordingly, it is recommended that Council approve the following suggestions for membership of Tweed Shire Council's Community Cultural Development Advisory Committee for the term of this Council:

1. Judith Sutton
2. Bill Bainbridge
3. Dr Glenda Nalder

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**14 [EC] Local Government Guidelines for the Management of Abandoned Shopping Trolleys**

**ORIGIN:**

**Environment & Health Services**

**SUMMARY OF REPORT:**

The Minister for Local Government, Tony Kelly, recently launched a renewed code of conduct for councils and retailers. These guidelines are designed to assist councils in dealing with retailers and the public who utilise the trolleys. Council's current procedures in dealing with abandoned trolleys is mirrored in the renewed code of conduct, however, provisions have been made within the guidelines for a more formal and holistic approach to trolley management.

**RECOMMENDATION:**

That Council: -

1. Adopts the guidelines to further assist in the development of policies and procedures associated with the management of abandoned shopping trolleys.
2. Forwards copies of the guidelines to retailers within the Tweed Shire who utilise trolleys so that liaison can commence to formalise contracts (refer to appendix F of the attached guidelines) and Councils expectations of retailers.

**REPORT:**

The Minister for Local Government, Tony Kelly, recently launched a renewed code of conduct for Councils and retailers in dealing with abandoned shopping trolleys. These guidelines are designed to assist councils in dealing with retailers and the public who utilise the trolleys.

Council's current procedures in dealing with abandoned trolleys are mirrored in the renewed code of conduct, however provisions within the guidelines enable formalisation of agreements between Council and individual retailers with both parties entering into contracts to enhance current arrangements. The guidelines also provide a holistic approach to trolley management through public education and the expectations placed on retailers.

Council's current involvement in trolley management has resulted in extensive discussions with retail outlets in problem areas to establish a protocol for a more efficient removal method of shopping trolleys, therefore minimising the visual impact abandoned shopping trolleys create on surrounding areas. This has resulted in adjustment to trolley patrol areas by contractors whilst incorporating increased patrols in designated areas. Points of contacts for retailers and Council Rangers have previously been established allowing for decreased response time in trolley recovery and the actioning of complaints.

The implementation of the contracts (refer to appendix F of the attached guidelines) and liaison between Council and retailers to establish requirements of the guidelines will be time consuming, nevertheless the outcome would be beneficial to all parties concerned.

**CONCLUSION**

The current media exposure associated with the release of the renewed code of conduct will provide an opportunity for Council to act and implement the requirements of the guidelines whilst retailers are conscious of the increasing demand for effective trolley management.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

**15 [EC] North East Waste Forum Annual Report 2003/2004**

**ORIGIN:**

**Environment & Health Services**

**SUMMARY OF REPORT:**

The North East Waste Forum (NEWF) is a voluntary waste management group based on the north coast of New South Wales. Member councils include Ballina Shire Council, Byron Shire Council, Clarence Valley Council and Richmond Valley Council.

The NEWF also has ties to Tweed Shire Council, Kyogle Council and Lismore City Council.

The NEWF has supplied Council with a copy of its annual report for 2003/2004.

**RECOMMENDATION:**

That the North East Waste Forum Annual Report 2003/2004 be received and noted.

**REPORT:**

The North East Waste Forum (NEWF) is a voluntary waste management group based on the north coast of New South Wales. Member councils include Ballina Shire Council, Byron Shire Council, Clarence Valley Council and Richmond Valley Council.

Though Tweed Shire Council is not a NEWF member it has maintained strong ties with the group. Other non-member Councils that maintain ties are Kyogle Council and Lismore City Council.

NEWF was developed with the aim of identifying common problems and issues in waste minimisation and management for the Northern Rivers Region and to identify possible areas and initiatives for co-operation and co-ordination of waste minimisation and waste management services.

The NEWF annual report sets out the work and projects undertaken by NEWF during 2003/2004. Tweed Shire Council participated in Milestones 4, 5, 10 and 11 and supported Projects 2, 4, 5, 7, 11 and 15 as described in the report.

Tweed Shire Council has maintained a policy of supporting the NEWF without becoming a member. This policy results from NEWF requiring an annual member fee in excess of \$75,000 and the limited applicability much of NEWF's work has to the Tweed Shire Council waste management program.

It is worth noting that apart from links with NEWF Tweed Shire Council maintains ongoing contact with the waste coordinators of Gold City Council, Beaudesert Shire Council and Logan City Council and has ties with the SouthROC waste group. This involvement does not require financial contribution for membership.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

### 1 [SUB-DAC] Minutes of the Tweed Shire Council Disability Access Committee Meeting held Thursday 19 August 2004

#### FOR THE CONSIDERATION OF COUNCIL:

**Minutes of the Tweed Shire Council Disability Access Committee Meeting held Thursday 19 August 2004**

**Disability Access Cttee**

#### VENUE:

HACC Centre, Tweed Heads South

#### TIME:

1.00 p.m.

#### PRESENT:

Cr Max Boyd, Cr Barbara Carroll, Maggie Groff, Ron Douglas, Ross Cameron, Bill McKennarney, Stephen Pollitt, Stefan Zak, Una Cowdroy, Vic Sparks, Gail Martin, Janet Hadson, Milena Morrow, Graham Williams, Pam Veness

#### APOLOGIES:

Paige Ridgeway, Jacqui Payne

#### MINUTES OF PREVIOUS MEETING:

**Moved: Una Cowdroy**

**Seconded: Stefan Zak**

**RESOLVED** that the Minutes of the Tweed Shire Council Disability Access Committee Meeting held 19 February 2004 be accepted as a true and accurate record of the proceedings of that meeting.

#### BUSINESS ARISING:

### 9. Mobility Map

Copies of the map produced in 1993 were distributed and members asked to prepare comments for the next meeting. Volunteering Tweed has applied for funding to facilitate youth volunteering projects and has expressed interest in updating the mobility map as a project. The Committee agreed that Maggie should liaise with Volunteering Tweed and that, if required, the Committee could advise/liaise with Volunteering Tweed on how to complete the task.

#### 14. Pottsville Post Office Ramp

Mr Cameron advised he will write to the owners of the building to request consideration of improving the camber and surface of the ramp.

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#### 15. Murwillumbah Railway Station

Discussion on future use of Station as bus Transit Centre, and lobbying for reinstatement of zebra markings on crossing.

**Moved:** Cr Max Boyd

**Seconded:** Stefan Zak

**RESOLVED** that a request be forwarded to the Traffic Committee for an appointment to address that Committee on behalf of people with visual impairment utilising the station.

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#### 3. Students Report on Café access in Murwillumbah

The Committee agreed that, after discussion with Jeff Needham, the letter as drafted be sent to all cafes in the Murwillumbah area, requesting they consider providing disability access to their premises. It was agreed that some premises would not be able to provide wheelchair access.

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#### 6. Pedestrian Crossing – The Tweed Hospital

It was noted there is no pedestrian crossing on Powell Street despite there being bus stops on both sides of the road. The Community Health Centre has been relocated with the entrance now via Powell Street, in keeping with the Main Hospital and Emergency Department entrances.

The Committee agreed that this issue should be raised with the Traffic Committee.

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#### CORRESPONDENCE:

Nil.

#### GENERAL BUSINESS:

##### 1. Election of Office Bearers

Nominations for position of Chair were called for and members voted in secret ballot.

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**NOMINATIONS:**

Bill McKennariey

**Moved:** Stefan Zak

**Seconded:** Stephen Pollitt

Ron Douglas

**Moved:** Bill McKennariey

**Seconded:** Milena Morrow Bill McKennariey was elected Chair.

Nominations for position of Vice-Chair were called for and members voted in secret ballot.

**NOMINATIONS:**

Stephen Pollitt

**Moved:** Una Cowdroy

**Seconded:** Bill McKennariey

Ron Douglas

**Moved:** Bill McKennariey

**Seconded:** Gail Martin Ron Douglas was elected Vice Chair.

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**2. Regional Access Committees - Report**

Nil

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**3. International Day of People with a Disability 2004**

The Working Party has proposed a Mini-Olympics to be held on Friday 3 December 2004. Venues are to be inspected by Maggie Groff for suitability and cost. Invitations were extended to Milena Morrow, Cr Barbara Carroll and Bill McKennariey to participate in the Working Party with Kim Holdom, Gail Martin, Stefan Zak, Stephen Pollitt, Una Cowdroy and Maggie Groff.

Discussion regarding transport issues and insurance cover. The assistance of Community Transport and/or Rotary may be sought to provide transport to venues if required.

**Moved:** Cr Max Boyd

**Seconded:** Ron Douglas

**RECOMMENDATION** that Council endorse and support International Day of People with a Disability 2004 and authorise the event as an activity of Council.

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#### **4. Parking and Garbage Removal - Private Residences**

Mr Douglas raised concerns regarding congested parking during school terms and in particular the difficulty experienced by an elderly resident in placing her garbage bin near the roadway. Discussion held regarding waste contractors being able to retrieve bin if resident provides medical certificate stating incapacity. Cr Carroll will investigate volunteer assistance to move bin to road verge.

As home care workers are able bodied, the use of disabled parking spaces or provision of loading zones was considered inappropriate. Maggie Groff is to investigate parking issue in consultation with home care worker and resident.

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#### **5. Access to Library - Civic Centre Tweed Heads**

The Committee discussed the problems of scooter-drivers negotiating the left-side ramp when accessing the Library. The right-side ramp will accommodate scooters as well as wheelchairs. Ross Cameron will investigate signposting the left-side ramp to advise scooter-drivers to use right-side ramp.

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#### **7. Kennedy Drive – Boyd’s Bay Bridge**

Mr Pollitt advised that as power poles had been incorporated into the footpath, there may be insufficient room for passage of prams and wheelchairs. Maggie Groff will investigate.

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#### **8. Disability Parking Scheme - Enforcement on Private Property**

Janet Hadson raised the issue of enforcement of abuse of Disability Parking spaces. Cr Boyd advised Council cannot enforce the regulations on private property unless the property owner has entered into an arrangement for Council Parking Inspectors to do so.

Mr Douglas initiated discussion as to whether Council rangers can deputise to Police Officers in cases where vehicles are parked illegally and as such impede access. Cr Boyd advised that Council Rangers hold the responsibility to regulate parking.

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## **9. Murwillumbah Pool and Parking Station**

Cr Boyd suggested that the Disability community may have an opportunity to comment on the proposed upgrading of Murwillumbah Pool and expansion of parking spaces adjacent to the pool complex. If the proposed Hydrotherapy pool is realised, more Disability Parking spaces may be required.

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### **NEXT MEETING:**

Date: 21 October 2004

Venue: HACC Centre, Tweed Heads South

The meeting closed at 2.50 p.m.

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

Issues in the minutes will be referred to the appropriate Council officers.

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

#### **3. International Day of People with a Disability 2004**

As per Committee's recommendation.

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**2 [SUB-CHD] Minutes of the Clarrie Hall Dam Fishery Management Committee Meeting held 16 September 2004**

**FOR THE CONSIDERATION OF COUNCIL:**

**Minutes of the Clarrie Hall Dam Fishery Management Committee Meeting held 16 September 2004**

**File Ref: GW3/3/26**

**VENUE:**

Peter Border Meeting Room

**TIME:**

4:00pm

**PRESENT:**

David Oxenham - Chairman, Cr Dot Holdom, Paul Cambridge (Tweed Shire Council); Col Wiley, Chris Estreich (Australian Bass Association); Alan Legrand (NSW Fisheries).

**APOLOGIES:**

Cr Lynne Beck

**MINUTES OF PREVIOUS MEETING:**

**Moved: Col Wiley**

**Seconded: Alan Legrand**

**RESOLVED** that the Minutes of the Clarrie Hall Dam Fishery Management Committee held 18 November, 2003 be accepted as a true and accurate record of the proceedings of that meeting.

**BUSINESS ARISING:**

**4. Dam Management - Dam Wall Picnic Area**

**Clarrie Hall Dam - General**

The Chairman reiterated that the installation of a secured gate closing at sunset, at the Dam wall entry point has minimised incidents of vandalism to amenities at the dam wall picnic area.

For Council's Information.

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**GENERAL BUSINESS:**

**1. Fish Stocking Program**

**Fish Stock Clarrie Hall Dam**

The Chairman advised Council will again participate in NSW Fisheries \$ for \$ Fish Stocking Program. Council's \$5,000 budgeted funds will be matched by NSW Fisheries and will provide for 20,000 fingerling to be released into the Clarrie Hall Dam waterways.

Col Wiley questioned the pricing structure of the fingerlings supplied by Fisheries as against other suppliers.

He and Col Estreich will follow up the pricing structure and other fish breeding options and report back to the next meeting.

For Council's information.

---

**2. Fish Movements**

**Fish Stock Clarrie Hall Dam - Operations & Management**

Advice from NSW Department of Primary Industries (Fisheries) was tabled at the meeting detailing the feasibility of installing a fish lift at Tallowa Dam on the Shoalhaven River. This is a large scale capital works project to re-establish natural fish communities up stream of the dam wall. If successful the high fishway will be used as a phototype in the future for other high dams, such as the Clarrie Hall Dam.

For Council's information.

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**3. Australian Bass Fishing Tournament**

**Clarrie Hall Dam - Recreation**

Col Wiley advised that the annual Australian Bass Association Fishing tournament was again a great success and further advised that the Australian Bass Association is seeking permission to conduct a second tournament on the Clarrie Hall Dam.

The second tournament will be conducted between other Bass Association stocking groups and is seen as a great networking and leaning opportunity.

The Committee supported the second tournament and requested a follow up letter advising dates and time of proposed tournament.

For Council's information.

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**4. Eel Licence**

**Clarrie Hall - Plan of Management**

The Committee were advised that Mr Tom O'Grady has purchased the commercial fishing operations of Mr Wayne Foster the current licensed eel trapping contractor operating at the Clarrie Hall Dam and Lake Kimberley waterways. Mr O'Grady is seeking approval for the transfer of the eel trapping license.

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Mr O'Grady will maintain the tendered licence rates as submitted by Wayne Forster. Mr O'Grady is a licensed Fisherman and supplied details of his current fishing Licences and Public Liability Coverage.

The NSW Fisheries representative advised that Mr O'Grady's Fisheries licence are current, however, will require a Section 37 Permit for the eel trapping if the licence transfer is approved. The Committee supported the transfer of the licence to Mr O'Grady with the same licence to Mr O'Grady with the same licence condition to apply.

The Committee resolved that Mr O'Grady be also requested to provide monthly catch details of eels caught at either location.

The Committee also requested that the number of licences issued to carry out eel trapping operations be reviewed prior to the next licence period.

**RECOMMENDATION:**

That the Committee supports the transfer of the Eel Trapping Licence at the Clarrie Hall Dam and Lake Kimberley waterways to Mr Tom O'Grady. Tendered licence rates and conditions that applied to the original licence are to apply to Mr O'Grady.

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**5. Licenses General**

**Clarrie Hall Dam-General**

The Committee discussed the operation of the current commercial Fishing and Sight Seeing Charters currently operating on the Clarrie Hall Dam Waterways.

The Committee were of the opinion that due to the limited patronage of these operations that current licence conditions and numbers remain unchanged.

For Council's information.

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**NEXT MEETING:**

The next meeting will be held as and when required.

The meeting closed at 5.45pm.

**DIRECTOR'S COMMENTS:**

Nil.

**DIRECTOR'S RECOMMENDATIONS:**

**4. Eel Licence**

**Clarrie Hall - Plan of Management**

As per Committee's recommendation

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**3 [SUB-LTC] Minutes of the Local Traffic Committee Meeting Held Thursday 16 September 2004**

**FOR THE CONSIDERATION OF COUNCIL:**

**Minutes of the Local Traffic Committee Meeting Held Thursday 16 September 2004  
Traffic - Committee**

**VENUE:**

Peter Border Room

**TIME:**

Commencing at 9.00am.

**PRESENT:**

**Committee Members:** Cr John Murray; Tweed Shire Council; Lance Vickery, Roads and Traffic Authority; Steve Henderson, NSW Police;

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

**APOLOGIES:**

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

**MINUTES OF PREVIOUS MEETING:**

**RESOLVED** that the Minutes of the Local Traffic Committee Meeting held Thursday 19 August 2004 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

**SCHEDULE OF OUTSTANDING LOCAL TRAFFIC COMMITTEE ITEMS**

**Schedule of Outstanding Local Traffic Committee Items**

**FOR COUNCILLORS INFORMATION:**

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

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

**RECOMMENDATION:**

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

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

---

**2. Frances Street, Tweed Heads**

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

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

For Council's information.

**Current Status:** To be brought forward to the LTC for meeting on 18 November 2004.

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**11. Queen Street, Murwillumbah**

**R4500; DW1034590; Car Parks - Murwillumbah; Parking Zones**

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

**RECOMMENDATION:**

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

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

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**BUSINESS ARISING:**

**6. Marine Parade, Kingscliff - Traffic Conditions and Compliance for the Kingscliff Food & Jazz Festival  
R3340 Pt5; R4970 Pt1; DW1061948; Traffic - Local Area Traffic Management; Road Closures - Temporary; Art Food & All that Jazz**

Brought forward from meeting held 19 August 2004 (item 6). Council after receiving advice from the Local Traffic Committee imposed the following additional conditions on the organiser of the above event. The conditions were:-

1. Security guards and volunteer staff are to be in attendance at all barricades on Marine Parade and Seaview Street for the duration of the road closures.
2. All affected businesses to be notified in writing of the road closures and any issues raised with the event coordinator and Council be addressed prior to the event.
3. Council notes the amended duration of closure of Area A is from 7:30am.

Discussions have been held with the Manager of Works who advised that an overseer was rostered on for the weekend to keep check of the road closures and the Manager himself undertook inspections over the weekend. The advice received is that all barricades were maintained to an acceptable standard and were suitably staffed as required. In regards to Condition No. 2 the organiser confirmed that all business operators affected were notified in writing and that the few issues that were raised with some businesses were resolved.

It is also noted that the only apparent major issue was the impact of event attendees occupying car parking spaces in the shopping centre car parks. This issue will need to be considered in detail by Council when the future applications for this event are received.

This item to be deferred to the meeting of 21 October 2004.

For Council's information.

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**Item from Meeting held 19/8/04**

**6. Wommin Bay Road and Phillip Street, Chinderah  
R4260 Pt1; R5950 Pt2; DW; 1077784; 1077851; 1086656 Traffic - Roundabouts**

Discussed at the meeting held 19 August 2004 (item 6) and reproduced as follows:-

*"Request received for the installation of a roundabout at the intersection of Wommin Bay Road and Phillip Street, Chinderah.*

*The Committee supports the installation of a roundabout subject to funding being made available and recommends that Council identifies funding sources such as Black Spots Programs given the likely cost of the project is around \$250,000. Crash, speed and volume data should be collected to support formal applications.*

*For Council's information."*

**RECOMMENDATION:**

That:-

1. The intersection of Wommin Bay Road and Phillip Street be pursued under Black Spots Funding for the provision of a roundabout.
2. The relocation of the school bus shelter and the provision of a right turn lane into Phillip Street South be investigated and funding sources identified.

---

**Item from Meeting held 19/8/04**

**1. Trigonie Drive / Shallow Bay Drive Tweed Heads South  
R2183 Pt1; DW980917; Traffic - Parking Zones**

Brought forward from meeting held 20 May 2004 (Item 1) and reproduced as follows:-

*"Resident representatives from the Shallow Bay Cove development would like the Committee to review its assessment of Trigonie Drive's need for prohibitive signage and met with the Road Safety Officer on site. Trigonie Drive has been inspected on several occasions including evenings and no problems were observed. The situation of vehicles parking at T-intersections is not unusual and drivers need to drive at appropriate speeds and carefully check before making turns.*

*The Committee noted the concerns of the residents and reiterated the previous decision.*

**RECOMMENDATION:**

That:-

1. Council Rangers be requested to patrol Trigonie Drive to enforce any breaches of parking regulations.
2. This matter be brought forward to the Local Traffic Committee meeting of August 2004 with a report from the Rangers Coordinator as to any parking issues observed.

**Current Status:** *To be brought forward to the LTC for meeting in August 2004 with a report from the Rangers Coordinator as to any parking issues observed."*

Brought forward from meeting held 19 August 2004 (Item 1) and reproduced as follows:-

*"To be deferred to the meeting in September 2004 due to the absence of the Road Safety Officer and no report being received from the Enforcement Coordinator.*

*For Council's information."*

The Regulatory Enforcement Co-ordinator's report was tabled (DW 1098405).

It was noted that the width of this road does not appear to comply with the DCP16 road width requirements for medium density and should be brought to the attention of the Director Planning and Environment.

**RECOMMENDATION:**

That No Parking on the western side of Trigonie Drive be installed.

---

**Item from Meeting held 19/8/04**

**3. Byangum Road, Murwillumbah**

**R0880 Pt2; DW1057087; Traffic - Parking Zones**

Brought forward from meeting held 15 July 2004 (Item 3) and reproduced as follows:-

*"Request received in relation to 2 hour parking in front of the Uniting Church. It is reported that the limited parking time zone creates problems for funerals and with the community based early childhood preschool.*

*The Road Safety Officer undertook to visit the preschool and report back to the Traffic Committee meeting scheduled for 19 August, 2004.*

*For Council's information."*

Brought forward from meeting held 19 August 2004 (Item 3) and reproduced as follows:-

*"Deferred to the September 2004 meeting of the Local Traffic Committee, in the absence of the Road Safety Officer.*

*For Council's information."*

The RSO had an on site meeting with the Uniting Church Committee who requested that 15 minute limits be provided along with line marking.

**RECOMMENDATION:**

That 10 minute parking be provided at the Uniting Church parking on Byangum Road between the hours of 8:00 and 9:30am and 2:30 to 3:30pm. Out of these hours the time limit is to remain at 2 hours.

---

**Item from Meeting Held 19/8/04**

**10. Covent Gardens Way, Banora Point**

**R1393 Pt1; DW1076492; Traffic - Safety; Speed Zones**

Brought forward from meeting held 19 August 2004 (Item 10) and reproduced as follows:-

*"Request received for Local Traffic Committee advice regarding extra traffic usage on Covent Gardens Way as follows:-*

1. *Traffic flow assessment of vehicles using Covent Gardens Way.*
2. *Meetings be held with parents and Little Angels management to ascertain ideas on improvements that could be made.*
3. *Traffic counters be placed to assess vehicle type, flow and speed.*
4. *The 40kph speed limit be extended to Covent Gardens Way at the Little Angels Child Care Centre from the corner of Eucalyptus Drive and Covent Gardens Way.*

*The Committee noted the issues at the location and conflict with the adjoining land uses but it was considered necessary to ascertain the speed of vehicles before plans for remedial action could be fully developed.*

*The results of surveys and proposed plan of action to be brought forward to the next Local Traffic Committee meeting in September 2004.*

*For Council's information."*

The Chairman advised that vehicle speed counts showed that at the site south of Woodlands Drive the 85<sup>th</sup> percentile was 52km/h and average daily movements are 2,326 and the site east of Eucalyptus Drive is 55km/h and 978 vehicles per day.

**RECOMMENDATION:**

That a detailed report on two slow points in Covent Gardens Way with cost estimates be prepared for Council's consideration in the upcoming quarterly budget review.

---

**GENERAL BUSINESS:**

**PART A**

**1. Nullum Street, Murwillumbah**

**R4750 Pt2; DW1088299; Traffic - School Zones; School - Murwillumbah High; Bus Services - Stops**

Request received in relation to the Murwillumbah High School school bus pick up area. It is suggested that safety fencing should be installed along the edge of the footpath on both sides of the road. Request also received for clearly defined areas that buses can stop in to unload the children if pick up and set down areas are different. The possibility of buses arriving at different times is also raised. The Committee noted that kerb side fencing would create difficulties with the operation of the bus interchange due the various sequences of arrival and departure and varying bus lengths.

The RTA representative advised that the bus interchange at Lismore where fencing is adjacent to the kerb has created several issues for bus operators and that the intention of the Nullum Street fence is to prevent school children from crossing from one side of the road to the other between parked buses which was the identified problem. The constructed solution was agreed to by the Department of Education, RTA and Council and is observed to the performing its intended function well.

For Council's information.

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**2. Waugh Street, Chinderah Bay Drive, Hacienda Caravan Park and John Oxley Park**

**R1071 Pt4; DW1086657; Local Area Traffic Management; Caravan Park - Hacienda**

Request received for Traffic Committee advice with the four way intersection of Waugh Street, Chinderah Bay Drive, the entrance / exist to Hacienda Caravan Park and the entrance / exit to John Oxley Park. The area is busy during holidays and weekends with visitors.

The Committee discussed the issue and noted the sight distance in most directions is excellent. The Road Safety Officer advised that there is not a significant crash history at this location supported by the Police representative. It was also noted that the traffic volumes had dropped significantly since the Pacific Highway was re-routed.

The Committed suggested that a concrete median could be installed at the Waugh Street throat of the intersection and containing a 'Give Way' sign, subject to funding being identified.

**RECOMMENDATION:**

That 'Give Way' or 'Stop' sign and associated line marking be installed at the entrance to the John Oxley Park

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**3. Glenock Road, Uki**

**R2245 Pt1; DW1088336; 1088338; Traffic - School Zones; Speed Zones**

Request received for the provision of 50kph signage on Glenock Road, Uki. It is reported that traffic speed on this road and the Mt Warning Community Pre School is situated on this road. Current signage is the adult and child type.

The Committee noted that Glenock Road is a rural residential area with kerb and guttering and no street lights.

**RECOMMENDATION:**

That 50kph signage be installed on Glenock Road, Uki.

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**4. Darlington Drive, Banora Point**

**R1540 Pt3; DW1089121; Traffic - Speed Zones**

Request received for the provision of more 50kph speed zone signs on Darlington Drive. It is reported that there are many speeding vehicles on Darlington Drive making it difficult for people to reverse out of driveways especially on the eastern side of the road.

The Chairman advised that this was dealt with at the last meeting and that 50kph speed zone signage is ready to be installed. It was also noted that Council's speed advisory radar has been and will continue to be utilised on Darlington Drive and the Police have agreed to follow up enforcement.

For Council's information.

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**5. Disability Access Advisory Committee Issues**

**DW1086633; 1089259; 1090812; R1290 Pt1; R4430 Pt1; R4031 Pt19; R2830 Pt6; Disability Access Committee; Traffic - Pedestrian Crossings; Hospital - Tweed Heads; Parking Zones;**

Mr William McKennarney, Chair of the Disability Access Advisory Committee addressed the Local Traffic Committee on issues of concern as follows:-

1. Disability parking bay - Murwillumbah Bowls Club
2. Pedestrian crossing Powell Street, Tweed Heads adjacent to the bus stop outside Tweed Hospital
3. Pedestrian crossing Tweed Valley Way adjacent to Murwillumbah Railway Station
4. Pedestrian access path of travel Kennedy Drive, Tweed Heads between Wharf and Stanley Streets.

Messrs Bill McKennarney, Ron Douglas and Steve Pollitt representing the Disability Access Committee joined the meeting at 9:40am.

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Mr McKennariey asked that a copy of the Resolution be forwarded to Maggy Groff also,.

1. Murwillumbah Bowls Club. The disability parking bay is not appropriately signed and is being regularly misused. Requested that it be signed so that it can be legally enforced for people requiring a disabled parking space. There is a disabled symbol on the road and a sign on the wall of the bowling club but no pole signage. This is the closest point for access into the Club.
2. Powell Street pedestrian crossing required for access to the Hospital. Mr McKennariey noted that the hospital has improved their facilities and services. Because of parking problems people are walking further distances to access the Hospital. There are 2 bus stops in Powell Street and it is requested that the crossing be located south of those bus stops to access the main part of the Hospital. The Chairman advised that there could be problems with south of the bus stops as the new bus shelters would have to be removed. Mr McKennariey acknowledged this. Noted that wheelchairs cannot get off the pavement to cross Powell Street and clear vision is difficult to cross the road even for pedestrians because of the consistency of vehicle usage. A pedestrian crossing would assist pedestrians crossing with the extra area for no parking. Cr Murray suggested that this does require further investigation.
3. Pedestrian Crossing across Tweed Valley Way north of the Railway Station and Roundabout to provide more user access to the main CBD area of Murwillumbah. This could be also used by school children. Pedestrian numbers are not known. The new development at the Norco building should also consider pedestrian access. The Chairman advised that pedestrian crossings are not a requirement by the developer but they are regulated by the state government through the RTA. The RTA Representative stated that he understood that all pedestrian crossings are not required to be audible signals. Cr Murray asked how many pedestrians crossed at this location. Mr McKennariey stated that currently it is not used because there is not a safe crossing area however that when the new development occurs more pedestrians may meet RTA warrants for a crossing. The question of location was discussed. Mr McKennariey indicated that a 'user friendly path of travel' was important to encourage users.
4. Pedestrian access - Kennedy Drive (northside) from Wharf Street to Second Avenue. The problem is power poles and there are two that block pedestrian access (from 2<sup>nd</sup> Avenue to Wharf St the first completely blocks path of travel and the 2<sup>nd</sup> one is also blocking, the 3<sup>rd</sup> one does not allow a motorised wheelchair or pram through the area. The 4<sup>th</sup> pole is not a major issue. Mr McKennariey requested that an on-site inspection be organised to see if improved access for pedestrian access could be handled.

The Chairman thanked the group for putting their views forward.

The Committee decided that items 2 and 3 be investigated further to determine whether the sites comply with RTA standards for pedestrian crossings and to determine if any other facilities are required such as additional pram ramps.

**RECOMMENDATION:**

That:-

1. Disabled parking signage be installed at the existing parking space at The Murwillumbah Bowls Club, Condong Street.
  2. Council writes to Country energy requesting them to relocate their power poles on Kennedy Drive which prevent disabled pedestrians safely using the footpath between Second Avenue and Terranora Terrace.
- 

**6. Tweed Valley Early Childhood Intervention Service  
DW1091442; R2100 Pt2; Traffic - Parking Zones; Disabled Matters**

Request received from the Tweed Valley Early Childhood Intervention Service inc in Tweed Heads in relation to parents who need to access the service with young children and disabilities and siblings often have to walk several blocks to get to the Service due to parking difficulties in Florence Street since the Tweed District Hospital built the new car park and extensions. The Hospital has only allocated one 10 minute drop off car park in hospital car park.

The Service has requested the allocation of 8 designated parking spaces in Florence Street at the front of the Service and towards the river. If approved the Service has suggested that they could keep appropriate labels for use by parents and staff who access the venue.

The Committee noted digital photos and boom gates that are in operation as part of the Hospital car park. It was estimated that there were over 100 vacant car spaces available that were not accessible.

**RECOMMENDATION:**

That Council writes to the Tweed Heads Hospital and the Local Member regarding the provision of eight dedicated car spaces for the Tweed Valley Early Childhood Intervention Service and rationalise the boom gate restricted sections of the car park to enable greater access to the public.

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**7. Chinderah Road, Chinderah  
R1070 Pt2; DW186655; Traffic - Roundabouts**

Request received for the Local Traffic Committee to revisit the reconfigured lanes of the Chinderah Road roundabout as they feel that the lane configuration has not removed the potential for danger.

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The Committee discussed this issue and given the crash history has decreased since the changes the Committee decided that the issue should be monitored and brought back to the Committee if increases in crash rates are detected.

For Council's information.

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**8. Darlington Drive, Minjungbal Drive, Tweed Heads South  
R1540 Pt3; R3454 Pt1; DW1092229; Traffic - Local Area Traffic Management**

Request received for Local Traffic Committee Advice in relation to the off-ramp from the southbound freeway and Darlington Drive with Minjungbal Drive. It is suggested that if traffic having left the north bound carriageway of the Pacific Highway over Sexton Hill were to keep in the right hand lane leaving room for traffic coming in from the left without problems.

The RTA Representative advised that they are aware of the issue and that there is more than option for change and that the Committee will be informed when an option is to be initiated.

For Council's information.

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**PART B**

**1. Mixed Commercial Residential Development 60 Wharf Street Tweed Heads  
DA04/1071 Pt1; Traffic - Committee; Development Applications - General  
Correspondence; Pty: 12456; 12457; 12458; 12459**

Request received for Local Traffic Committee advice in relation to an 8 storey mixed commercial residential building at Lots 1 and 2 DP549328 and Lots 61 and 64 DP237806, Wharf Street, Tweed Heads. The building contains 12 ground floor commercial tenancies (362m<sup>2</sup> floor area total) and 32 residential units. The issues for consideration are:

1. Parking for the residential component is proposed in the basement and ground level parking at the rear is to be used by the commercial tenancies.
2. Vehicular access is proposed via the rear off McGregor Crescent.
3. The proposal is referred to the Committee as more than 50 carparking spaces are proposed.

The applicant be informed as follows:-

1. That the loading bay does not conform with Standard AS1742 regarding entry and exit in a forward direction.
2. Basement parking be allocated to commercial tenants and that it not be restricted by the use of a boom gate.

For Council's information.

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**NEXT MEETING:**

The next meeting of the Local Traffic Committee will be 21 October 2004 in the Peter Border Room commencing at 9.00am.

The meeting closed at 12:45pm

**DIRECTOR'S COMMENTS:**

Nil.

**DIRECTOR'S RECOMMENDATIONS:**

Nil.

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**4 [SUB] Minutes Circulated with this Agenda Not Requiring Resolution**

**FOR THE CONSIDERATION OF COUNCIL:**

**UNDER SEPARATE COVER:**

Nil.

1. Minutes of the Aboriginal Advisory Committee Meeting held Tuesday, 6 August 2004
  2. Minutes of the Public Transport Working Group Committee Meeting held Thursday, 26 August 2004
  3. Minutes of the Aboriginal Advisory Committee Meeting held Friday 3 September 2004
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## ORDERS OF THE DAY

### 1 [NOR] [PE] Draft Development Control Plan No 48 - Tweed Coast Building Heights

#### NOTICE OF RESCISSION:

Councillor W J Polglase, G B Bell and R D Brinsmead move that Council resolution in relation to Item 5 of the Meeting held 15 September 2004 being:-

*"... that Council:*

1. *Amends Section 2.2 Acceptable Solutions by replacing:*

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

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

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

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

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

*with the following:*

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

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

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

- 3 storey commercial development - 11 metres
- 3 storey residential development - 9 metres
- 3 storey mixed development (commercial on ground floor and 2 storeys of residential/tourist above) - 10 metres
- 2 storey commercial development - 8 metres
- 2 storey residential development - 6 metres
- 2 storey mixed development (Commercial on the ground floor, 1 storey residential/tourist above) - 7 metres

A2. Measure the maximum height of a building from finished ground level to the highest point on the ridge of the roof and including all ancillary structures such as, but not limited by, lift overruns, pergolas, satellite dishes, solar heating panels and kitchen exhaust shafts/cowls as follows:

- 3 storey commercial development - 13 metres
- 3 storey residential development - 11 metres
- 3 storey mixed development (commercial on ground floor and 2 storeys of residential/tourist above) - 12 metres
- 2 storey commercial development - 10 metres
- 2 storey residential development - 8 metres
- 2 storey mixed development (Commercial on the ground floor, 1 storey residential/tourist above) - 9 metres”

2. Pursuant to Clause 21 of the Environmental Planning and Assessment Act Regulation 2000 adopt Development Control Plan No 48 -Tweed Coast Building Heights.

3. Provides public notice of its decision.

**be rescinded.**

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

**NOTICE OF MOTION:**

Councillor J F Murray moves that:-

1. (i) Council seeks further input from architects, building and urban design consultants and Council officers in respect of Development Control Plan 48 (DCP 48) to investigate and review the need for amending the current performance based criteria to better encourage good urban design.
  - (ii) Pending the finalisation of this review and any resultant amendment to DCP 48 Clause 1.6 of the Plan be interpreted to provide for merit based assessment of development proposals on sites where Council is of the opinion that the adopted controls are too restrictive to achieve good urban design.
2. A Council workshop be held as part of this review process.
- 

**3 [NOM] Leasing of the former Tourist Information Centre at Tweed Heads**

**NOTICE OF MOTION:**

Councillor M R Boyd moves that consideration be given by Council to the leasing of the former Tourist Information Centre at Tweed Heads for the purpose of using it once again as a Tourist Information Centre.

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**4 [NOM] Entry Statements to the Tweed**

**NOTICE OF MOTION:**

Councillor J F Murray moves that Tweed Shire Council officers prepare a report on improving the Entry Statements to the Tweed.

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

**NOTICE OF MOTION:**

Councillor J F Murray moves that Tweed Shire Council officers prepare a report on how best the "Kingscliff Hall of Fame" can proceed.

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**6 [NOM] Pandanus Parade Land Sale Proposal**

**NOTICE OF MOTION:**

Councillor G B Bell moves that Council engages an external probity officer to review all aspects of the Pandanus Parade land sale proposal to ensure transparency and regulatory compliance.

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## CONFIDENTIAL MATTERS

### REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

### REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT IN COMMITTEE

#### 1 [PE] Kings Forest Existing/Continuing Use Rights and Tree Removal

##### REASON FOR CONFIDENTIALITY:

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

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

#### 2 [PE] Retail Development Strategy

##### REASON FOR CONFIDENTIALITY:

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

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

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

**3 [OGM] Section 356 of the Local Government Act 1993 - Donations**

**REASON FOR CONFIDENTIALITY:**

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

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

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

**4 [EO] Transfer of Eel Trapping Licence**

**REASON FOR CONFIDENTIALITY:**

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

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

**5 [EO] EC2004-49 Low Pressure Immersed Membrane Equipment Supply and Design Services, Bray Park Water Treatment Plant Murwillumbah**

**REASON FOR CONFIDENTIALITY:**

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

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

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**6 [EO] Kingscliff Sewage Treatment Plant**

**REASON FOR CONFIDENTIALITY:**

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

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**7 [EO] EC2004-117 Supply of Manual Traffic Control Teams for Council Works**

**REASON FOR CONFIDENTIALITY:**

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

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

**8 [EO] EC2004-133 - Supply and Delivery of One (1) Road Maintenance Unit**

**REASON FOR CONFIDENTIALITY:**

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

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

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**9 [EO] EC2004-016 EIS for Banora Point and Tweed Heads West STP Reclaimed Water Release - Variation**

**REASON FOR CONFIDENTIALITY:**

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

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

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

**REASON FOR CONFIDENTIALITY:**

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

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

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

**11 [EC] HQ2003-158a Stotts Creek Inert Landfill Facility - Additional Landfill Containment Cell**

**REASON FOR CONFIDENTIALITY:**

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

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

**1 [NOM] Former Councillor the Late Bruce Graham**

**NOTICE OF MOTION:**

**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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