



Tweed Shire Council

ORDINARY COUNCIL

AGENDA

19 OCTOBER 2005

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ITEMS FOR CONSIDERATION OF COUNCIL:

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ABORIGINAL STATEMENT

Administrator Payne acknowledged the Bundjalung Aboriginal Nation with the following statement:

"We wish to recognise the generations of the local Aboriginal people of the Bundjalung Nation who have lived in and derived their physical and spiritual needs from the forests, rivers, lakes and streams of this beautiful valley over many thousands of years as the traditional owners of these lands."

CONFIRMATION OF MINUTES

Minutes of the Ordinary and Confidential Meeting held 5 October 2005

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Minutes of the Ordinary Meeting held Wednesday 5 October 2005 (DW 1277269)
 2. Minutes of the Confidential Meeting held Wednesday 5 October 2005 (DW 1277137).
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SCHEDULE OF OUTSTANDING RESOLUTIONS

Schedule of Outstanding Resolutions

FOR COUNCILLOR'S INFORMATION:

4 MAY 2005

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY

14 [EC] Banora Point Caravan Park

344 RESOLUTION:

**Cr M R Boyd
Cr L F Beck**

RESOLVED that:-

1. This report be received and noted.
2. The Park Owner/Operator's Application for Approval to Operate be determined under delegated authority in accordance with the Consent Orders.
3. Council staff be required to bring forward regular reports with regard to the implementation of the Consent Orders.

Current Status: Enforcement being pursued.

1 JUNE 2005

REPORTS FROM THE DIRECTOR ENGINEERING & OPERATIONS

26 [EO] Letitia Road - Access to Tweed River Sand Bypass System

417 COUNCIL DECISION:

**Administrator Boyd
Administrator Turnbull**

That staff organises a round table discussion with interested parties to discuss the stabilisation trial of the unsealed pavement of Letitia Road.

Current Status: The Aboriginal Advisory Committee is facilitating a Summit Meeting.

3 AUGUST 2005

QUESTION TIME

[QT] Woodlands and Darlington Drives, Banora Point

Administrator Boyd

Asked :

1. Would Council staff please investigate and report on the traffic problems of long standing associated with the roundabout at the intersection of Woodlands Drive and Darlington Drive?
2. Could the report also include an estimate of cost and possible source of revenue?

The Director Engineering and Operations advised that a report on these matters will be prepared.

Current Status: Report to be prepared

ADMINISTRATOR'S MINUTE

[AM] Signing of Documents

The following documents have been signed by the Administrators on behalf of and in accordance with resolutions of Council

Administrator Payne

21 September 2005 Licence Agreement with Department of Lands - Cudgera Creek Services Crossing

Administrator Boyd

11 October 2005 Tenancy Agreement - Australian Rail Track Corporation Limited - Buchanan Street Depot Parking Area

RECOMMENDATION:

That the information be received and noted.

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RECOMMENDATIONS OF THE OPERATIONS COMMITTEE

Recommendations of the Operations Committee Meeting held 19 October 2005 for Council Adoption

SUMMARY:

The recommendations from the Operations Committee Meeting held 19 October 2005 are reproduced in the body of this report for formal adoption by Council.

RECOMMENDATION:

That Council adopts the recommendations of the Operations Committee Meeting held on 19 October 2005 in relation to the items below.

- 1 [GC] Procurement Policy / Procedures**
- 2 [GC] Disposal of Assets Policy**
- 3 [GC] Monthly Investment Report for Period Ending September 2005**
- 4 [GC] Investment Policy**
- 5 [EO] Norfolk Island Pine Tree - Cudgen**
- 6 [EO] Release of Unnecessary Restrictions on Use - Subdivision of Land at Casuarina**
- 7 [EO] Consolidation of Council Land - Emergency Services Facility - Riverview Street, Murwillumbah**
- 8 [EC] Proposed Demolition of Council Building at 41 Boyd Street, Tweed Heads**
- 9 [EC] Request for "In Kind" Support/Waive Fee**

[SUB-TDAC] Minutes of the Tweed Shire Council Disability Access Committee Meeting held Thursday 18 August 2005

REPORT:

As per Summary.

RECOMMENDATIONS OF THE PLANNING COMMITTEE

Recommendations of the Planning Committee Meeting held on Wednesday 5 October 2005 for Council Adoption

SUMMARY:

The recommendations from the Planning Committee Meeting held Wednesday 5 October 2005 are reproduced in the body of this report for formal adoption by Council.

RECOMMENDATION:

That Council adopts the recommendations of the Planning Committee Meeting held on 5 October 2005 as reproduced in the body of this report.

REPORT:

1 [PD] Development Application DA05/0840 for a grazing of cattle and associated works at Lot 76 DP 755701, Lot 272 DP 755701, Lot 323 DP 755701, Lot 326 DP 755701, Duranbah Road, Kings Forest

P 61 COMMITTEE DECISION:
Administrator Turnbull
Administrator Payne

RECOMMENDED that: -

1. Council defends the appeal on the basis that the Department of Environment and Conservation join Council in the appeal and provide expert advice in relation to its statements about the impact on threatened species if the development was approved.
2. Council reconsiders its position regarding this matter if the Department of Environment and Conservation do not support Council as set out above and has not advised Council of its support by 30 October 2005.

FOR VOTE - Unanimous

2 [PD] DA04/0631 for the Demolition of Existing Structures & Erection of a 12 Storey Mixed Used Development Comprising Administration, Meeting & Function Rooms & 30 Residential Units at Lots 13, 14, 15 & 16 DP 224382, No. 11-17 Frances Street Tweed Heads

This matter was deferred for consideration at the next Planning Committee meeting to be held on 19 October 2005.

Current Status: Report included in the Planning Committee Agenda of 19 October 2005.

3 [PD] Tweed Heads Master Plan - Funding Through Section 94

P 62 COMMITTEE DECISION:

Administrator Turnbull

Administrator Payne

RECOMMENDED that Council:

1. Approves the exhibition of amendment to Section 94 Contribution Plan No 26 – Shire Wide/Regional Open Space and its placement on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations;
2. Approves the exhibition of Section 94 Contribution Plan No 27 Tweed Heads Master Plan - Streetscaping and Local Open Space and its placement on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations;
3. Endorses the continuation of negotiated contributions for development in the Tweed Heads Master Plan area based on the new S94 rates proposed in this report, pending finalisation of these S94 Plans;
4. Endorses the adjustment to any contributions that have be made to date for the Masterplan based on the new contributions, following finalisation of the S94 Plans; and
5. Includes the implementation of the landscape component of the Master Plan for consideration in the 7 year Long Term Financial Plan.

FOR VOTE - Unanimous

4 [PD] Section 430 Investigation

DECLARATION OF INTEREST

Administrator Payne declared a non-pecuniary interest in Item 4 of the Agenda and limited his involvement in this matter by not participating in any discussion or voting on this matter.

**P 63 COMMITTEE DECISION:
Administrator Turnbull
Administrator Boyd**

RECOMMENDED that : -

1. Council seeks an arrangement with the Department of Planning where meetings are held quarterly alternatively at Tweed and Grafton with relevant Council staff and the Administrators as appropriate.
2. Council advises Department of Planning that Council's strategic planning framework will be amended to accord with the Far North Coast Strategy as soon as it is adopted by the State Government.
3. Council only undertakes those spot rezonings where the rezonings would not thwart any of the State Government objectives and priorities as outlined in the concept planning for the Far North Coast Strategy.
4. Council seeks Department of Planning's agreement to review the administration of SEPP71 to progressively increase Council's delegations for some of these applications.
5. Council prepares locality plans with appropriate development standards for the Tweed's coastal villages as soon as practicable.
6. Council notes and endorses the proposed actions by the Department of Local Government and Department of Planning to review the reporting requirements of Councils when developments are approved contrary to staff recommendations.
7. Council notes and endorses the proposed actions of the Department of Local Government and the Department of Planning to have a joint approach to planning components of Promoting Better Practice Reviews for Councils where there is evidence of significant planning issues.
8. Council notes the proposal by the Department of Local Government to schedule a Promoting Better Practice Review of the Tweed Shire Council within the next twelve months.

9. The General Manager conveys Council's resolution in regard of the Section 430 report to the Minister for Local Government the Honourable Kerry Hickey, MP.

FOR VOTE - Voting - Unanimous

PRESENT. DID NOT VOTE - Administrator Payne

5 [PD] Request for Support for Development Concept to be Dealt with by the State Government Under Section 3(A) of the Planning and Environment Act - Lot 529 DP 1003396 Clothiers Creek Road, Clothiers Creek

P 64 COMMITTEE DECISION:

Administrator Payne

Administrator Turnbull

RECOMMENDED that Delfin Lend Lease be advised Council is supportive of the development concept being dealt with by the State Government under Part 3(A) of the Planning and Environment Act provided Council input is obtained for all aspects of the development assessment process.

FOR VOTE - Unanimous

6 [EO] Subdivision Landforming Policy

P 65 COMMITTEE DECISION:

Administrator Turnbull

Administrator Payne

RECOMMENDED that having regard to the NSW Government Architect's "Preliminary Review of Planning Instruments for Residential Subdivision in Hill Zones":

- (a) Options for amendments to *Development Control Plan No.16 – Subdivision Manual*, should be provided in regard to regulation of subdivisions in steep areas to ensure consistencies with the principles of the Tweed Local Environmental Plan and the Tweed 2000 Strategic Plan.
- (b) *Development Design Specification D6 – Site Regrading*, be amended as follows:
- Change allowable retaining wall height table to discourage the use of retaining walls for production of flat "terraced" landforms on land that would otherwise be unsuitable for slab on ground dwelling construction.
 - Include diagrams to clarify above issue
-

- Restrict retaining wall heights beyond the current 3m from boundary regulated area
 - Ensure greater clarity of mandatory design elements required for building design on hilly sites to avoid negative impacts on the topography and land form of the Tweed area
 - Consider amending the table at D6 page 7 to provide for reduced impact
 - Ensure that site coverage on hilly sites not be excessive and Council to report on options in that regard
- (c) Development Control Plan No.47 – Cut and Fill on Residential Land be amended to include:
- Development for future residential dwellings is to adopt sound urban design principles that are sympathetic to the topographical features of the site.
 - Future dwellings are not to be a contiguous slab on ground level if the building site area has a slope of greater than 10%.
 - Development on such land is to be of pole or pier construction or multiple slabs or the like that minimise the extent of cut and fill.
 - For residential dwellings the depth of excavation shall not exceed one metre and the depth of fill shall not exceed one metre so that the degree of both cutting and filling is minimised.
 - Excavations in excess of one metre within the confines of the building may be permitted to allow for basements, garages, etc providing the excavations are adequately retained and drained in accordance with engineering details.
 - Current “Section 2.2 - Variations to Cut and Fill Design” should be amended to prohibit variations to the one metre cut/fill limit
 - Provisions for other non residential uses (industrial, business etc)
- (d) Amended drafts of "Development Design Specification D6 - Land Regrading" and "Development Control Plan No. 47 - Cut and Fill on Residential Land" be presented to Council in December for exhibition and public consultation in January/February 2006.
- (e) Council requests the Department of Planning to increase minimum lot size in development areas requiring land forming to allow for sufficient surface area for on-site stormwater detention and treatment and landscaping.

FOR VOTE - Unanimous

REPORTS FROM THE GENERAL MANAGER

1 [GM] Report on Tweed Shire Council Public Inquiry Recommendations

ORIGIN:

General Manager

SUMMARY OF REPORT:

Council at its meeting of 17 August 2003 resolved that: -

"The General Manager be requested to bring forward a report to Council on the Tweed Shire Council Public Inquiry Second Report prepared by Emeritus Professor Maurice Daly regarding the recommendations affecting Council."

The General Manager has reviewed recommendations, 14,17 and 21, which have been identified as affecting Council. The outcome of the review is the submission of three recommendations to Council.

RECOMMENDATION:

That: -

1. Council notes the State Planning reform legislation which has recently been released with provisions for a standard Local Environmental Plan and consolidation of the Development Control Plans into one document. Tweed Shire Council will be required to prepare and adopt a new Local Environmental Plan within 3 years under State Government legislation and Council will include the Tweed Futures Strategy, the Far North Coast Strategy and any other changes which are needed in a new Local Environmental Plan for the Tweed.
2. Council considers there is no need at this stage of the development to prepare a new Master Plan/Development Control Plan for the SALT development area because there is an existing master concept plan in the current development approval. The SALT subdivision component is 70% complete and both major resorts are either complete or nearing completion. Any future development applications for housing, medium density development or tourist resorts on the remaining parcels of land will need to comply with the existing comprehensive statutory planning controls for these proposals. These applications will require public advertising and assessment on merit with consideration of all submissions.

3. Council continues to obtain legal services from Stacks the Law Firm until the end of the current contract, ie. 6 September 2006.
4. That the Administrators meet with Stacks Northern Rivers, and the General Manager, to discuss whether Stacks Northern Rivers has breached its retainer to represent Council's interest at the Public Inquiry.

REPORT:

Council at its meeting of 17 August 2003 resolved that:

"The General Manager be requested to bring forward a report to Council on the Tweed Shire Council Public Inquiry Second Report prepared by Emeritus Professor Maurice Daly regarding the recommendations affecting Council."

The General Manager has reviewed recommendations, 14,17 and 21, which have been identified as affecting Council. The outcome of the review is the submission of three recommendations to Council.

Recommendation 14 – page 969

That an urgent and widespread review be made of the council's planning regime including its strategic planning, the Local Environment Plan and the various Development Control Plans to ensure:

- **that future development occurs in areas that are appropriate to the nature of that development**
- **that council's planning regime presents a clear and understandable picture of council's vision for the future development of the area**
- **that council's planning regime is both coherent, equitable and resilient**
- **that conditions of consent are able to give effect to council's intentions and are enforceable**

The future planning and vision for the Tweed is contained in the document Tweed Futures. This strategic document was prepared following extensive public consultation including the assistance of a Steering Committee made up of a representative cross section of the Tweed community. An independent facilitator was engaged to help prepare this strategy. The strategy was approved in September 2004. A copy of this strategy was forwarded to the Commissioner in the Council's initial submission to the Inquiry. The recommendation above does not appear to acknowledge or understand this planning strategy for the Tweed.

Developing Council's planning regime into a coherent, equitable and resilient system has always been this Council's objective. It must be acknowledged however that the planning system has to comply with the State Planning legislation. It is readily acknowledged that the State Planning legislation is in need of reform and several reforms have been introduced since the final report on the Tweed Inquiry was released in August 2005. These reforms have been contemplated over a number of years and are now being implemented. A draft standard template for LEP's has been recently introduced and there is also a requirement to condense all of the relevant DCP's for areas into one document to help simplify the process and public understanding for future development applications. The Tweed Shire Council is part of the Far North Coast Strategy area and a new LEP will be required to incorporate the regional strategies being developed by DIPNR (now Department of Planning). It will be an opportunity to incorporate Tweed Futures, the standard LEP template provisions, the Far North Coast Strategy and the consolidation of Council's DCP's over the next 12-18 months. In many ways, events and changes in planning legislation, have overtaken this recommendation.

This recommendation has been expanded with a number of explanatory points. These explanatory points are generally unsubstantiated and need to be addressed.

- * ***There are serious concerns that the council has set aside areas for large residential and other developments based either on historic assessments or inadequate review.***

The Tweed Shire Council has urban release areas sufficient for the predicted population growth in the Tweed for the next 30 years. These areas were reviewed, reassessed and reiterated in the Tweed Local Environmental Plan 2000. The conflict between zones for urban expansion and environmental conservation is acknowledged. The Tweed Shire Council has required extensive and comprehensive environmental studies of all these urban release areas as part of the development approval process. These environmental reports are independently reviewed and any changes needed to the areas zoned for urban expansion to provide for environmental protection are carried out. There have been significant areas of land set aside for environmental protection in this process, eg. Black Rocks, Koala Beach, SALT, Casuarina Beach etc. There is nothing untoward in this process and indeed the planning for future population growth and the infrastructure to service that growth in the Tweed is exemplary and can be attributed to the urban release areas which have been designated for urban expansion.

- * ***There are other serious concerns that there has been ad hoc development within the Tweed particularly in rural, low lying or other areas that have not been suited to these developments.***

This comment is not substantiated in any way. The problems of development in the floodplain are acknowledged and Council is addressing these issues through floodplain modelling and a development control plan based on the NSW guidelines for development in flood prone areas. The urban development of rural areas is prohibited by State legislation and this is reinforced in the Tweed LEP. Some tourist orientated development has been approved in the Tweed but there has not been an ad hoc approach to this. Development Applications are submitted at various times by private individuals in different locations and these have to be considered on merit. This process is the same for all development proposals throughout Australia.

* ***The Tweed is an area of high biodiversity, exceeding Kakadu and approaching the Daintree area. It is the home to a number of rare and endangered species. The DEC has raised serious concerns that the council has not given adequate consideration to:***

- ***the natural and cultural values of land when determining developments***
- ***the cumulative effects of development***
- ***has not enshrined suitable conditions in its consents***

These views have been echoed by a number of local residents

It is unfortunate that Professor Daly has accepted the advices and statements from the DEC without any critical analysis of different viewpoints. Council has received comprehensive evidence refuting the validity of the DEC submissions. There is also comprehensive evidence on Council's files which is completely contrary to the claims made by DEC. This information wasn't sought or obtained by Professor Daly from Council staff. The claims by DEC that Council has not given adequate consideration to: -

- the natural and cultural values of land when determining developments
- the cumulative effects of development
- has not enshrined suitable conditions in its consents

is difficult to accept given that the DEC has been fully consulted on all of the environmental issues for development in the Tweed and all of the DEC recommendations have been incorporated into the relevant development approval conditions and further the DEC has formally advised that the DEC recommendations have been complied with.

* ***The area is facing considerable pressure from developers who wish to carry out developments both in coastal and in rural areas. This pressure is emanating from outside the area and within the Tweed. So far as it concerns local developers, many of these were associated with the Tweed Directions campaign and the Tweed Directions councillors.***

The pressure from developers who wish to carry out developments in the Tweed is due to the expansion of the Brisbane Gold Coast conurbation. The Tweed Shire Council has a responsibility to accommodate and manage this population growth. There is nothing untoward in experiencing this pressure. The election issues associated with the Tweed Directions campaign have been previously dealt with.

- * ***The current planning regime does not currently have sufficient resilience to meet these pressures.***

This comment is difficult to accept. There is no evidence presented that supports the statement. All development applications are considered on merit and independently assessed by Council's town planners. The only development applications which are referred to Council are those which are controversial or require a decision in relation to existing policies. The amount of development in the Tweed is significant however the processing times, amount of planning assessment and the degree of litigation are better than most other local governments throughout NSW based on the State Governments planning and development statistics.

Approximately 95% of all development is approved by Council staff under delegation. There has not been any evidence, nor has it occurred, where planning staff have capitulated to developer pressures. This allegation is unfounded and has not been substantiated in any way.

- * ***The council has ignored concerns that have been raised by staff and by DIPNR over the clarify of wording of the Local Environmental Plan.***

There have been numerous amendments to the Tweed LEP. These amendments are carried out whenever an issue arises where there is merit in clarifying the wording and intent of the LEP provisions. There have not been any concerns raised by staff and by DIPNR which have not been addressed with an appropriate amendment to the Tweed LEP.

- * ***The majority of councillors have used their voting power to stand in the way of proper planning in the Tweed in order to provide preference to and to grant concessions to developers.***

The way in which individual Councillors vote on issues is or should be a reflection of their commitments made to the residents who voted for them.

- * ***The councillors have failed to reflect and to impose as conditions of consent various provisions contained in council's Development Control Plans and Section 94 Contributions Plans.***

The Tweed's planning reports are prepared on a fully independent basis for Council's consideration. Submissions are made to Councillors on development issues by both developers and residents. It is part of the normal democratic process for Councillors to accept or reject planning advices or seek to introduce new planning policies to reflect changing residents concerns or priorities. This statement is not substantiated with an example however there would be many instances in all local government Councils where planning conditions are amended to a higher or lower standard depending on the representations made in relation to them.

Recommendation 17 – page 973

The Council must urgently undergo a process of implementing identified and enforceable controls on the SALT development, probably through the adoption of a master plan supported by a DCP.

The following table summarises the major Development Consents issued for SALT and their current status: -

DA02/1422 (24/03/03)	473 Lot Subdivision in 18 Stages	Stages 1-7 have been completed and the subdivision plan has been registered. A number of dwellings have been erected	This consent has been modified on a number of occasions
DA02/1423 (24/04/03)	Outrigger Resort 318 rooms	Completed December 2004 and operational	
DA 477-11-2003 (03/05/04)	Peppers Resort 346 rooms	Completion planned for December 2005	This consent was issued by the Minister for Infrastructure, Planning and Natural Resources

The following list details the comprehensive planning controls which apply to the SALT site and to the remaining developable areas of land.

5.1 Environmental Planning Instruments

5.1.1 Tweed Local Environmental Plan 2000

This plan is the principal planning instrument controlling development of the land pursuant to which it is primarily zoned 2(f) Tourism. The plan contains a unique provision applicable to the Salt site only at Clause 53 and Schedule 3 (see Section 2.0) which only permits dwellings if the number of resort rooms/units exceeds the number of dwellings. This is a significant constraint on the ultimate residential yields which can be achieved on the site.

A three (3) storey height limit also applies and again this is a significant limiting factor on ultimate yields. As part of the package of planning initiatives accompanying the original development application, the applicant proposed to limit building heights to 2 storeys for dwelling houses and raise the levels of the eastern part of the site. Council has exhibited a draft Local Environmental Plan Amendment to formalise this arrangement.

5.1.2 State Environmental Planning Policy No. 5 - Seniors Living

This form of development is permissible, with consent, under Tweed LEP 2000. The development standards and design criteria in this instance are therefore not mandatory, but consent authorities normally apply them as a guideline.

5.1.3 State Environmental Planning Policy No. 14- Coastal Wetland

The western part of the site adjacent to Cudgen Creek is mapped as a wetland under the provisions of this policy. The mapped area and significant buffers have been transferred to Tweed Shire Council at not cost as an environmental reserve and in addition to usable passive open space required under Development Control Plan No. 16/Section 94 Plan No. 25.

5.1.4 State Environmental Planning Policy No. 55 - Remediation of land

In accordance with the provisions of this plan, the site has been remediated to address elevated radiation levels.

5.1.5 State Environmental Planning Policy No. 71 - Coastal Protection

The subject land is within the coastal zone and therefore the provisions of this policy apply. Clause 18 of the Policy provides that the consent authority must not grant consent for a subdivision of land within a residential zone involving more than 25 lots unless the Minister has approved a master plan and the consent is consistent with that plan. Alternatively, the Minister may waive the requirement for a master plan.

The Salt development consent pre-dates the introduction of State Environmental Planning Policy No. 71, however if any further applications are lodged seeking more than 25 lots then the provisions of this policy would apply

5.1.6 State Environmental Planning Policy - Major Projects

In summary, under the provisions of this policy, the Minister is the consent authority for certain types and classes of development including construction projects with an investment value of more than \$50 million, recreation or tourist facilities within the coastal zone, buildings over 13m in height and subdivisions of land into more than 25 lots.

5.1.7 North Coast Regional Environmental Plan, 1988

In summary, Clause 43 of this plan provides that the Council shall not grant consent to development for residential purposes unless it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land, and that road widths are not excessive for the function of the road.

In pursuance of this clause, the North Coast Urban Planning Strategy (Department of Urban Affairs and Planning, 1995) provides for a target yield of 15 dwellings per ha.

This policy obviously requires proponents and Councils to optimise yields.

5.2 Policy and Strategies

5.2.1 NSW Coastal Policy

This Policy contains a number of strategic actions relating to stormwater quality, coastal hazards, development adjacent to estuaries, Acid Sulfate Soils, North Coast Design Guidelines, design and locational principles and public foreshore access. The Salt development complies with the relevant requirements of this policy.

5.2.2 Tweed 2000+ Strategic Plan

This plan is referred to in the Tweed LEP 2000 and contains general provisions relating to the provision of tourism infrastructure on the Tweed Coast and the creation of sustainable employment positions. The Salt development is generally consistent with this plan.

5.2.3 Tweed 04/24 Strategic Plan

This plan contains similar objectives to the previous strategic plan.

5.3 Development Control Plans

5.3.1 Development Control Plan No. 5 - Development of Flood Liable Land

Part of the site adjacent to Cudgen Creek in its original state was below the design flood level however in accordance with the terms of the subdivision consent it has been filled to the required level in accordance with this Development Control Plan.

5.3.2 Draft Development Control Plan No. 6 - Development of Land Liable to Coastal Erosion

The Salt site complies with this plan in that the 7(f) Coastal Hazard zone on the eastern side of the site has been dedicated to Council and normal setbacks will apply.

5.3.3 Development Control Plan No. 16 - Subdivision Manual

This is a comprehensive and contemporary shire wide plan which provided details of Council's design standards and procedural requirements relating to all forms of subdivision. In particular, the Development Control Plan requires the provision of a master plan in certain circumstances prior to approval of any development. The plan contains considerable details in relation road hierarchy, road widths, provision of open space, provision of buffers, stormwater management and provision of infrastructure.

5.3.4 Development Control Plan No. 39 - Energy Smart Homes Policy

In accordance with the provisions of this policy all proposed allotments must be designed and oriented to achieve energy efficiency principles.

5.3.5 Development Control Plan No. 45 - Socio-economic Impact Assessment

In accordance with the provisions of this plan, a socio-economic impact statement must accompany certain development applications depending on their scale and nature. It should be noted that socio-economic impact statements accompanied the original Salt subdivision development application, the Outrigger Resort development application and the Peppers Resort development application.

5.3.6 Development Control Plan No. 48 - Tweed Coast Building Heights

This Development Control Plan contains prescriptive and performance based criteria relating to building setbacks, building heights and building envelopes, with the objective of controlling the height, bulk, scale and density of development.

5.3.7 Development Control Plan No. 51 - Tweed Coast Strategy

This is a broad strategic plan which provides general planning principles. The Salt development is consistent with this plan.

5.4 Section 94 Plan Contributions Plans

Contribution plans adopted by Council pursuant to section 94 of the Environmental Planning and Assessment Act, 1979 and applicable to the site are as follows: -

- Section 94 Plan No. 4 - Tweed Road Contribution Plan
- Section 94 Plan No. 6 - Street Tree Planting in Residential Areas
- Section 94 Plan No. 11 - Library Facilities
- Section 94 Plan No. 12 - Bus Shelters
- Section 94 Plan No. 13 - Cemetery/Crematorium Facilities at Eviron Road, Duranbah
- Section 94 Plan No. 15 - Developer Contributions for Community Facilities
- Section 94 Plan No. 16 - Emergency Facilities (Surf Lifesaving)
- Section 94 Plan No. 18 - Council Administration Offices and Technical Support Facilities

- Section 94 Plan No. 22 - Cycleways
- Section 94 Plan No. 25 - Kings Beach North
- Section 94 Plan No. 26 - Shirewide Regional Open Space

Section 94 Plan No. 25 - Salt has been exhibited as an amended draft to reflect the specific approved layout for the Salt site and it is anticipated that the amended plan will come into force in the near future. This will provide Council with the opportunity to levy contributions for additional yield in respect of structured open spaced (playing fields) and to require the provision of additional functional and embellished passive open space on this site in the event that yields are increased.

Conclusion

In view of the fact that the subdivision component is 70% complete and both major resorts are either complete or nearing completion there is little point in pursuing a new Master Plan and DCP for the remaining undeveloped parcels of land.

Recommendation 21 – page 978

- 1. That the Council's Administrators give consideration whether Stacks/Northern Rivers has carried out its retainer to represent council's interests at the Public Inquiry.**
- 2. That the Council's Administrators give consideration whether Stacks/Northern Rivers has breached its retainer to represent council's interests at the Public Inquiry and, if so whether it should seek tenders for the provision of legal services from another or other legal firms.**

Engagement of Solicitors for Public Inquiry

Council at its meeting of 19 January 2005 resolved that:

- "1. Council advises its intention to engage the services of Stacks- Northern Rivers to represent Council interests as a corporate body at the Tweed Shire Council Public Inquiry under the terms of brief as follows:*
 - By direction of Council and/or the General Manager to prepare or assist in the preparation of submissions to the Public Inquiry.*
 - To regularly review the daily transcripts from the Public Inquiry and advise Council as appropriate, to a suggested course of action to take.*
 - To represent the Council at proceedings as determined either by Council or the General Manager.*
 - To report to the General Manager on matters relating to individual Councillors and staff that may require further attention.*
- 2. Council requires the General Manager to negotiate with Stacks- Northern Rivers on costing for the representation and report this to Council.*

FOR VOTE – Unanimous"

Tweed Shire Council Public Inquiry – Legal Services

Council at its meeting of 20 April 2005 resolved that: -

- "1. This report be received and noted.*
- 2. The Public Inquiry legal costs be included in the next Quarterly Budget Review.*

FOR VOTE – Unanimous"

Legal Services Tender

Council at its meeting of 9 September 2003 resolved that: -

"Council's legal services contract be awarded to Stacks Tweed Heads for a period of three years commencing from 7 September 2003."

The contract commenced on 7 September 2003 and is due to conclude on 6 September 2006.

Information obtained from the contract document – Item 10.1

"The Contractor acknowledges that this Contract is not exclusive and that the Council may use other Contractors to provide the Services."

It is suggested that Council should continue with the legal services contract with Stacks until 6 September 2006, but could consider using other Contractors to provide any legal services. However, if the option to consider using other Contractors is implemented, then Council must adhere with the provisions of its Procurement Policy in the sourcing of quotations for each legal service.

It is envisaged that the new legal services tender to be effective from 7 September 2006 will contain an option to appoint a panel of solicitors, with the tender process anticipated to commence March 2006.

Conclusion

That Council continues with the legal services contract with Stacks until 6 September 2006.

Recommendation 21 / 2

It is suggested that prior to Council Administrators giving consideration whether Stacks Northern Rivers has breached its retainer to represent Council's interest at the Public Inquiry, the Administrators should meet with Stacks Northern Rivers and the General Manager to discuss this matter.

Conclusion

That the Administrators meet with Stacks Northern Rivers, and the General Manager, to discuss whether Stacks Northern Rivers has breached its retainer to represent Council's interest at the Public Inquiry.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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REPORTS FROM THE DIRECTOR PLANNING & DEVELOPMENT

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 79(C)(1) 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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2 [PD] Tourist Accommodation

ORIGIN:

Strategic Town Planning

SUMMARY OF REPORT:

Council at its meeting of 7 September 2005 resolved as follows: -

"RECOMMENDED that a decision on this item be deferred until a Workshop on this matter is held in October."

A workshop was held on 5 October 2005 and it was agreed that further consideration would be given to the LEP definitions for tourist resort and tourist accommodation. A revised report was to be resubmitted for Council's determination.

Tourist development is an integral component of the economic fabric of the Tweed. There are different types of tourist accommodation eg. hotel, resorts, bed and breakfast, cabins. These are often associated with a range of tourist facilities in addition to accommodation. However, in recent years the industry has moved towards self contained/serviced apartments. These have no specific tourist facilities within the development but are located in areas which offer tourist facilities in the general neighbourhood, eg Kingscliff. This form of accommodation is often seen as being tantamount to a residential unit.

There has been considerable debate as to what controls for this form of development are required particularly when it is proposed within existing residential areas rather than tourist precincts.

A more rigorous and objective approach to tourist accommodation is required. To achieve this the following is required:

- Amend the definition of tourist accommodation in the TLEP to exclude 'principally', and include support facilities.
- Apply DCP 6 to tourist accommodation except where it is within a tourist resort.
- Amend DCP 2 Site Access and Parking Code.
- Impose conditions, where appropriate, on any development approval for tourist accommodation to limit the development to such a use.
- Continue the current regime of S94 Developer Contributions.

RECOMMENDATION:

That: -

1. Council informs the Director-General of the Department of Planning that:-
 - It intends to prepare a draft Local Environmental Plan to amend the definition of tourist accommodation and tourist resort; and
 - In the opinion of Council an Environmental Study is not required.
2. Council amends Development Control Plan No 6 - Multi Dwelling Housing to include tourist accommodation except when it is within a tourist resort. The amendments will include the following in particular:-
 - Include in Clause 1.5:

"A7. To ensure that tourist accommodation except where it is within a tourist resort which is capable of being used as permanent residential accommodation meets the same standards as multi dwelling housing".
 - Include in Clause 1.6 the following paragraph:

"This DCP applies to tourist accommodation except where it is within tourist resort".
 - Any necessary textural changes throughout the document to add or include tourist accommodation where multi-dwelling housing controls apply.
 - To provide the basis for the imposition of appropriate conditions limiting any approval for tourist accommodation to such a use.
3. Development Control Plan No 2 - Site Access and Parking Code:
 - To replace Item B6 in Table 4.9B with the following:

Item	Development	Comment	Public Transport Bus Stop Seating	Bicycle Parking	Delivery, Service Vehicle parking (50% must be truck size)	Resident Parking	Staff Parking	Customer Car Parking
B6	Tourist accommodation, except where it is within a tourist resort		1/15 units	2/unit, class 2 AS 2890.1. Residential buildings without access to ground level private open space only.	1/50 units	1.5/accommodation unit. 25% to be accessible and marked for visitors.		

REPORT:

Council at its meeting of 7 September 2005 resolved as follows: -

"RECOMMENDED that a decision on this item be deferred until a Workshop on this matter is held in October."

A workshop was held on 5 October 2005 and it was agreed that further consideration would be given to the LEP definitions for tourist resort and tourist accommodation. A revised report was to be resubmitted for Council's determination.

Tourist development is an integral component of the economic fabric of the Tweed. Tourist accommodation comes in many formats: hotel, resorts, bed and breakfast, cabins. These are often associated with a range of tourist facilities in addition to accommodation. However, in recent years the industry has moved towards self contained/serviced apartments. These have no specific tourist facilities within the development but are located in areas which offer tourist facilities in the general neighbourhood, eg Kingscliff. This form of accommodation is often seen as being tantamount to a residential unit.

There has been considerable debate as to what controls for this form of development are required particularly when it is proposed with existing residential areas rather than tourist precincts. This culminated, on 6 July 2005, in the following Council resolution:

- "1. Where tourist accommodation is proposed that is capable of being used for permanent residential accommodation, then multi-dwelling housing standards and contribution rates shall apply pending formal amendments relevant DCPs, and Section 94 and 64 contributions.*
- 2. A report be prepared that identifies appropriate amendments to relevant DCPs, and Section 94 and 64 contributions to enable the standards and contribution rates relevant to multi dwelling housing development to be applied to tourist accommodation that is capable of being used for permanent residential accommodation in urban zones".*

Current Planning Controls

The Tweed LEP 2000 defines tourist development as:

"a building principally used for the accommodation of tourists but does not include a building elsewhere specifically defined in this Schedule"

The only specific planning controls that apply to the development concern parking. DCP 2 (Car Parking Standards) - includes the following requirement for tourist accommodation.

Item	Development	Comment	Public Transport, Bus Stop Seating	Bicycle Parking	Delivery Service Vehicle Parking (50% must be truck size)	Resident Parking	Staff Parking	Customer Parking	Car
B6	Tourist accommodation			1/unit			0.5/staff	1/unit	

Council has no other specific controls for tourist accommodation, and therefore any design (including set backs) is determined on individual merit.

The following developer contribution plans levy tourist accommodation:

- TRCP4 - Roads
- CP5 – Local Open Space (**passive open space only**)
- CP16 – Surf Lifesaving
- CP18 – Office Accommodation
- CP19- Kings Beach/Kings Forest
- CP22 – Cycleways
- CP23 - Parking
- CP26 – Shire wide/Regional Open Space (**passive open space only**)

Developer contributions are not required in respect of the following plans:

- Cemeteries
- Libraries
- Structured Open Space

Planning Issues

Council’s resolution raises a number of issues, which require analysis before any conclusions can be reached.

1. Strategic objective

As noted tourist development is an integral component of the economic fabric of the Tweed. Consequently it is valid to examine what aspects of tourist development should be accommodated in the Tweed. In that regard the industry has identified the need for self contained/serviced apartments rather than more traditional style tourist accommodation. The impact of holiday accommodation in residential areas has been highlighted in recent weeks in many coastal areas.

It is valid to examine how this should be accommodated and what incentives, if any, should be provided to the industry.

How far should holiday accommodation be quarantined from residential areas; should the planning controls for tourist accommodation be the same as those for medium density development?

Darryl Anderson, on behalf of the Ray Group, has put forward the following argument as to why tourist accommodation should not be based on medium density controls:

Extract of Correspondence from Darryl Anderson Consulting Pty Ltd dated 3 August 2005

As discussed, we are particularly concerned in relation to the interpretation of this policy and its implications for the future resorts planned for the Salt site. As you are aware, design work is well advanced in relation to a third resort which is planned for Lot 936 in Stage 2, in accordance with the Salt Master Plan and Consent No 02/1422 for the 473 lot subdivision. Each unit in the proposed resort will be similar to the approved units in the Peppers and Outrigger Resorts. That is to say, each unit will be self contained, will include a kitchen and laundry and will be strata subdivided to create a separate lot over each unit.

South Kingscliff Developments Pty Ltd submitted a report prepared by CRC Pty Ltd with the original Outrigger Resort development application demonstrating that the only financially viable means of delivering resort hotels (particularly in regional areas) is by way of selling off strata titled units to investors and having those units managed in a resort pool by experienced operators. This is the only basis on which Peppers and Outrigger Management were prepared to operate the current resorts at Salt. We are currently negotiating with the third (and possibly fourth) resort operator and they confirm that any proposed resort must comprise self contained units and individually owned strata lots managed as part of the letting pool by the resort operators.

Having regard to these essential resort requirements, we are particularly concerned that the above policy may be interpreted as applying to the future Salt resorts on the basis that the units may be "*capable of being separately occupied*".

We submit that this approach would be contrary to the longstanding strategy of the State Government and Council to provide sustainable tourism infrastructure on the Tweed Coast, particularly at Salt. This strategy is reflected in the current 2(f) Tourist zoning and its successful implementation as evidenced by the completed Outrigger Resort and Peppers Resort, completion of which is due in December 2005. We stress that it is essential that a range of tourist accommodation opportunities are provided on the Salt site (and adjacent Casuarina site) to achieve the critical mass required to sustain a competitive resort and tourist precinct in this area.

Clearly, if the provisions of Development Control Plan No 6 are to apply, together with normal contributions for multi dwelling housing, the future resorts will not be viable because of reduced yields and increased development costs. In addition, the social and economic benefits flowing from the creation of up to another 100 direct fulltime employment positions, for young people in particular, will be lost.

Having regard to the above factors and given the proven track record of South Kingscliff Development in relation to the delivery of the Outrigger and Peppers Resorts, it would be greatly appreciated if this submission could be reported to the Administrators with a recommendation that they confirm that the above policy does not apply to the Salt project.

The argument here is that the economics of tourist accommodation dictate that a distinction must be made between it and medium density development.

Whilst this argument requires research to substantiate, if it is to be accepted controls are required to manage any adverse impact on the existing community.

2. Managing the impacts

Definition of Tourist Accommodation

The cause of much of the concerns are the impact of tourist accommodation when proposed in existing residential areas, and the definition of tourist accommodation in the LEP; in particular the word '*principally*'. In respect of the latter, legal opinion indicates that '*principally*' means that each unit in the development only has to be principally used for tourist accommodation. This scenario is confusing and at the least misleading to future purchasers who have no way of knowing that the unit must principally be used for tourist accommodation. Therefore each unit could be used for residential use for some period of time as long as it is principally used for tourist accommodation. This gives rise to the issue of controlling the tourist/residential ratio, which is impossible and not practical.

As a consequence DIPNR is applying conditions (some of which have vanished after amendments by way of Section 96) that are impractical and advice to applicants, prospective applicants and purchasers is not concise or straightforward. An example of this can be found with the recent amendment to the Cabarita Hotel development issued by DIPNR. This has a condition that would appear to only require 60% of the 57 units to be available for tourist accommodation. The remaining 24 would appear to be able to be used for residential (where there has been no contemplation of residential use and application of residential standards) such as increased car parking and S94 contributions has not been applied. This is a variation on the interpretation of '*principally*' and is contrary to earlier legal opinion.

Arising from this is that residential standards are not met eg. car parking and contributions and this means that the tourist standards are also compromised.

If the definition of tourist accommodation is amended by deleting the word 'principally' it would provide clarity and would enable clear conditions to be imposed regarding use, including 88B's or management statement clauses so that purchasers would be aware. Currently advice is not able to be given regarding the maximum length of stay that a unit can be used for to remain as tourist accommodation. Port Stephens Council encountered this issue many years ago and uses the following conditions on consents for tourist accommodation:

- The tourist accommodation shall not be occupied by any proprietor or occupier for longer than forty-two (42) consecutive days or an aggregate one hundred and fifty (150) days in any twelve (12) month period. Such periods are to be calculated from the date of the first occupation of the tourist facility.
- The occupancy restrictions shall be incorporated into a management agreement for the tourist accommodation. A copy of the management agreement shall be provided to Council prior to the issue of the occupation certificate.
- A register shall be kept by the owner or proprietors to record the occupancies and shall be available at any time for inspection by an authorised officer of Council.

The view was also expressed at the Workshop that there are specific elements of tourist accommodation, which differentiate it from development which could be used for either tourist or residential accommodation. These elements include the typical front of house facilities (lobby and porte courcher), and support facilities at the rear (eg, storage, laundry). If Council can be satisfied that a proposal meets these requirements then its future use becomes less of an issue.

To achieve this, consideration could be given to more precisely defining tourist accommodation, as follows:

"A building used for the accommodation of tourists and incorporating support facilities such as porte coucher front of house lobby and reception, rear support facilities".

Planning Controls

There still remains the issue of detailed controls for tourist accommodation. The absence of an articulated outcome for tourist accommodation, and associated controls, does not provide certainty for developers or the community. It does not assist Council in assessing proposals and often leads to debate and conflict.

Urban design controls are required, particularly in respect of development in existing urban areas. These controls should include set backs etc in a similar manner to those required for medium density development. This should ensure that tourist accommodation in existing residential areas conforms with the existing character of such areas. Tourist accommodation in tourist precincts however, should be the subject of current assessment procedures.

There must be a clear nexus between planning controls and tourist development. For example, the reason cited for reduced car parking standards is that tourist development does not require the same parking as residential development.

3. Developer contributions

There is a strict legal framework for the imposition of developer contributions. There must be a nexus between the development and the need for the nominated infrastructure, which each of the contribution plans adopted by Council has carefully addressed. As a consequence the three plans already identified as not requiring contributions for tourist development have been adopted: and there is no evidence that that should be amended.

If there is any debate in respect of this issue it may be the assessment of the actual contribution rate. All plans are based on the estimated population arising from the development (except roads). This in respect of tourist development is based on assumed occupancy of the accommodation. Traditionally this has been adopted as 0.38 of an ET.

Therefore, there is no nexus for applying all contributions to tourist accommodation. If, at a later stage, an owner wanted to live in the unit on a permanent basis, then a Development Application would be required to change the use to a "dwelling". It would be at that time that the contributions relevant to "multi-dwelling" houses would apply.

The Manager of Water has indicated that, "the S64 contribution fees and charges were completely revised for 2005/2006 and now provide a specific ET equivalent which conforms with the intent of Council's resolution".

Tourist Resort

Concern was expressed at the Workshop that the revised controls for tourist accommodation would affect that form of development within a tourist resort. The recommendations clearly exclude that situation, although the definition requires flexibility.

Conclusions

A more rigorous and objective approach to tourist accommodation is required. To achieve this the following is required:

- Amend the definition of tourist accommodation in the TLEP to exclude *'principally'* and include support facilities.
- Apply DCP 6 to tourist accommodation except where it is within a tourist resort with the addition of the following Clauses:
 - Include in Clause 1.5:

"A7. To ensure that tourist accommodation which is capable of being used as permanent residential accommodation meets the same standards as multi dwelling housing".
 - Include in Clause 1.6 the following paragraph:

"This DCP applies to tourist accommodation".
 - Any necessary textural changes throughout the document to add or include tourist accommodation where multi-dwelling housing controls apply.
- Impose the following conditions, where appropriate, on any development approval for tourist accommodation to limit the development to such a use: -
 - The tourist accommodation shall not be occupied by any proprietor or occupier for longer than forty-two (42) consecutive days or an aggregate one hundred and fifty (150) days in any twelve (12) month period. Such periods are to be calculated from the date of the first occupation of the development.

- The occupancy restrictions shall be incorporated into a management agreement for the tourist accommodation. A copy of the management agreement shall be provided to Council prior to the issue of the occupation certificate.
- A register shall be kept by the owner or proprietors to record the occupancies and shall be available at any time for inspection by an authorised officer of Council.
- Amend DCP 2 Site Access and Parking Code as follows:

Replace Item B6 in Table 4.9B with the following:

Item	Development	Comment	Public Transport, Bus Stop Seating	Bicycle Parking	Delivery, Service Vehicle parking (50% must be truck size)	Resident Parking	Staff Parking	Customer Car Parking
B6	Tourist accommodation, except where it is within a tourist resort		1/15 units	2/unit, class 2 AS 2890.1. Residential buildings without access to ground level private open space only.	1/50 units	1.5/accommodation unit. 25% to be accessible and marked for visitors.		

- Continue the current regime of S94 Developer Contributions.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

3 [PD] Development Application DA04/1440 for an Aged Care Facility at Lot 1 DP 543412 & Lot 1 DP 624403 Pacific Highway, Banora Point

ORIGIN:

Development Assessment

FILE NO: DA04/1440 Pt2

SUMMARY OF REPORT:

Council at its meeting of 21 September 2005 resolved as follows: -

"that Development Application DA04/1440 for an Aged Care Facility at Lot 1 DP 543412 and Lot 1 DP 624403 Pacific Highway, Banora Point be deferred to allow for an on-site inspection by all Administrators."

On 5 October 2005 the Administrators inspected the site and the report is now referred back to Council for determination.

RECOMMENDATION:

That Development Application DA04/1440 for an Aged Care Facility at Lot 1 DP 543412 and Lot 1 DP 624403 Pacific Highway, Banora Point be approved subject to the following conditions:-

GENERAL

- 1. The development shall be completed in accordance with development Plan Nos: MPS 1546 DA-03 to 13/A prepared by MPS Architects, dated April 2005, and all submitted supporting documentation, except where varied by these conditions.**

[GEN0010]
- 2. 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]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
- [GEN0120]
4. All hand washing basins in food handling and preparation areas are to be fitted with a water temperature measuring device or other means to ensure that warm running water is supplied to the basin via a single spout without recourse to separate hot and cold water taps.
5. The premises where food is handled or prepared for patrons or occupants is to be notified to NSW Health in accordance with the Registration and Notification requirements of the Food Standards Code as called into force by the *Food Regulation 2004*.
6. The development shall be carried out in accordance with the provisions of the acoustic advice from Max Winders & Associates Pty Ltd within the *Noise Impact Assessment for Stage 2 of Ocean View, Corner Pacific Hwy and Terranora Rd, Banora Point* dated 3 November 2004 (Ref: L44804/PAK/02-13a).
7. No air conditioning units are to be placed facing any neighbouring residential boundaries unless the noise emitted from any such air conditioning unit has been assessed by a qualified acoustic engineer and if necessary acoustically treated in accordance with such assessment by the qualified acoustic engineer so as to ensure that the noise emitted from any such air conditioning unit does not create or emit offensive noise in relation to any neighbouring residences at any time during operation.

8. All external artificial lighting is to be shielded where required to prevent light spillage onto neighbouring properties or any other area causing a nuisance. Any such shielding shall be installed to the satisfaction of the General Manager or his delegate.

[GENNS01]

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

[GEN0030]

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

[GEN0090]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

11. Any premises proposing to discharge into Councils sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Councils Manager Water and concurrence received from the Department of Land and Water Conservation, if required, PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.

[PCC0280]

12. 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:** **\$26,556**
S94 Plan No. 4 (Version 4.0)
Sector2_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):** **\$20,873**
S94 Plan No. 5
- c. **Open Space (Casual):** **\$4,477**
S94 Plan No. 5
- d. **Shirewide Library Facilities:** **\$18,451**
S94 Plan No. 11
- e. **Eviron Cemetery/Crematorium Facilities:** **\$3,690**
S94 Plan No. 13
- f. **Emergency Facilities (Surf Lifesaving)** **\$5,566**
(REMSHIRE)
S94 Plan No. 16

g.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$39,462.98
j.	Cycleways S94 Plan No. 22	\$9,430
k.	Regional Open Space (Structured) S94 Plan No. 26	\$31,531
l.	Regional Open Space (Casual) S94 Plan No. 26	\$5,904

[PCC0050/PSC0005]

13. 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 DSP4:	25.4 ET @ \$4230	\$107,442
Sewer Banora:	40 ET @ \$2634	\$105,360

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]

14. All cut and fill earthworks are to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work. The development must not result in the ponding of stormwater on adjoining properties.

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

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

[PCC0090]

15. 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]

16. 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]

17. 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]

18. Permanent Stormwater Quality Treatment

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

- (c) **The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.**
- (d) **Specific requirements:**
- (i) **Runoff from all impervious road, driveway and car parking surfaces shall be treated to remove oil and sediment pollutants prior to discharge to the public realm. Permanent stormwater treatment devices shall be sized in accordance with Council's Development Design Specification D7 - Stormwater Quality, Section D7.12. Full engineering details of treatment devices, including maintenance schedules, must be submitted with a s68 Stormwater Application for approval prior to the issue of a Construction Certificate.**
 - (ii) **Temporary stormwater services and treatment measures implemented for the previously approved carpark development (DA03/1645) shall be replaced by permanent services as part of the subject approval. Details of these services must be included as part of a s68 Stormwater Application for approval prior to the issue of a Construction Certificate.**
- [PCC0230]
19. **Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.**
- Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:**
- i) **Contours and terraces where the height exceeds 1m.**
 - ii) **Cover with topsoil and large rocks/dry stone walls in terraces as necessary.**
 - iii) **Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.**
 - iv) **Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.**
- [PCC0330]
20. **A full Food Safety Plan to the satisfaction of NSW Food Authority and Council's General Manager or his delegate shall be submitted prior to issuing the Construction Certificate.**

21. Any premises used for the storage, preparation or sale of food is to comply with the relevant provisions of the Food Act 2003 and Food Standards Code. Details of fittings and equipment are to be submitted to the satisfaction of Council's General Manager or his delegate prior to issuing of the CC.
22. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste products. A screened, graded and drained garbage storage area shall be provided within the boundary. [PCCNS01]
23. All retaining structures shall be designed and constructed in accordance with AS4678-2000 Earth-retaining structures, and full engineering details shall be submitted with the Construction Certificate application. All retaining structures and cut and fill batters shall be wholly contained within the subject land.
24. There is to be no cutting or filling of land over the line of the sewer main without the prior written approval of Council's Director Engineering Services.
25. Prior to the issue of a Construction Certificate, hydraulic analysis is to be provided addressing any requirements for a booster system for fire fighting purposes [PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

26. Prior to commencement of work pursuant to this consent a Construction Certificate shall be obtained for the works proposed and required by this consent.

Any application to Council for a Construction Certificate involving civil works must be submitted on the prescribed form and include, where relevant;

- a) copies of compliance certificates relied upon
- b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks / access works
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - sedimentation and erosion management plans

- location of all service conduits (water, sewer, Country Energy and Telstra)
- the relevant maintenance manuals (eg. G.P.T's, water pump station)

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

[PCWNS01]

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

[PCW0010]

28. 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]

29. 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]

30. 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]
31. 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]
32. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.
[PCW0230]
33. Prior to commencement of work on the site all 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]
34. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced.
[PCW0220]
35. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the General Manager or his delegate.
[PCW0140]
36. Sewer main within site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.
[PCW0180]
37. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

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

[PCW0190]

DURING CONSTRUCTION

38. 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]
39. 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]
40. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".

[DUR0090]
41. 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]
42. 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]
43. 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]
44. 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]

- 45. 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]

- 46. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.**

[DUR0260]

- 47. 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]

- 48. 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]

- 49. 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]

50. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR1040]
51. 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]
52. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR1090]
53. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard. [DUR1110]
54. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR1130]
55. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR1160]
56. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention. [DUR1180]
57. 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 General Manager or his delegate prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1210]

58. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system. [DUR0240]
59. All walls in the food preparation and food storage areas shall be of solid construction, easily washable, lightly coloured and tiled to a height of at least 2 metres above floor level, or where not tiled, cement rendered to provide a smooth even finish to ceiling. Note: Stud framed walls will not be acceptable. Intersections of all floors with walls shall be covered to a radius of not less than 25 millimetres. [DUR0320]
60. All flooring materials in the food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices. [DUR0330]
61. Windows and doors opening into food preparation and storage areas are to be fully screened in accordance with Council's adopted code for the construction of food premises. [DUR0350]
62. 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]
63. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties. [DUR0860]
64. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution. [DUR0870]
65. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles. [DUR0880]
66. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning. [DUR0890]

67. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
[DUR0910]
 - B. Long term period - the duration.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
[DUR0920]
68. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
[DUR0920]
69. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director, Engineering & Operations.
[DUR0930]
70. The burning of builders waste on site by open fire is prohibited.
[DUR0940]
71. Construction site work including the entering and leaving of vehicles is to be restricted to between 7am and 6pm Monday to Friday and 8am to 1pm Saturday. No works permitted on Sundays or Public Holidays.
72. All imported fill material shall be from an approved source. Prior to commencement of filling operations, details of the source of fill shall be submitted to the satisfaction of Council's General Manager or his delegate. Documentary evidence must be provided that the fill material is free of any contaminants.
[DURNS01]
73. No soil, sand, gravel, clay or other material shall be disposed of off the site.
[DUR0030]

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

[DUR0150]

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

[DUR0430]

76. The earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". In general, material shall be placed in layers not exceeding 300mm in depth, watered and compacted to achieve the specified density ratio as monitored in Table 5.1 - Guidelines for Minimum Relative Compaction.

[DUR0620]

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

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

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

[DUR0730]

78. The building is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.

[DUR0830]

79. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material or concealed below ground level.

Should additional fill be proposed in the area of the sewer manhole Council's Engineering & Operations Division must be consulted and suitable arrangements made for the raising of the manhole to the satisfaction of the General Manager or his delegate.

[DUR0840]

80. The existing driveway and fence on the Terranora Road frontage, do not comply with Council's Access to Property Policy or AS 2890, regarding pedestrian sight lines. This is to be rectified accordingly.

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

81. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with Land and Property Information prior to issue of the Occupation Certificate.

[PSC0050]

82. 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]

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

[POC0030]

84. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0050]

85. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC0170]

86. Prior to occupation of the premises, contact is to be made with the NSW Food Authority (contact Kelvin Frost on 0427 427 293) to advise that the premises has now been completed and to arrange for a health inspection.

[POCNS01]

87. Prior to the issue of an Occupation Certificate, a "satisfactory inspection report" issued by Council must be produced for s68h2 permanent stormwater quality control devices. This inspection report must be obtained from Council prior to backfilling of any of the s68h2 approved devices.

[POCNS02]

USE

88. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense.

[USE0240]

89. All loading/unloading to take place within the boundary of the subject property.

[USE0130]

90. 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]

91. Owners of buildings served by plant involving the operation of "cooling towers", "evaporative condensers" or "tepid water systems" must submit to Council, half yearly, a report detailing the maintenance, cleansing and chemical treatment of such plant every three (3) months in accordance with Part 6 of the NSW Public Health Act.

[USE0180]

92. The handling and preparation of food for supply to patrons or occupants is to comply with the Listeria guidelines issued by NSW Health.

93. All food handling areas and persons engaged in the preparation and handling of food supplied to patrons or occupants are to comply with the provisions of the *Food Act 2003* and the provisions of the *Food Standards Code* as called into force by the *Food Regulation 2004*.

94. Food handling and preparation is to comply with all requirements of NSW Health.

95. Construction site work including the entering and leaving of vehicles is to be restricted to between 7am and 6pm Monday to Friday and 8am to 1pm Saturday. No works permitted on Sundays or Public Holidays.

96. Delivery of goods to the premises shall be restricted to between the hours of 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays.

97. The servicing of waste facilities shall be limited to between the hours of 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays.

98. Any buses, delivery trucks and the like that are required to remain on site for periods in excess of two (2) minutes shall have their engines turned off.

[USENS01]

99. The creation of easements, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:

- i. Easements for sewer (over the existing lines), water supply and drainage over ALL services on private property.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the easement to drain water shall make provision for maintenance of the easement by the owners of the land.

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

[PSC0020]

100. Pursuant to Section 80A(1)(b) of the Environmental Planning and Assessment Act, 1979 (As amended) and Clause 97 of the Environmental Planning and Assessment Regulations, 2000 that portion of Development Consent No. DA02/0495 relevant to Stage 2 of the development shall be surrendered by lodgement of the prescribed information, suitably executed, PRIOR to the issue of an Occupation Certificate.

[PSC0080]

REPORT:

Applicant: Petrac Group
Owner: Ovst Pty Ltd
Location: Lot 1 DP 543412 & Lot 1 DP 624403 Pacific Highway, Banora Point
Zoning: 2(a) Low Density Residential & 2(e) Residential Tourist
Cost: \$6,000,000

BACKGROUND:

This report provides an assessment of application submitted for an aged care facility, comprising:

- Three, partly four-storey building to 12.9 metres in height
- 41, 2 bedroom units (4 with additional study)
- common living area
- common dining area
- recreation and service facilities
- storage tanks for roof water harvesting
- extension of internal access driveway
- levelling off land contours and retaining
- landscaping

Development approval history over the site includes: -

- 00.00.1983 Application T4/2577 - approved the Banora Point Motor Inn
- 06.13.2000 Application 0967/2000DA - approved the addition of 12 x 4 bedroom units, public use of existing restaurant and associated parking and landscaping.
- 17.07.2002 Application DA02/0495 - approved the conversion of the 40 existing motel units into aged care units and the addition of 45 additional units in two buildings to the south and east of the motel.
- 25.09.2003 Application DA02/0495.01 - approved inter alia the staging of works under DA02/0495.
- 27.01.2004 Application DA03/1645 - approved a two level car park and filling of the site.

The present application includes a new land parcel, Lot 1 DP 543412, increasing the total site area from 7875m² to 8602.2m². The proposed development extends into the additional property (the site of the existing fruit stall) to approximately 16-metres further east than that approved under DA02/0495. It is largely within the previously excavated area of the fruit stall that the proposed development comprises of four storeys. Rather than filling the site, the development is proposing a lower ground level to construct a store area that will principally accommodate the water tanks for the harvested roof water for re-use.

The remainder of the fourth storey is by definition only. The site, under DA03/1645, has been filled. The reliance on the Tweed LEP definition of natural ground level is, in this instance, referring to a ground line that is below the existing site surface, causing confusion as to the actual number of storeys in the building, which except for the water storage level, is three. In compliance with the statutory provisions the application is supported with a State Environmental Planning Policy No.1 objection in this regard. The Development Assessment Unit agrees that the standard is unreasonable in this case, and raises no further issue as to either the fourth storey component derived by definition or under clause 16 of the Tweed LEP.

Application History

05.11.2004 Application received.

12.11.2004 Application referred to ATM (internal referrals issued)

Advertising 24 November to 8 December 2004. Seven (7) individual submissions and one (1) forming a petition of 60 signatures were received.

22.02.2005 Letters sent to each of the objectors advising that the applicant had agreed to erect a height pole to answer any questions of issue at site meeting.

03.03.2004 On-site meeting with applicant, objectors (approx. eleven), Council Officers. Issues discussed included:

- Traffic
- Loss of views
- Amenity
- Overshadowing
- Height and scale of the development
- Non-compliance with Council Policy

28.04.2005 Applicant submitted 'amended' development plans and documentation.

The amended plans are not considered to have provided any real external benefit over those originally submitted. They do however include a significant number of small refinements. The amendments to the building setbacks, in the south and east where most objections appear to originate, are small. It is highly likely on a building of this size that if a physical comparison could be made that the amendments would be largely imperceptible. The following table identifies the change in gross floor area (GFA) and building setback in the more contentions building area (southeast corner).

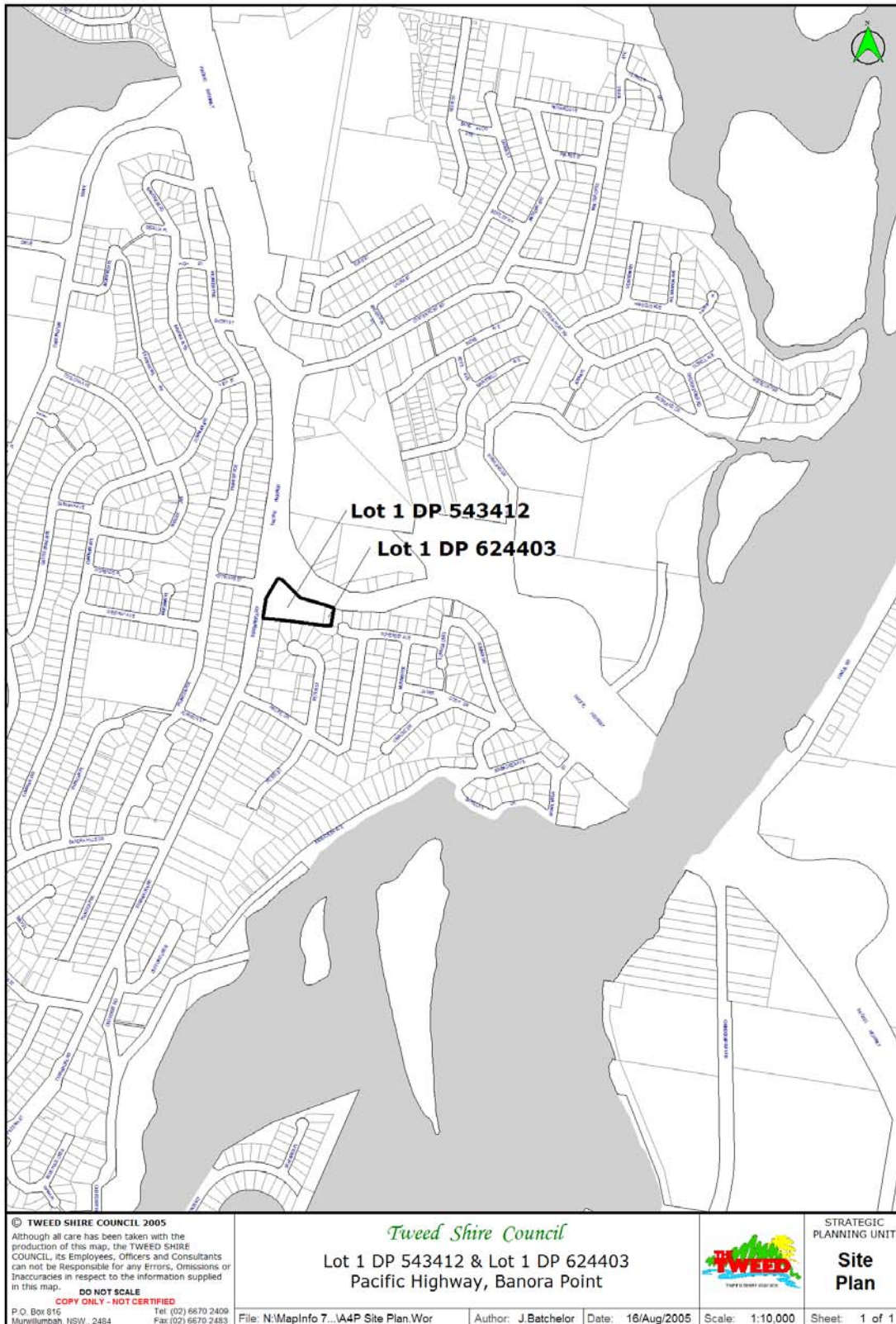
	Original plans	Amended plans
Ground level		
<i>No. of units</i>	11 units	Same
<i>No. of beds</i>	11 x 2 bedroom	Same
<u>Setbacks</u>		
<i>South</i>	4.6m	5m
<i>East</i>	3m	3.6m
<i>GFA</i>	1457m ²	1434m ²
1st and 2nd Floor		
<i>No. of units</i>	15 units	Same
<i>No. of beds</i>	13 x 2 bedroom	Same
	2 x 2 bed with study	Same
<u>Setbacks</u>		
<i>South</i>	3m	3.6m
<i>East</i>	4.6m	5m
<i>GFA (1st)</i>	1462m ²	1471m ²
<i>GFA(2nd)</i>	1439m ²	1471m ²
Total GFA	4358m ²	4376m ²
Total units	41	41
Ration per unit	106.29m ²	106.73m ²

It should be noted in addition to the above that the balconies in the south-eastern area of the building on both series of plans encroach to a minimum of 3-metres. The revised plans illustrate an increased setback of approximately 400mm to the balconies of the two eastern most units (on each level) on the southern boundary. The floor / ceiling heights of the development appear unaltered, in particular it is noted that the levels provided on both series of plans illustrate the following levels: -

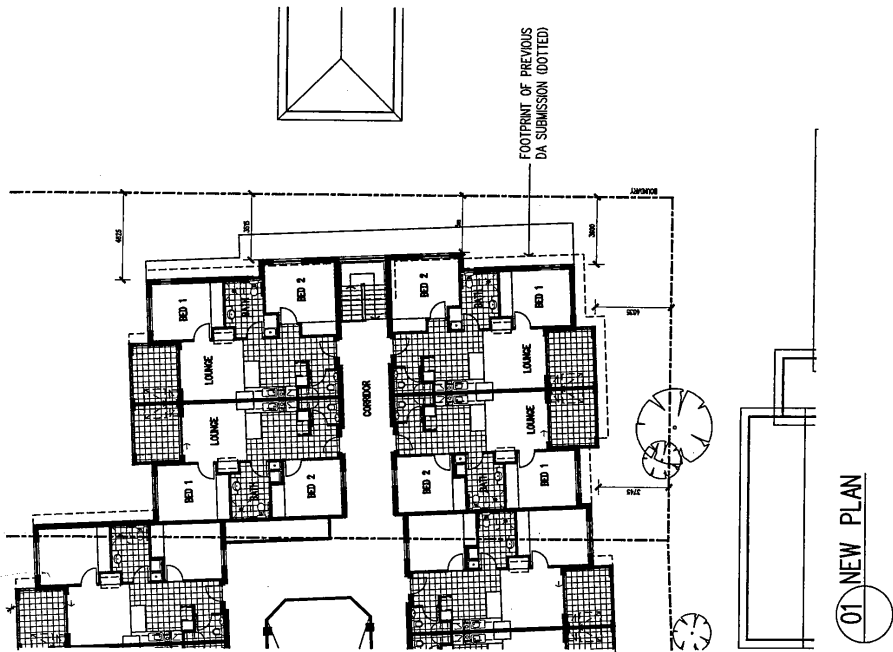
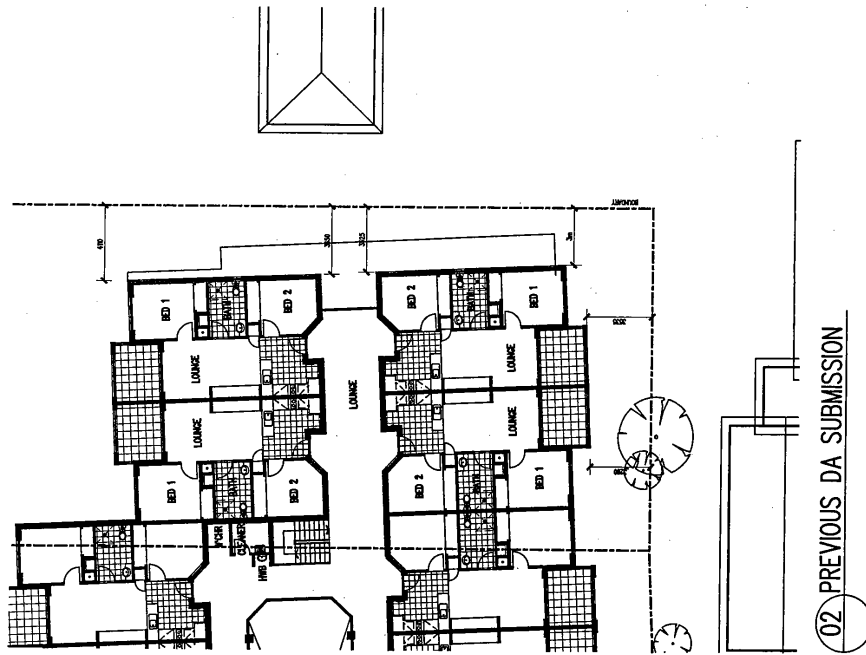
- Water storage RL 98.550
- Ground Floor RL 101.550
- First Floor RL 104.75
- Second Floor RL 107.450
- Ceiling above RL 109.85
- Roof height (not atrium) RL 111.17
- Atrium (approx) RL111.87

Maximum building height is approximately 12.9-metres. The site has been filled to a maximum depth (in extreme areas) to a depth of approximately 3.4m although most fill is well below this limit. Additional land levelling will be required to varying degrees, requiring fill to depths of approximately 1.2m.

SITE DIAGRAM:



MPS
 ARCHITECTS
 1000 38 88 00
 1000 38 88 00
 1000 38 88 00
 APRIL 2005
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01 NEW PLAN

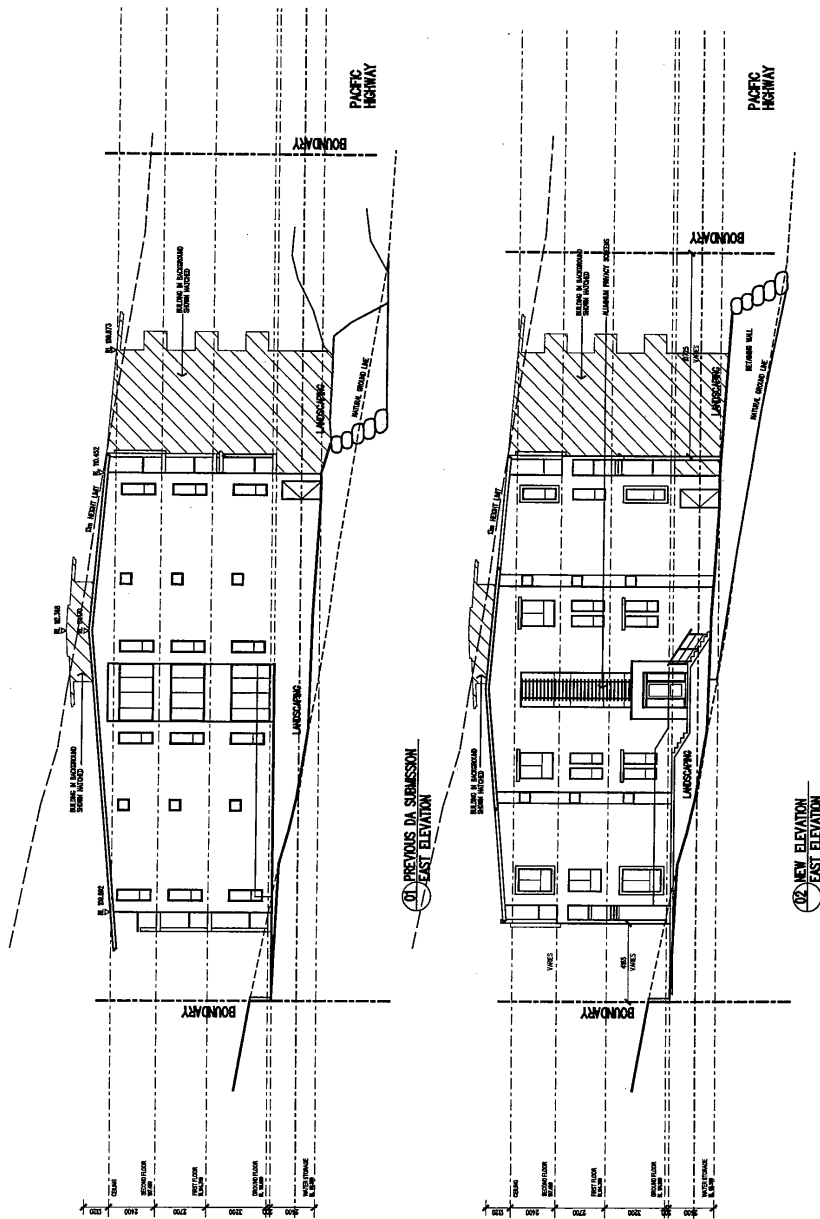
DA COMPARISON TYPICAL FLOOR PLAN

10m

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OCEAN VIEW, BANORA POINT
 OVST

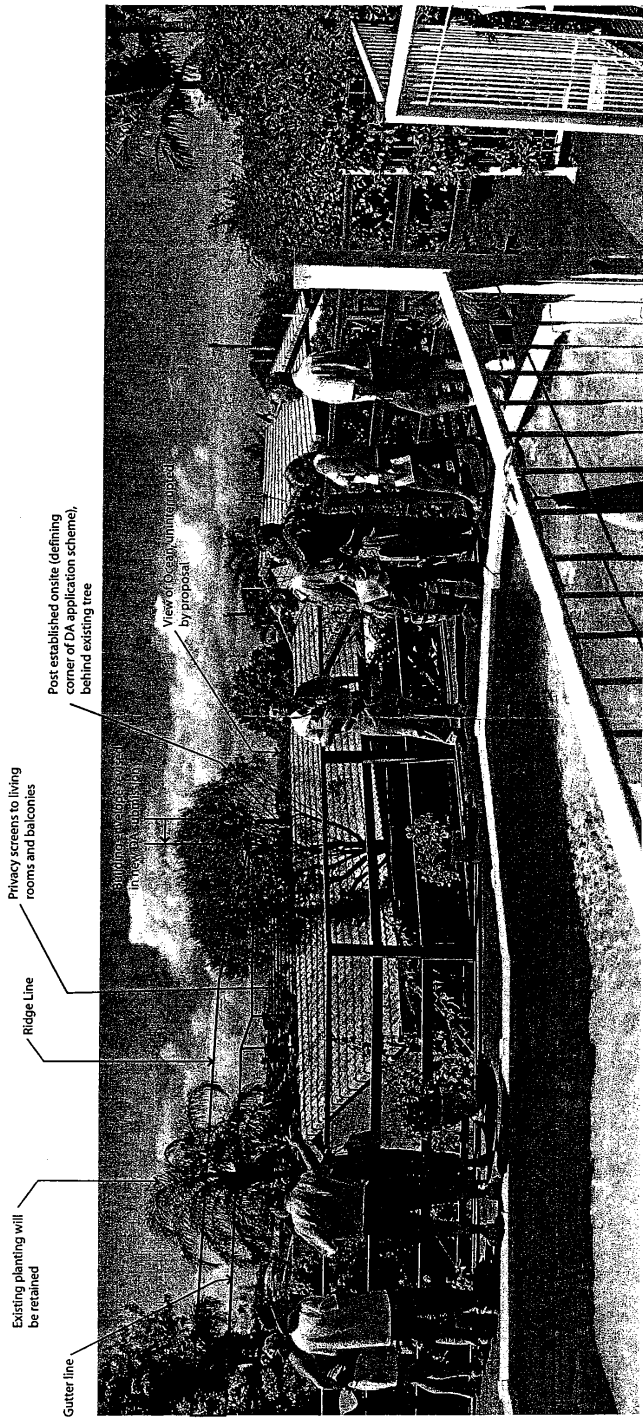
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OCEAN VIEW, BANORA POINT
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DA COMPARISON EAST ELEVATION

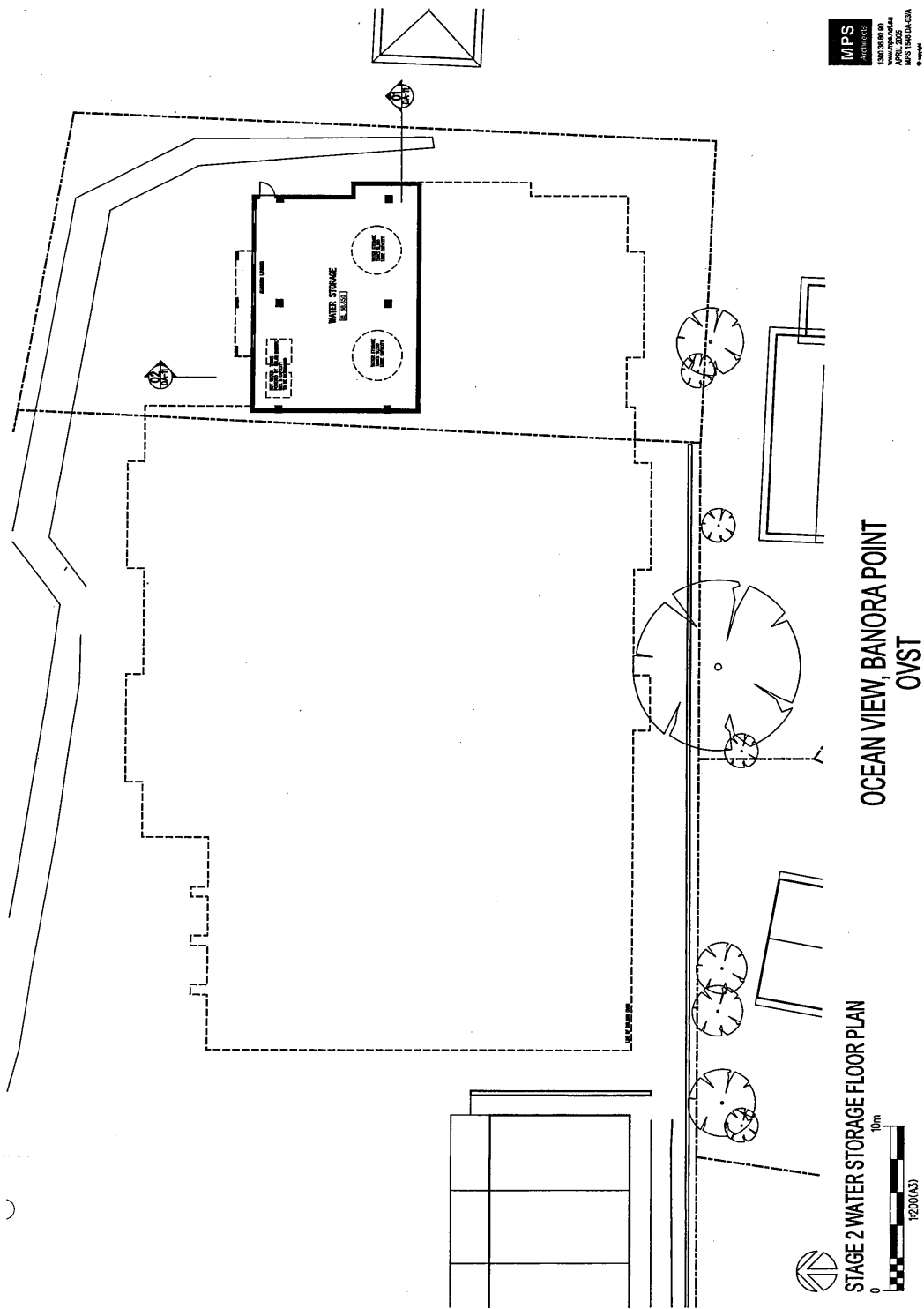


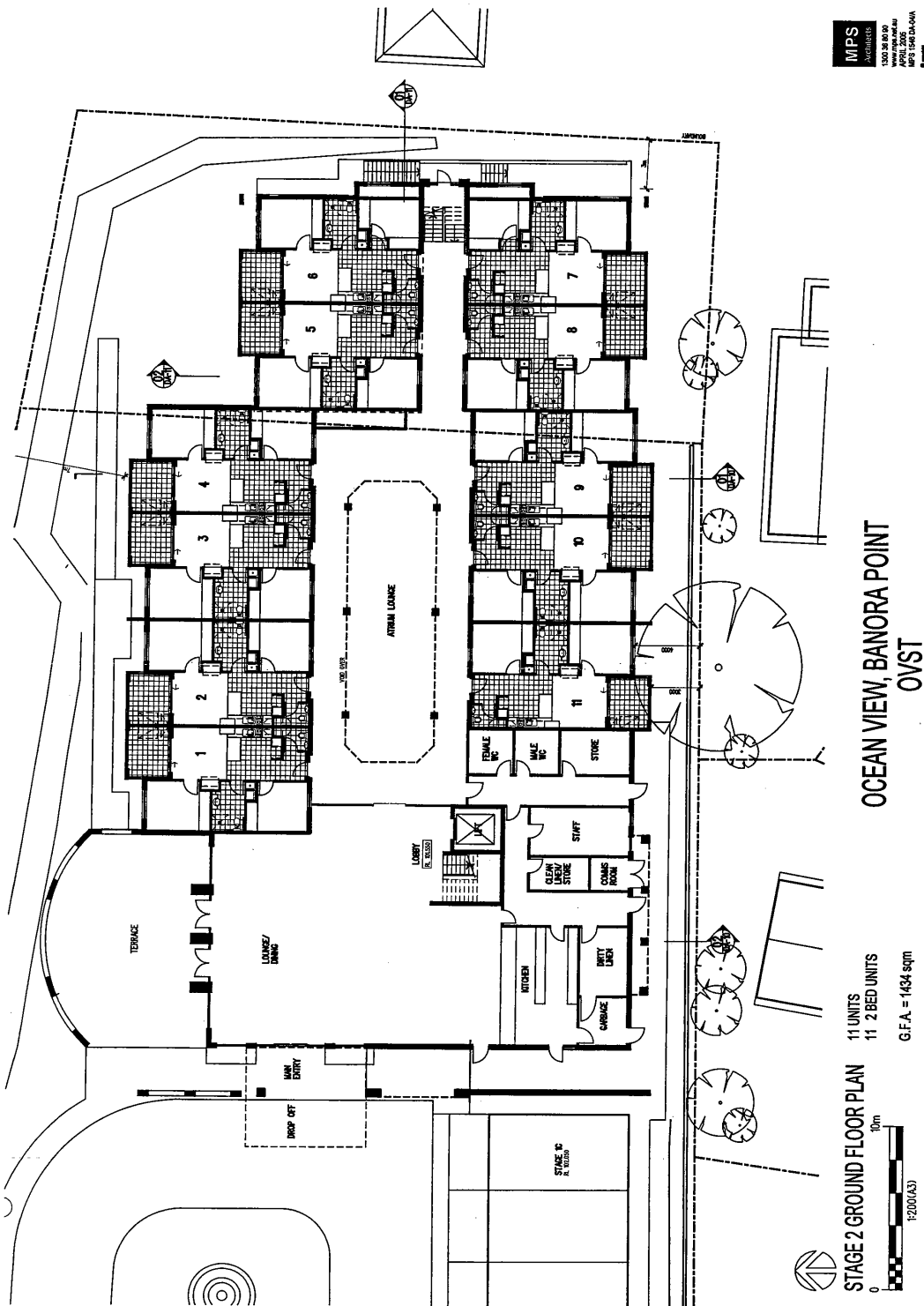


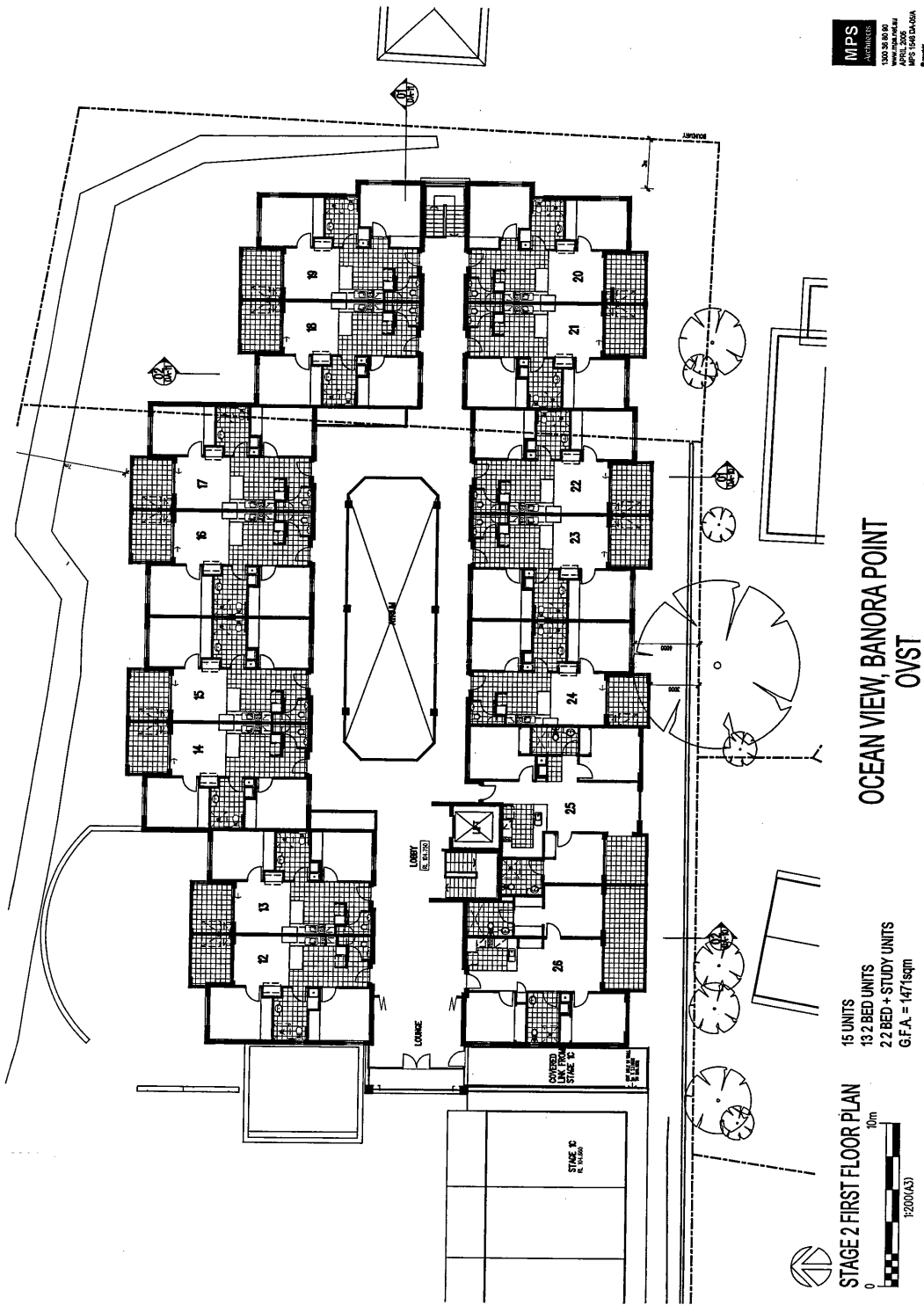
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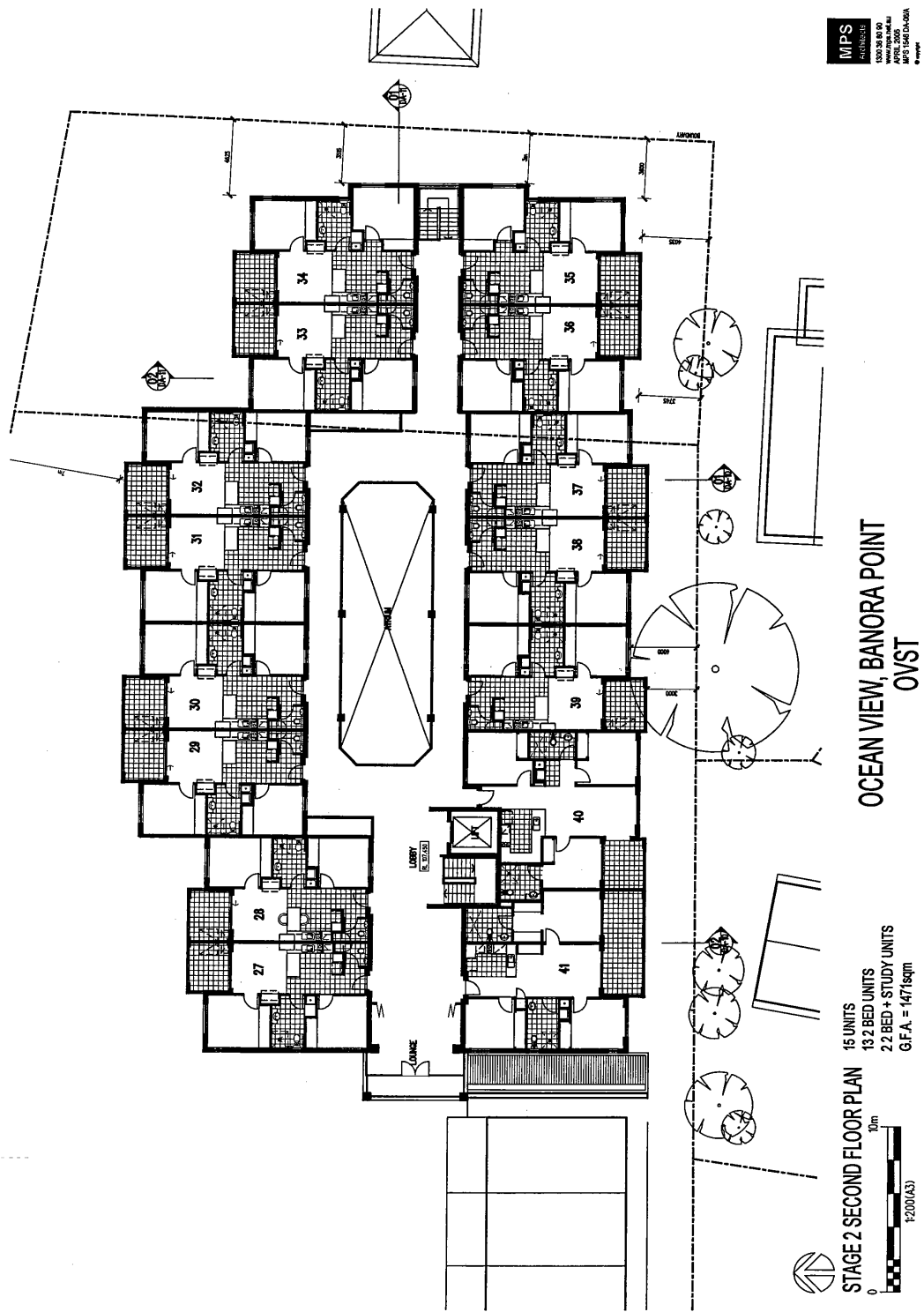
OCEAN VIEW SUPPORTED LIVING COMMUNITY
TERRANORA ROAD, BANORA POINT
OVST PTY LTD

INDICATIVE PHOTOMONTAGE
View taken from Deck of 34 Peter Street

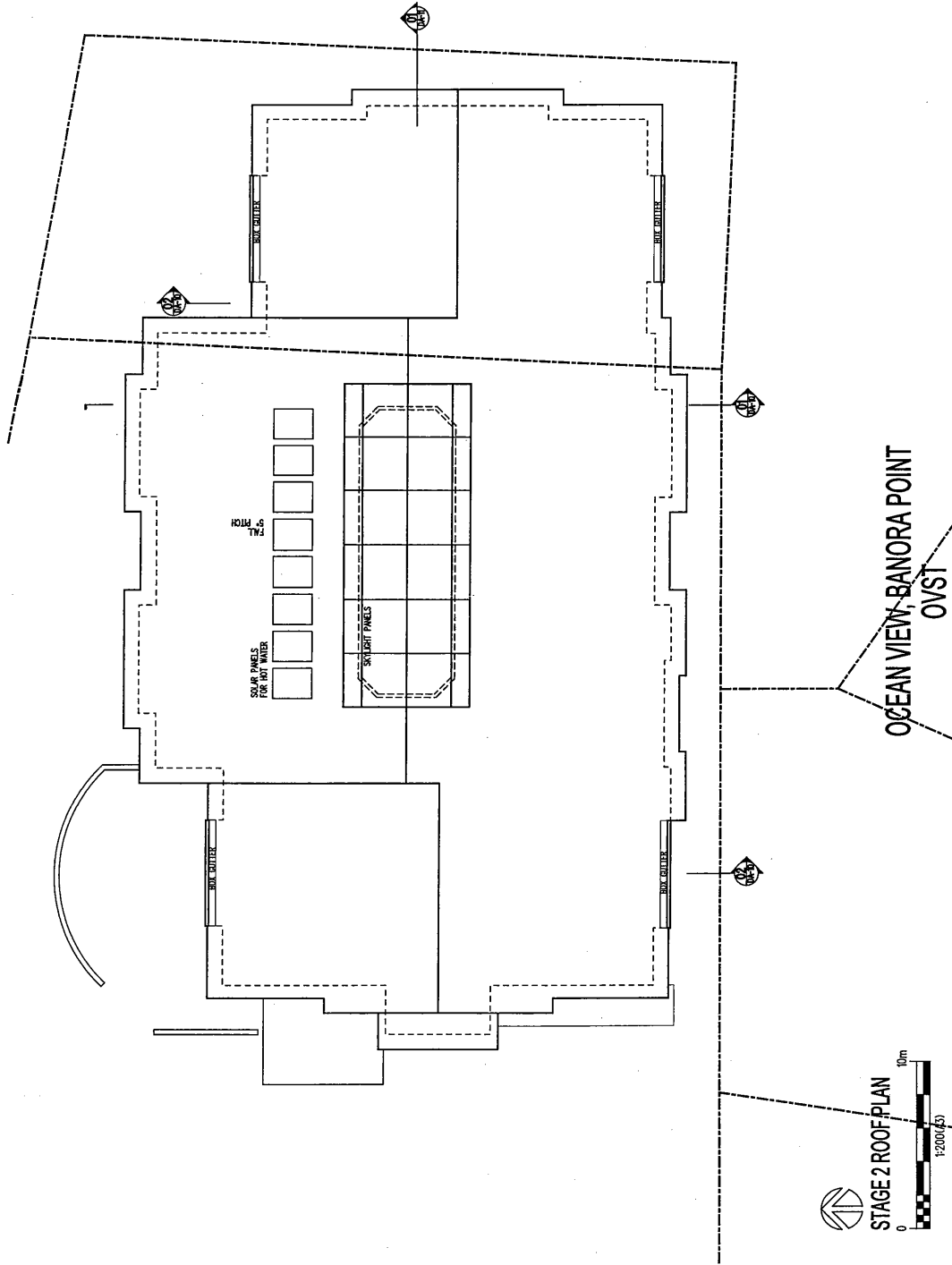




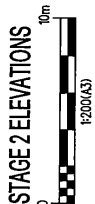
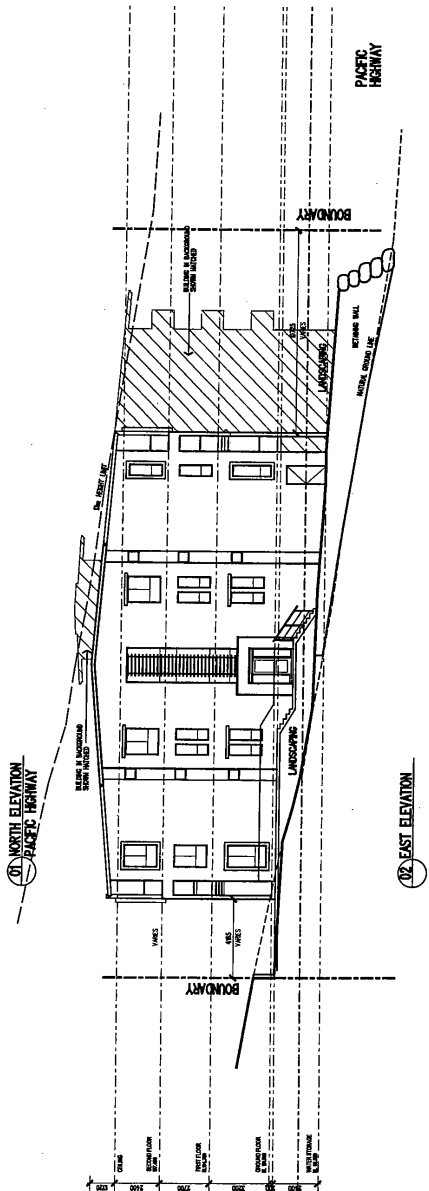
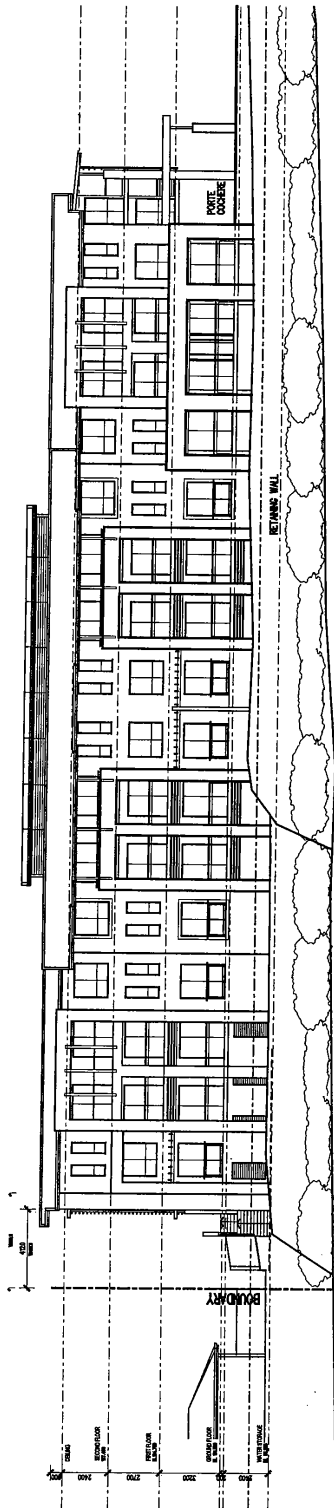




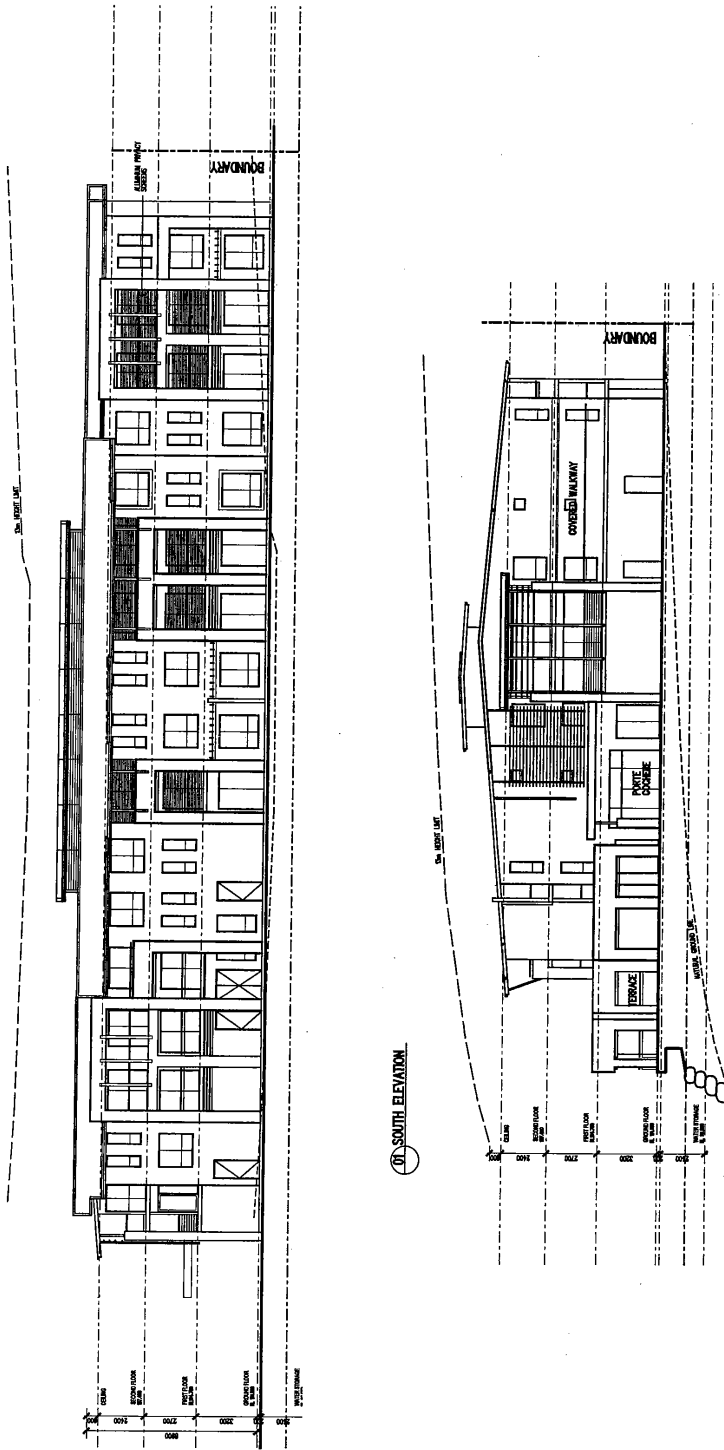
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APRIL 2005
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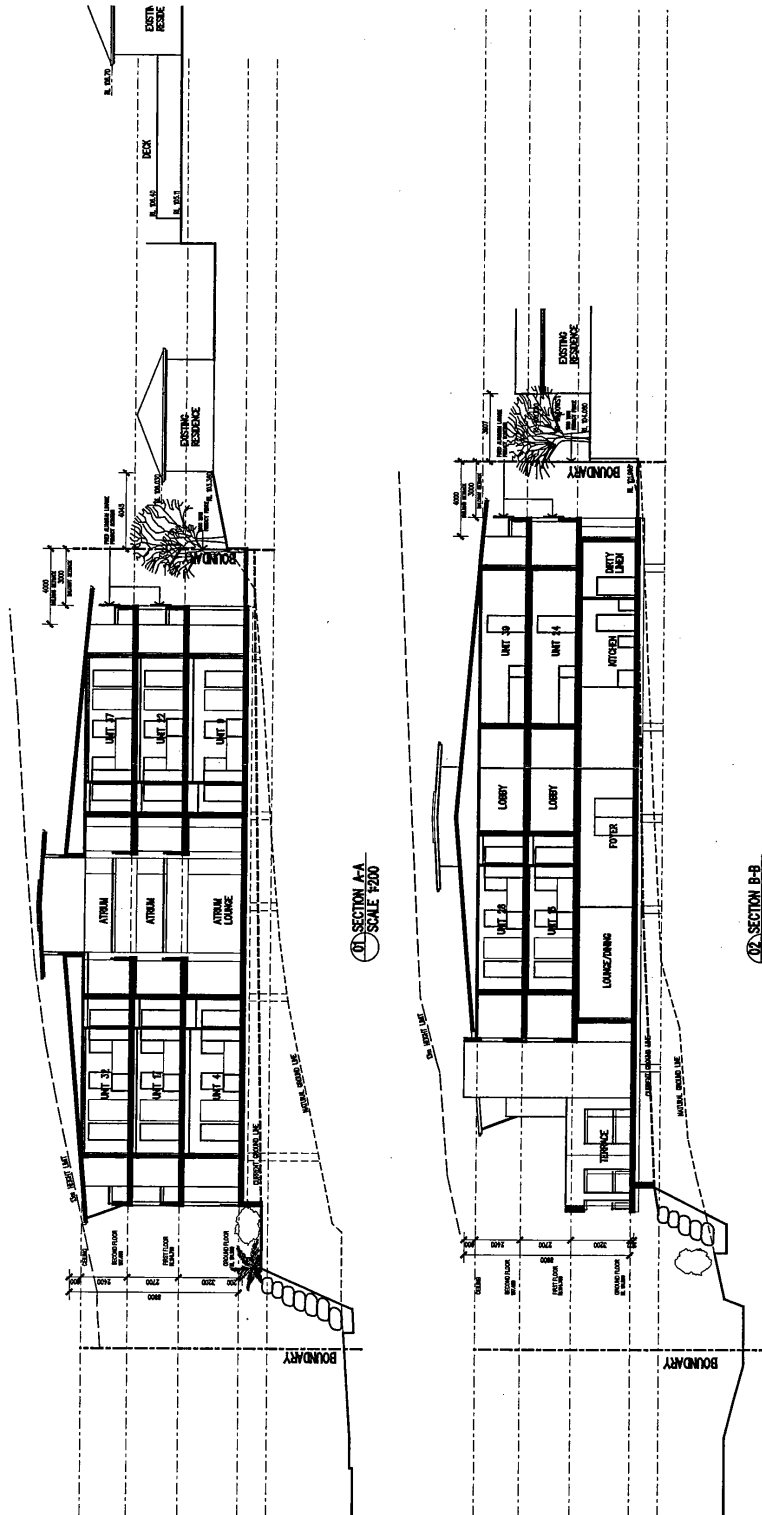
OCEAN VIEW, BANORA POINT
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OCEAN VIEW, BANORA POINT
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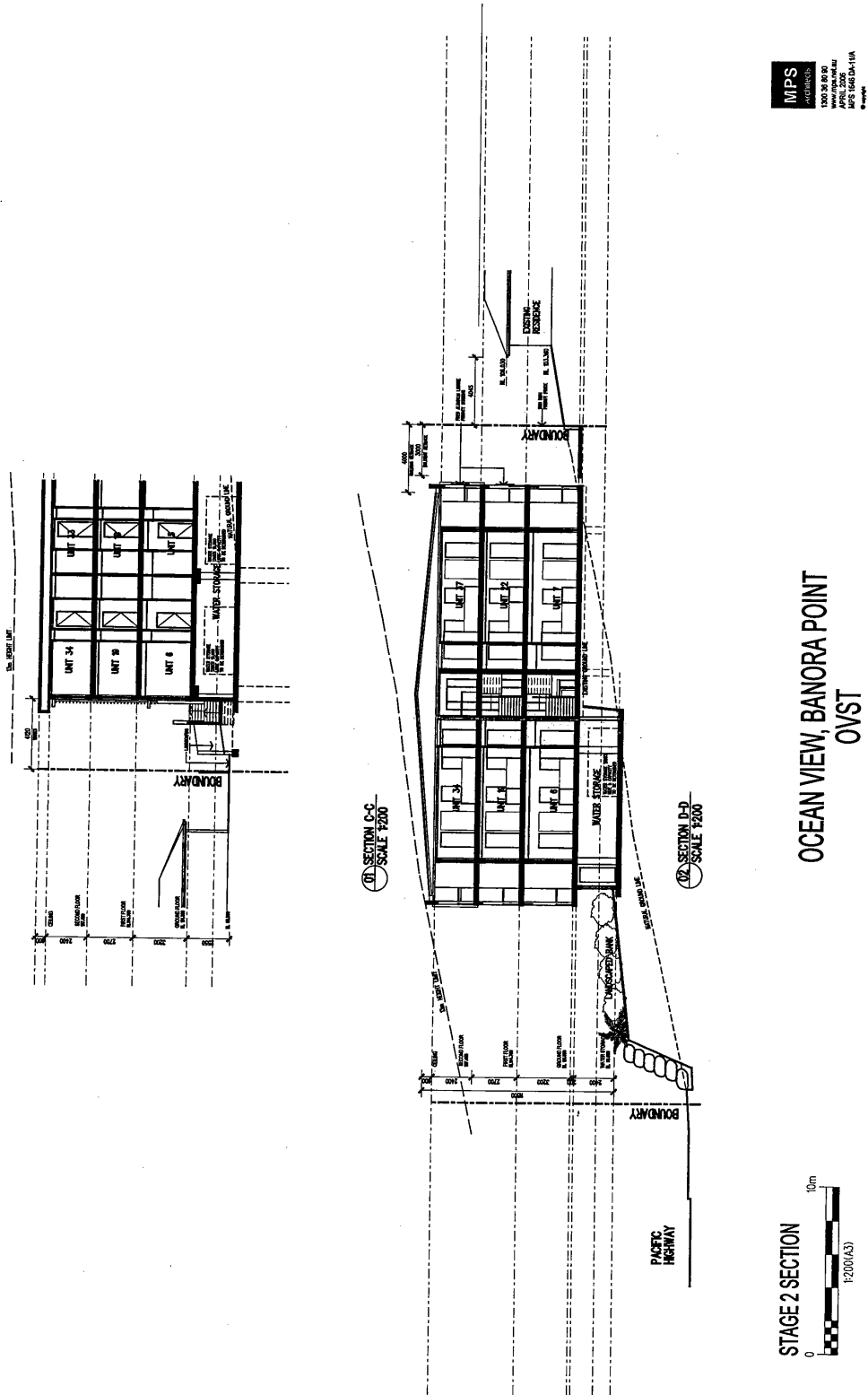
STAGE 2 ELEVATIONS
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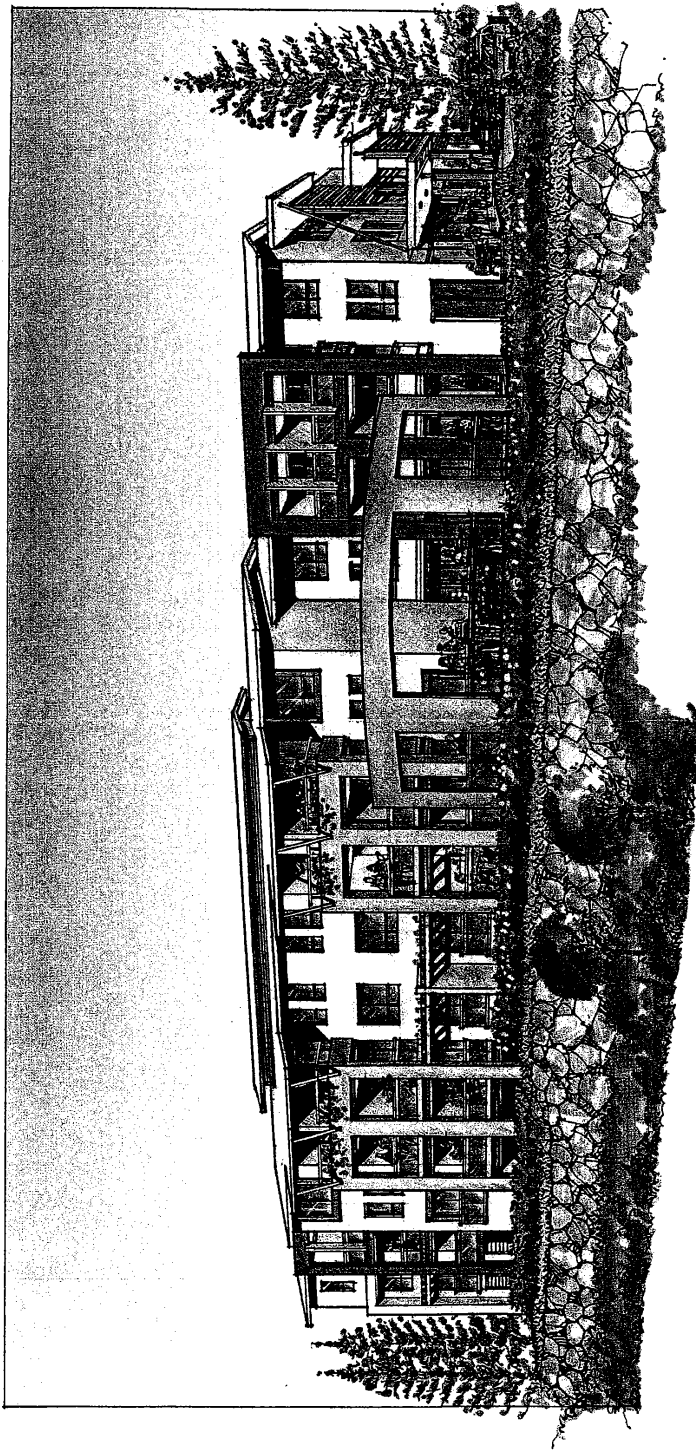


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 BENTONVILLE ARIZONA
 APRIL 2005
 MPS 1504/DA-10A

OCEAN VIEW, BANORA POINT
 OVST



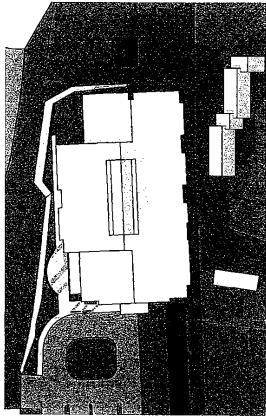




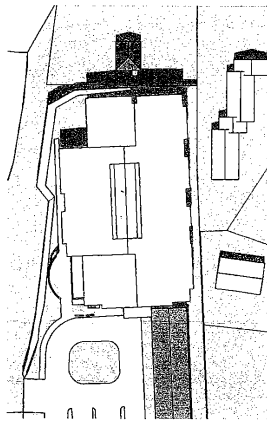
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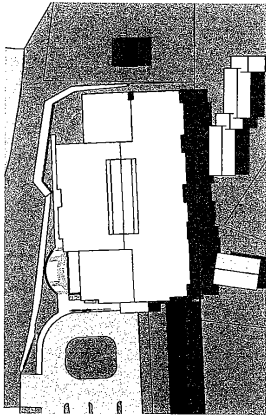
PERSPECTIVE



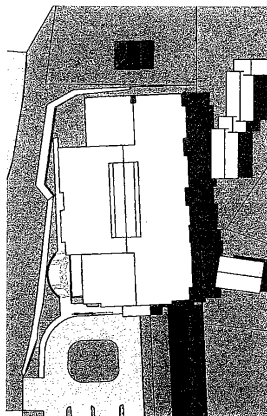
JUNE 22 . 3pm



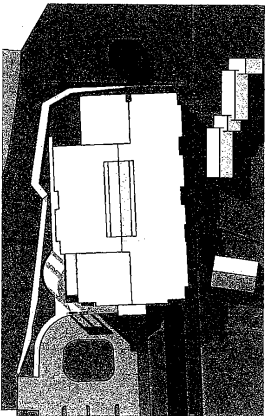
DECEMBER 22 . 3pm



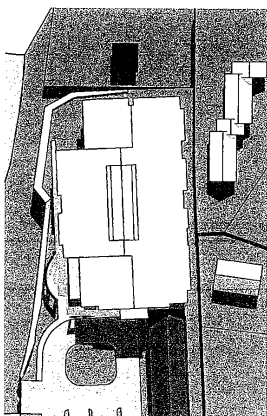
JUNE 22 . 12pm



DECEMBER 22 . 12pm



JUNE 22 . 9am



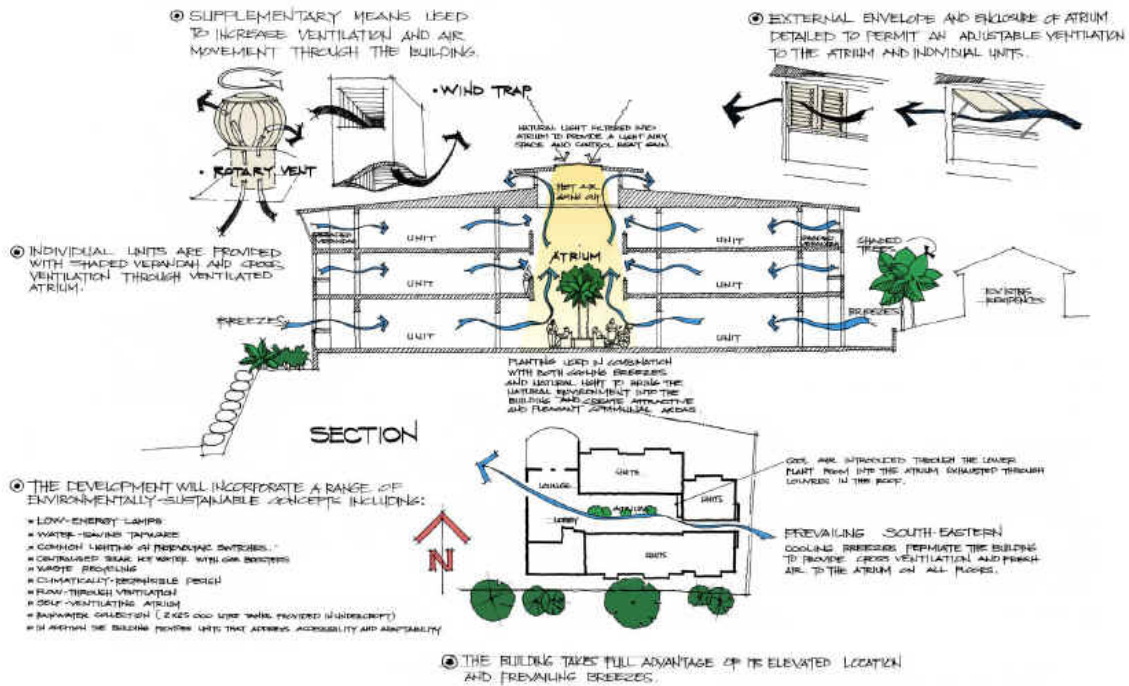
DECEMBER 22 . 9am

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SHADOW DIAGRAM

Environmental Building Design



OCEAN VIEW SUPPORTED LIVING COMMUNITY
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PASSIVE COOLING AND ENVIRONMENTAL CONCEPTS

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 AUGUST 2005
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CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

Tweed Local Environmental Plan 2000

The land is zoned 2(e) Residential Tourist and 2 (a) Low Density Residential. Aged care facilities are permitted in each zone. The application at section 3 of the Statement of Environmental Effects (SEE) demonstrates compliance with the zone objectives.

North Coast Regional Environmental Plan 1988

The application SEE considers the relevant sections of the Plan (cl.15, 32B & 43), as satisfactory. No issues are raised with the conclusions of the SEE.

State Environmental Planning Policies (SEPP)

SEPP 1 - Development Standards

The application is accompanied with an objection under State Environmental Planning Policy No.1 - Development Standards, as it relates to the fourth storey components of the building, at Appendix E of the SEE. The submission states among other things: -

- *There are special circumstances in this instance as the site has been substantially modified by past development and has recently been filled (with approval) to achieve suitable site grades to accommodate housing for the elderly.*
- *The departure arises in relation to the height of part of the building only and primarily as a consequence of the former topography of the site. Modifying the design of the northern part of the building to technically comply with the three (3) storey standard would achieve little, if anything in terms of altering amenity impacts of the development on adjoining properties. The rear or southern portion of the building (closest to adjoining dwellings) complies with the height standard and would not require alteration.*
- *The variation requested would be appropriate on merit having regard to its relationship with the existing Stage of development and the unusual circumstances of this case with respect to the prior approved filling of the site. The proposal would not set an undesirable precedent.*

- *Despite its height, the building would be articulated and architecturally treated to reduce the apparent bulk and scale. The development would represent a significant and positive addition to the built character of the locality.*
- *The height of the development would not result in adverse amenity impacts in the locality with respect to,*
- *Privacy,*
- *Shadow impacts, and*
- *Visual impacts.*
- *The height and scale of the development is compatible with the existing Stage 1 building and is appropriate to its location.*
- *The development appropriately maximises the delivery of supported Senior Living accommodation in a location which is highly accessible and well serviced by public transport and on a site which has been specifically prepared for this form of development.*

The proposed development will have a direct impact on a small number of adjoining properties, in particular the two low set dwellings to the south and to a lesser extent the elevated properties to the south also. Loss of views will occur, but a reduced level of view sharing will generally be provided to most properties. The low set dwellings to the south will be most affected, losing views northward across the subject property. It is noted however, that this would occur, albeit on a lesser scale, if the approved, but not constructed development, was to proceed. Development of the additional land could also potentially occur with a result not that dissimilar to that proposed in this application. On this basis, and having consideration to the appropriate building height for a three-storey building, the SEPP 1 objection is acceptable.

SEPP - Seniors Living

This application is not proposed under the Senior Living SEPP as it does not specifically fall within a nominated category of development. However, in the absence of any Council controls for aged care facilities it has been designed generally in accordance with the SEPP requirements.

SEPP 71 Coastal Protection

The SEE at section 3.3.4 provides an assessment of the application against the matters for consideration under the SEPP. The assessment concludes that the proposal is consistent with the aims of the policy. No issues are raised to the assessment or conclusion.

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

There are no draft EPI's that affect the assessment or recommendations in this report. It should be noted that LEP Amendment No.46, which comprised the re-wording of the definition for 'storey', has been adopted. Under the savings provisions of clause 16(3) the amended definition does not apply to this application.

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

An assessment of on-site car parking is provided at section 3.4 of the SEE. Essentially the first stages of the seniors living facility provided car parking at a rate of 1 space per 5 dwellings. The stage 2 proposed development is to provide 1 space per 2-bedroom unit. In total, 49 spaces would be required with and an additional 1 space per 2 staff (maximum 12), requiring at total of 54 spaces. The development provides for 57.

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

Satisfactory.

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

The proposal will overshadow three dwellings to the south during winter months with limited periods of overshadowing during summer. Winter sun is the more critical period as it provides a passive heat source. The lower set dwellings to the south will be adversely restricted on their northern elevation in this regard. It is noted that the existing site vegetation would presently cause, albeit to a far lesser extent, a similar situation. The dwelling to the east would be affected during limited times in both seasons. The application is supported with a shadow diagram illustrating this point. The impacts of overshadowing are not desirable. Neither are they easily overcome, as this would require a significant reduction in the building.

Loss of views will, to varying degrees, occur to the southern dwellings. The higher set dwellings will lose some views to the north, but will retain some views to the east. The lower set dwellings will be impacted to a greater extent. Neither the Applicant's nor Objector's point of view are concurred with on this matter, as they reflect the opposing extremes, in particular the Applicant's contention that the issues raised by objectors are in most cases 'unfounded perceptions'. The answer lies elsewhere, accepting that impacts will occur, but also that access to views and sunlight will not be obliterated. The issues raised in the submissions are real, but must be treated with an appropriate level of determining weight. In this instance, the need for significant modification or refusal of the application is not evident.

The building is of a high standard and utilises passive design systems, as well as rainwater harvesting. It will also provide a valuable community asset, serving the needs of the Shires ageing community. On merit, the development is satisfactory.

(c) Suitability of the site for the development

The site has previously been filled to provide a level platform to cater for the proposed development, noting that an essential component of aged care accommodation is relatively flat gradients. The approved development under DA 02/0495 is not that dissimilar to this application in many respects. The benefit of the present application is the level ground, use of passive cooling, rainwater harvesting, and architectural merit. The site is suitable for the proposed development.

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

The application was advertised from 24 November to 8 December 2004. Seven (7) individual submissions and one (1) forming a petition of 60 signatures were received. In addition, several other submissions, most notably from a single household, were received after the closing of the advertising periods and after the on-site meeting. The latter submissions did provide any additional significant issues.

The following table identifies some of the broader issues raised in the submissions: -

OBJECTION	IMPACT ASSESSMENT	COMMENT
The building exceeds the 3-storey height limit and should not be allowed.	There is a mechanism that permits this to occur, where it demonstrated that the standard is unreasonable or unnecessary. This issue has been addressed under SEPP 1 in this report, as acceptable.	Does not warrant amendment or refusal of application.
Traffic impact	The car parking and access arrangements have previously been assessed in DA02/0495, which provided for more units in total. In that application the following was noted: Council's Traffic and Transport Engineer advises that sight distances from the site exceed the minimum standard and that Terranora Road has adequate capacity to cater for the anticipated traffic increase.	Does not warrant amendment or refusal of application.

OBJECTION	IMPACT ASSESSMENT	COMMENT
Loss of airflow	This objection was raised predominantly by high set properties that are unlikely to experience changes in local climatic conditions. The lower set properties may however experience less strong breezes.	Does not warrant amendment or refusal of application.
Loss of views and sunlight	This issue has been addressed in the body of the report.	Does not warrant amendment or refusal of application
Contravenes the zoning of the land.	The proposal accords with the zoning of the land.	Does not warrant amendment or refusal of application.
The building is bulky	The building is large, but it is also quite articulated and incorporates good architectural design and relief.	Does not warrant amendment or refusal of application
Stormwater	The impervious area of the proposal is not that dissimilar to the previously approved but not constructed development. It was assessed and appropriately conditioned to cater for the increased runoff. Preliminary advices indicate that this proposal does not pose any significant design challenges or constraints.	Does not warrant amendment or refusal of application
The proposed development will decrease property values.	There exists no evidence to support the claim of loss of property value or vice versa.	Does not warrant amendment or refusal of application
The building is a monstrosity	Previously addressed.	Does not warrant amendment or refusal of application
Once approval is in place for higher density living the future usage may be altered, increasing the impact of the development.	It is a fact that many aged care housing developments in NSW have been constructed under the guise of aged care only to later have the approval amended to residential. However, this is a matter, that should it arise, will be dealt with at a future time. The complex has been designed for aged care facilities.	Does not warrant amendment or refusal of application

Included in the submissions received after the on-site meeting was that the height pole erected for the inspection was incorrect. It was noted that at first the attendees first thought it represented the maximum height of the building, but this was not the case as it represented the south-eastern corner of the building and its height, which was less than the apex of the roof located in the centre of the building. The Applicant submitted a Surveyors Certificate certifying the height of the pole.

(e) Public interest

The proposal provides good and efficient design. It caters to growing areas of the Shire's population and complements the existing site developments. There are some limited impacts of this proposal on a small number of adjacent properties and whilst they are not desirable they are neither easily overcome or of a magnitude that warrant significant modification or refusal of the application. The public interest is generally unaffected by this application, and it is not considered in the broader public interest to deny approval to acceptable development proposals.

OPTIONS:

1. Support the application and request the Director Planning & Development to refer conditions for approval to the next Council Meeting.
2. Refuse the application and provide reasons for doing so.
3. Defer the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The Applicant has a right of appeal should they be dissatisfied with the determination, this could have financial implications via legal costs.

POLICY IMPLICATIONS:

Approval of appropriate, well founded, SEPP 1 objections will not lead to negative policy implications.

CONCLUSION:

The development proposal has merit and is suitable for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM THE DIRECTOR GOVERNANCE & CORPORATE SERVICES

4 [GC] 2004/2005 Statutory Financial Reports / Audit Report

ORIGIN:

Financial Services

SUMMARY OF REPORT:

Council's Statutory General Purpose Financial Reports in accordance with Section 413 (2) (c) of the Local Government Act, 1993 for the financial year ended 30 June 2005 have been completed and audited. The Reports, including significant accounting policies and associated independent Audit Report from Thomas, Noble and Russell (TNR), presents Council with a financial overview of its operations for the year 2004/05.

The financial result for the year reveals that Council's finances are in a favourable position and that the internal financial management practices are sound.

The Financial Reports for 2004/05 are now presented to Council for adoption.

Mr Kevin Franey, partner of TNR will address Council at 4.30pm on issues that have arisen during the course of the audit. They will also be available to answer questions from Administrators.

Council is also required to make a resolution for a Goods and Services Tax Certificate in relation to payment of Voluntary GST 1 July 2004 to 30 June 2005.

RECOMMENDATION:

That:

- 1) Council adopts the tabled 2004/05 Financial Reports, as required by Section 413 (2) (c) of the Local Government Act, 1993 as follows: -
 - a) The financial statements are drawn up in accordance with:
 - The Local Government Act 1993 (as amended) and the Regulations made thereunder;
 - The Australian Accounting Standards and professional pronouncements;
 - The Local Government Code of Accounting Practice and Financial Reporting, and
 - The Local Government Asset Accounting Manual

- b) The reports, to the best of our knowledge:
- Present fairly the Council's financial position and operating result for the year, and
 - Accord with Council's accounting and other records.
- 2) To assist compliance with Section 114 of the Commonwealth Constitution, Council certify that:
- Voluntary GST has been paid by Tweed Shire Council for the period 1 July 2004 to 30 June 2005;
 - Adequate management arrangements and internal controls were in place to enable the Council to adequately account for its GST liabilities and recoup all GST input tax credits eligible to be claimed; and
 - No GST non-compliance events by the Council were identified by or raised with the Australian Taxation Office.

REPORT:

BACKGROUND

Council's General Purpose Financial Report, including significant accounting policies for year ended 30 June 2005 have now been completed and the auditor's report received. In accordance with the provisions of the Local Government Act, and the Local Government General Regulations, Council must implement the following actions to allow the reports to be finalised:

- a) adopt the financial reports and financial policies;
- b) fix a meeting date to present the reports to the public, and
- c) advertise, for a minimum period of seven (7) days, that the Statements and the Auditor's Reports are available for public inspection.

In order to comply with these guidelines, Council advertised in the Tweed Link on Tuesday 11 October 2005, that the reports are to be presented to Council at this meeting and that the reports are available for public inspection.

A copy of the Financial Reports will be tabled at this meeting.

These reports were completed by Council and audited by Council's auditors, Thomas Noble and Russell, within the statutory timeframe set by NSW Government legislation.

LEGISLATION REQUIREMENTS

The Local Government Act, 1993 ("the Act") relating to the preparation of Council's annual financial reports requires that: -

1. Section 413 – A council must prepare financial reports for each year, and must refer them for audit as soon as practicable after the end of that year.
2. Section 413 (2) – A council's financial reports must include:
 - (a) a general purpose financial report;
 - (b) any other matter prescribed by the regulations; and
 - (c) a statement in the approved form by the council as to its opinion on the general purpose financial report.
3. Section 413 (3) – The general purpose financial report must be prepared in accordance with the Act and the regulations and the requirements of:
 - (a) the publications issued by the Australian Accounting Standards Board, as in force for the time being, subject to regulations; and
 - (b) such other standards as may be prescribed by the regulations.
4. Section 416 – A council's financial reports for a year must be prepared and audited within the period of 4 months after the end of that year.

5. Section 418 – Upon receiving the Auditor’s Report, the Act requires the Council to give at least 7 days public notice of the meeting at which it proposes to present its audited financial reports, together with the Auditor’s Report, to the public.
6. Section 420 – Any person may make a submission to the Council with respect to the Council’s audited financial reports or with respect to the Auditor’s Report.
7. Section 428(2)(a) – The audited financial reports must be included in the Council’s annual report.
8. Clause 215 of the Local Government (General) Regulation, 2005 requires that the Statement under Section 413 (2) (c) on the annual financial report must be made by resolution of the Council and signed by the Mayor, at least one (1) other member of Council, the General Manager and the Responsible Accounting Officer.

COUNCIL’S RESPONSIBILITY

Council is responsible for the preparation of the financial reports and adequate disclosures. This includes the maintenance of adequate accounting records and internal controls, the selection and application of accounting policies, and the safeguarding of the assets of Council. As the Responsible Accounting Officer, the Chief Financial Officer, Mr Michael Chorlton has stated the accounting records have been maintained in accordance with Section 412 of the Act and in a manner that permitted the timely preparation of the General and Special Purpose Financial Reports for the year ended 30 June 2005.

Update No. 13 to the Local Government Code of Accounting Practice and Financial Reporting was issued in July of this year and is relevant to accounting periods ending 30 June 2005.

The Operating Result for the year for General Fund is generally in accordance with budget expectations. Revisions have been made through the year in quarterly Budget Reviews to ensure Council has a sound financial result for the year.

The Water and Sewerage Funds’ end of year financial results have had unexpended work that will be carried over to 2005/06. Both Funds also remain financially stable.

BENEFITS AND PURPOSE OF ANNUAL FINANCIAL REPORTING

The primary benefits of financial reporting are:

- It makes Council accountable to the community for its financial management; and
- It provides the community and other interested parties with access to information about the current financial status of Council and its operational performance for the period in question.

The purpose of financial reporting, or the preparation of annual financial statements, is to communicate information about the financial position and operating results of Council to those who need to know or have an interest in Council operations.

Parties who have an interest in, or need to know financial reporting information include:

- councillors and management;
- residents/ratepayers;
- government departments and public authorities;
- community groups; and
- financial institutions

The users of financial reporting information are varied and financial statements must, therefore, be structured to meet all their respective requirements. This is achieved through conformity with the Australian Accounting Standards, which apply to the majority of business operations in Australia.

GOVERNMENT CONTROLS

NSW legislation strongly controls the external financial reporting requirements of Council.

ANNUAL FINANCIAL REPORTING SYSTEM

General Purpose Financial Reports

Under the requirements of Australian Accounting Standards, in particular AAS 27, Council is required to prepare the following reports for each financial year.

Operating Statement

This shows the operating result and change in net assets from operations for the year.

Statement of Financial Position

This discloses the assets, liabilities and equity of Council.

Statement of Cash Flows

This shows information about cash flows associated with Council's operating, financing and investing activities.

Statement of Changes in Equity

This reconciles opening and closing balances for each class of equity during the reporting period and gives details of any movement in these classes of equity.

Notes to the Financial Statements

These disclose the accounting policies adopted by Council and provide additional material necessary for evaluating and interpreting the financial statements.

In addition to the General Purpose Financial Reports, Council must also submit the Auditor's Reports in accordance with Section 417(1) of the Act and Council's Certificate in accordance with Section 413(2)(c) of the Act.

Special Schedules

The Department of Local Government, the Local Government Grants Commission and the Department of Energy, Utilities and Sustainability require a series of schedules. These provide additional details on Council's net cost of services; internal and external loans; operating statements and statements of net assets committed for water and sewerage services; and information on water and sewerage rates and charges.

AUDIT MANDATE

Council's Auditors, Thomas Noble and Russell, have completed the audit of Council's general purpose financial reports for the year ended 30 June 2005 under Section 417 of the Local Government Act 1993.

The audit included:

- An examination of the financial information for the purpose of expressing and opinion on financial statements to help establish the credibility of those statements
- An examination of financial information for the purpose of reporting on the legality and control of operations and the probity of those dealing with public funds, and including the expression of an opinion on an entity's compliance with the statutory requirements and regulations that govern the activities of Council.

Council's auditor must prepare two reports to Council (Section 417 (1)): -

- A report on the general purpose financial report, and
- A report on the conduct of the audit.

As soon as practicable after receiving the auditor's reports, Council must send a copy of the audited financial reports and the auditor's reports to the NSW Department of Local Government.

MANAGEMENT RESPONSIBILITY - AUDIT

The performance of an audit or the provision of an audit report does not in any way absolve or relieve management of its responsibility in the maintenance of adequate accounting policies and the preparation of financial information such as budget preparation and the quarterly budget reviews submitted to Council each three months. Council has strong internal management reporting practices in place that ensures all costs and income are monitored and acted upon on a weekly basis.

Management has the responsibility to safeguard Council assets and prescribe policies and procedures that are consistent with the economic and efficient use of resources.

PERFORMANCE INDICATORS

Council remains in a sound financial position regarding its short-term liquidity. The key financial performance ratios, as shown in the statements and listed in the following table, remain at satisfactory levels.

Performance Indicators	2004/05	2003/04	2002/03
Current Ratio	5.79	5.17	5.29
Unrestricted Current Ratio	2.44	2.31	2.50
Debt Service Percentage	7.23%	11.45%	9.92%
Rates and Annual Charges Coverage Ratio	35.29%	38.13%	24.03%
Rates and Annual Charges Outstanding	4.78%	4.61%	5.69%

To clarify the meaning and implication, a basic definition of each indicator is listed below.

- a) Current Ratio - The total current cash or cash convertible assets available, divided by current liabilities.
- b) Unrestricted Current Ratio – This is the same as the current ratio except it excludes assets and liabilities, which relate to activities that are restricted to specific purposes by legislation. This is a measure of Council’s liquidity. The Local Government Financial Health Check indicate a ratio above 2:1 is Green
- c) Debt Service Ratio – The amount used to repay borrowings as a percentage of total operating revenues. The indicator shows the amount of revenue necessary to service annual debt obligations. The Local Government Financial Health Check indicates a ratio <15% is Green for a developing Council.
- d) Rates and Annual Charges Coverage Ratio – This percentage is based on rates and annual charges revenues as a percentage of total operating revenues. This is a measure of Council’s dependency on rate income. State average is approximately 50%.
- e) Rates and Annual Charges Outstanding Percentage – This percentage is based on the amount outstanding as a percentage of the amount to be collected for rates and annual charges. This indicator measures the effectiveness of Council in recovering legally owed debts. The Local Government Financial Health Check indicates a ratio between 4 - 5% is Amber.

FINANCIAL OVERVIEW - GENERAL COMMENTS

While the above performance indicators reflect a sound position, the result has only been achieved through tight control over Council finances. Council’s infrastructure needs continue to exceed available funds and the demand for works and services continue to grow as the population of the Shire increases. As experienced during the recent deliberations for the 2005/06 Management Plan & Budget, funding for operational and capital works continues to remain tight. Council will need to develop its list of priority projects, to be incorporated into the long term financial plan, so a planned strategic approach to works and services may be implemented, whilst maintaining Councils sound financial position.

COUNCIL OF TWEED SHIRE
STATEMENT OF FINANCIAL PERFORMANCE

for the year ending 30 June 2005

Original Budget* 2005 \$'000	Notes	Actual 2005 \$'000	Actual 2004 \$'000
EXPENSES FROM ORDINARY ACTIVITIES			
26,164	Employee costs	28,600	25,787
2,746	Borrowing costs	2,386	2,525
22,714	Materials & contracts	22,304	19,359
19,975	Depreciation	21,526	21,279
7,800	Other expenses from ordinary activities	9,794	8,721
	Loss from the disposal of assets	328	2,526
<u>79,399</u>	TOTAL EXPENSES FROM ORDINARY ACTIVITIES	<u>84,938</u>	<u>80,197</u>
REVENUE FROM ORDINARY ACTIVITIES			
43,472	Rates & annual charges	44,354	41,788
18,995	User charges & fees	17,585	14,975
4,912	Interest	8,575	7,971
600	Other revenues from ordinary activities	787	858
11,980	Grants & contributions provided for non-capital purposes	13,322	14,377
<u>79,959</u>	REVENUES FROM ORDINARY ACTIVITIES BEFORE CAPITAL AMOUNTS	<u>84,623</u>	<u>79,969</u>
<u>560</u>	SURPLUS(DEFICIT) FROM ORDINARY ACTIVITIES BEFORE CAPITAL AMOUNTS	<u>(315)</u>	<u>(228)</u>
27,495	Grants & Contributions provided		
<u>27,495</u>	for capital purposes	<u>41,070</u>	<u>29,612</u>
<u>28,055</u>	SURPLUS(DEFICIT) FROM ORDINARY ACTIVITIES AFTER CAPITAL AMOUNTS	<u>40,755</u>	<u>29,384</u>
<u>28,055</u>	SURPLUS(DEFICIT) FROM ALL ACTIVITIES	<u>40,755</u>	<u>29,384</u>
<u>28,055</u>	Surplus(Deficit) attributable to Council	<u>40,755</u>	<u>29,384</u>

* The original budget as approved by Council Refer Note 16
The accompanying notes form an integral part of the financial statements

COUNCIL OF TWEED SHIRE
STATEMENT OF FINANCIAL POSITION
as at 30 June 2005

	Notes	Actual 2005 \$'000	Actual 2004 \$'000
CURRENT ASSETS			
Cash assets	6	85,434	71,851
Receivables	7	7,216	6,607
Inventories	8	1,502	842
Other	8	902	777
TOTAL CURRENT ASSETS		<u>95,054</u>	<u>80,077</u>
NON-CURRENT ASSETS			
Cash assets	6	67,590	69,139
Receivables	7	1,222	1,263
Property, plant and equipment	9	823,253	793,675
TOTAL NON-CURRENT ASSETS		<u>892,065</u>	<u>864,077</u>
TOTAL ASSETS		<u>987,119</u>	<u>944,154</u>
CURRENT LIABILITIES			
Payables	10(a)	10,538	10,026
Interest bearing liabilities	10(a)	3,199	3,264
Provisions	10(a)	2,689	2,196
TOTAL CURRENT LIABILITIES		<u>16,426</u>	<u>15,486</u>
NON-CURRENT LIABILITIES			
Payables	10(a)	1,354	2,417
Interest bearing liabilities	10(a)	34,687	33,072
Provisions	10(a)	10,101	9,382
TOTAL NON-CURRENT LIABILITIES		<u>46,142</u>	<u>44,871</u>
TOTAL LIABILITIES		<u>62,568</u>	<u>60,357</u>
NET ASSETS		<u>924,551</u>	<u>883,797</u>
EQUITY			
Accumulated surplus		923,709	882,955
Asset Revaluation Reserve		842	842
TOTAL EQUITY		<u>924,551</u>	<u>883,797</u>

The accompanying notes form an integral part of the financial statements

COUNCIL OF TWEED SHIRE
STATEMENT OF CASH FLOWS
for the year ending 30 June 2005

Budget 2005 (\$'000)	Notes	Actual 2005 (\$'000)	Actual 2004 (\$'000)
CASH FLOWS FROM OPERATING ACTIVITIES			
<u>Receipts:</u>			
43,472	Rates & annual charges	44,170	42,131
18,995	User charges & fees	16,966	14,237
4,912	Interest	8,407	8,197
25,326	Grants and Contributions	33,932	30,694
600	Other	787	858
<u>Payments:</u>			
(26,164)	Employee Costs	(28,467)	(25,668)
(30,514)	Materials & Contracts / Other	(30,840)	(25,883)
(2,746)	Interest	(2,410)	(2,586)
33,881	Net cash provided by (or used in) operating activities	42,545	41,980
	11(b)		
CASH FLOWS FROM INVESTING ACTIVITIES			
<u>Receipts:</u>			
	Increase in deposits held in trust		2,726
	Sale of real estate assets		
1,516	Sale of property, plant and equipment	4,744	1,783
	Payments from deferred debtor	16	37
<u>Payments:</u>			
(64,674)	Purchase of property, plant and equipment	(35,275)	(39,911)
	Advances to deferred debtors		
	Refunds of deposits held in trust	(1,500)	
(63,158)	Net cash provided by (or used in) investing activities	(32,015)	(35,365)
CASH FLOWS FROM FINANCING ACTIVITIES			
<u>Receipts:</u>			
4,837	Borrowings & advances	4,837	4,852
<u>Payments:</u>			
(3,448)	Borrowings & advances	(3,333)	(5,845)
1,389	Net cash provided by (or used in) financing activities	1,504	(993)
(27,888)	Net increase/(decrease) in cash assets held	12,034	5,622
140,990	Cash Assets at beginning of reporting period	140,990	135,368
113,102	Cash Assets at end of reporting period	153,024	140,990

The accompanying notes form an integral part of the financial statements

COUNCIL OF TWEED SHIRE

STATEMENT OF CHANGES IN EQUITY

for the year ending 30 June 2005

	Notes Ref	2005 \$'000	2004 \$'000	
		Accum Surplus	Accum Surplus	Asset Revaluation Reserve
		882,954	853,571	842
		40,755	29,384	
				Asset Revaluation Reserve
				842
				Total Equity
				883,796
				854,413
				Total Equity
				883,797
Balance at beginning of the reporting period				
Changes in equity recognised in the statement of financial performance				
Adjustment due to compliance with revised Accounting Standards				
Transfers to Asset Revaluation Reserve				
Transfers from Asset Revaluation Reserve				
Distributions to/from outside equity interests				
Balance at end of the reporting period		923,709	882,955	842
		924,551	882,955	842
		883,797		

The accompanying notes form an integral part of the financial statements

Note 6b

DETAILS OF MOVEMENTS & UTILISATION OF RESTRICTED CASH ASSETS

Restrictions	Notes	Movements		Proposed Utilisation of Restriction			
		Opening Balance 30-Jun-04 \$' 000	Transfers To Restriction \$' 000	Transfers From Restriction \$' 000	Closing Balance 30-Jun-05 \$' 000	Less than 1 Year	Between 1 and 5 Years
External							
Specific Purpose Unexpended Loans	6a	0	0	0	0		
Security Deposits	6a,10	3406	252	(1,752)	1,906	552	1354
Developer Contributions	6a,17	17,691	9,117	(4,711)	22,097	3,800	18,297
Agreed Contribution from Developer	6a	0	450	0	450	150	300
RTA Contributions	6a	196	2,809	(2,678)	327	327	
Specific Purpose Unexpended Grants	6a,14	2,303	10,441	(10,760)	1,984	1,984	
Water (not in reserves)	6a	45	57	0	102	102	
Water (Capital Upgrade - CRR)	6a	20,416	6,190	(5,567)	21,039	13,741	7,298
Water (Asset Replacement - ARR)	6a	20,365	2,593	(4,476)	18,482	10,246	8,236
Sewerage (not in reserves)	6a	1,829	2,260	0	4,089	4,089	
Sewerage (Capital Upgrade - CRR)	6a	9,996	5,028	(4,854)	10,170	10,170	
Sewerage (Asset Replacement -ARR)	6a	35,127	6,733	(3,106)	38,754	11,530	27,224
DWM - Acquisition of Land	6a	28	49	0	77		77
DWM - Bin Replacement	6a	1,179	613	(501)	1,291	100	691
DWM - Recycling	6a	833	113	(244)	702	200	252
DWM - Land Rehabilitation	6a	609	140	(466)	283	100	183
DWM - Zoning costs -Stotts Ck Depot	6a	77	4	0	81		81
DWM - EIS report - Stotts Ck Depot	6a	90	5	0	95		95
DWM - Roadworks - Garbage Collect.	6a	369	51	(53)	367	50	200
DWM - Provision for Financial Assur.	6a	1,502	86	115	1,703		117
DWM - Landfill Environment M'iment.	6a	1,121	139	(716)	544	200	1,703
DWM - Implementation Waste Disp.	6a	401	150	(63)	488	100	164
Caravan Park Cash Assets	6a	4,028	3,706	(2,497)	5,237	5,237	138
Special Rate - Koala Beach	6a	51	29	(12)	68		68
Total		121,662	51,015	(42,341)	130,336	62,746	64,525
							3,065

Note 6b cont'd

Restrictions

	Notes	Movements			Closing Balance 30-Jun-05 \$'000	Less than 1 Year \$'000
		Opening Balance 30-Jun-04 \$'000	Transfers To Restriction \$'000	Transfers From Restriction \$'000		
<u>Internal</u>						
<u>Included in liabilities</u>						
Employees Leave Entitlements	6a	6,221	244	0	6,465	6,465
Unexpended Loans	6a	2,218	2,023	(799)	3,442	3,442
Unexpended Grants	6a	430	1,661	(2,025)	66	66
<u>Asset Management Reserves</u>						
Asset Management Reserve - Office Ext.	6a	301	17	0	318	318
Civic Centre Asset M'ment	6a	62	3	(19)	46	46
Community Facilities	6a	129	5	(68)	66	66
Fire Control - Risk M'ment Plan	6a	5	0	(5)	0	0
Future Quarry Purchases	6a	589	500	0	1,089	1,089
Land Sales - Cemetery Asset M'ment	6a	84	5	0	89	89
Murwillumbah Community Centre	6a	3	0	0	3	3
Software & Equipment - Asset M'ment	6a	175	25	(3)	197	197
Sportsfields - Asset M'ment	6a	65	56	(59)	62	62
Swimming Pools Asset M'ment	6a	110	5	(44)	71	71
Tweed Heads Hacc	6a	68	4	0	72	72
Waterways Asset Management	6a	39	2	(8)	33	33
<u>Other</u>						
Contingency - Loan Guaratee	6a	25	0	0	25	25
Land Development	6a	764	25	(614)	175	175
Special Projects - 50% Land Dev	6a	17	0	(17)	0	0
Workers Comp. Cont. Reserve	6a	41	2	0	43	43
Non-DWM Land Rehabilitation	6a	9	10	0	19	19
Non-DWM M'ment Plan Depots	6a	7	0	0	7	7
Non-DWM Zoning Stotts Ck.Dep	6a	6	0	0	6	6
Non-DWM EIS Report	6a	50	3	0	53	53
		11,418	4,590	(3,661)	12,347	12,347

Note 6b cont'd

Restrictions	Notes	Movements				Closing Balance 30-Jun-05 \$' 000	Less than 1 Year \$' 000
		Opening Balance 30-Jun-04 \$' 000	Transfers To Restriction \$' 000	Transfers From Restriction \$' 000	Balance 30-Jun-05 \$' 000		
Internal (continued)							
Non-DWM Roadworks Garb. Coll.	6a	1	3	0	4	4	4
Non-DWM Acquisition of Land	6a	0	4	0	4	4	4
Non-DWM Prov Fin Assurance	6a	256	33	0	289	289	289
Non-DWM Landfill Env. M'tment	6a	0	8	0	8	8	8
Non-DWM Quirks Quarry	6a	219	13	0	232	232	232
Access Funding	6a	57	107	0	164	164	164
Agenda 21	6a	70	3	(21)	52	52	52
Art Gallery Construction	6a	0	27	(16)	11	11	11
Beach Vehicle Licence Income	6a	134	54	(62)	126	126	126
Car Parking	6a	0	158	0	158	158	158
Catchment Water Quality	6a	0	159	(39)	120	120	120
Coastal M'tment Planning	6a	59	6	(18)	47	47	47
Corporate Performance	6a	45	2	0	47	47	47
Haulage Fees	6a	292	17	(95)	214	214	214
Maternity Leave Reserve	6a	66	10	(8)	68	68	68
Museum - Asset Management	6a	94	0	0	94	94	94
Plant Operations	6a	807	838	0	1,645	1,645	1,645
Revolving Energy Fund	6a	26	12	(1)	37	37	37
Road Land Sale	6a	114	521	0	635	635	635
Sewerage M'tment Facilities	6a	78	6	0	84	84	84
Smart House - Sale Proceeds	6a	74	0	0	74	74	74
Works Carried Forward	6a	3,338	2,975	(2,014)	4,299	4,299	4,299
Total		17,148	9,546	(5,935)	20,759	20,759	20,759
Total Restrictions		138,810	60,561	(48,276)	151,095	83,505	64,525
							3,065

GOODS AND SERVICES TAX CERTIFICATE

Department of Local Government Circular 01/45, requires Councils to have an independent GST review undertaken and a GST Audit Review prepared by an Auditor and lodged with the Department each year.

The approach for the 2004/2005 financial year and for all future years, is for Councils to supply a certificate of confirmation to the department in place of the Audit Review Report. It is no longer mandatory for Councils to have their Auditors undertake a review of the GST systems.

Council's responsibilities extend to developing and maintaining internal controls, which should ensure compliance and reduce the risk of cash flow issues and under/over payment of GST.

The certificate includes the following certification:

To assist compliance with Section 114 of the Commonwealth Constitution, Council certify that:

- Voluntary GST has been paid by Tweed Shire Council for the period 1 July 2004 to 30 June 2005;
- Adequate management arrangements and internal controls were in place to enable the Council to adequately account for its GST liabilities and recoup all GST input tax credits eligible to be claimed; and
- No GST non-compliance events by the Council were identified by or raised with the Australian Taxation Office.



THOMAS NOBLE & RUSSELL
Chartered Accountants

Lismore, 19 October 2005

The Administrators
Tweed Shire Council
Civic and Cultural Centre
MURWILLUMBAH NSW 2484

Dear Administrators

We advise that we have completed our audit of the Council's general purpose and special purpose financial reports for the year ended 30 June 2005 under section 417 of the Local Government Act 1993.

In accordance with that section we now report on the conduct of the audit.

1. AUDITORS' RESPONSIBILITIES

In order that your Councillors may appreciate our responsibilities as auditors, we take this opportunity to briefly discuss the scope of our audit.

In accordance with our contractual arrangements with Council we have undertaken to perform an attest (risk based) audit. The definition of an attest audit is:

"the minimum audit work necessary to enable an opinion to be expressed as to whether the financial report is presented fairly in accordance with the requirements of the Local Government Act 1993, Australian Accounting Standards and Accounting Concepts so as to present a view which is consistent with an understanding of the Council's financial position, the results of its operations and its cash flows."

Forming an opinion

Our function as auditors is to examine the general purpose and special purpose (National Competition Policy) financial statements presented to us by the Council. Our audit responsibility does not extend to the original budget information included in the statement of financial performance, statement of cash flows, Note 2(a) and Note 16 budget variation explanations in the general purpose financial report and the best practice disclosures in Notes 2 & 3 to the special purpose financial report and accordingly, we do not express an opinion on such. As auditors of the Council we are not responsible for the preparation of the financial reports nor for the maintenance of proper and adequate accounting records and proper systems of internal control. These responsibilities, together with the requirement to present financial reports which give a true and fair view of the state of the Council's affairs and of its results are imposed on the Councillors by the Local Government Act and Regulations 1993.

As auditors of Council we are not required to:

- 1) Review and assess the adequacy of Council's:
 - a) management plans;
 - b) quarterly budget reviews;
 - c) insurance cover; and
 - d) infrastructure improvement / maintenance planning and monitoring.
- 2) Form an opinion on, or advise Council on the probity of its decisions, however we ensure that the financial effect of Councils decisions are adequately disclosed in the general purpose and special purpose financial reports in accordance with applicable Accounting Standards, Statements of Accounting Concepts and other mandatory professional requirements.

The responsibility of the abovementioned rests with Council.

2. FINANCIAL MANAGEMENT PRACTICES

In accordance with the requirements of the Local Government Act and Regulations Council must prepare detailed budgets for all operations. As part of the budgetary process Council is responsible for authorising all expenditures and variations to budget. Council's policy in general fund is to operate with a balanced budget.

The quarterly review of Council's budget progress is a very important process in ensuring that the financial targets established by Council are met. We are aware that management place a high level of importance in ensuring that budgets are complied with. To maintain Council's financial position there needs to be a continued level of accountability and responsibility by senior management.

All decisions of Council need to be made with appropriate consideration of their financial impact.

3. OPERATING RESULT

Council's surplus from all activities for 2005 totalled \$40,755,000. This compares to a surplus in 2004 of \$29,384,000. This result can be summarised as follows:-

	2005	2004	2003	2002	2001
	\$'000	\$'000	\$'000	\$'000	\$'000
Revenues from ordinary activities	84,623	79,969	72,347	69,207	64,889
Expenses from ordinary activities	(63,084)	(56,392)	(50,185)	(48,475)	(43,218)
Result from ordinary activities before depreciation	21,539	23,577	22,162	20,732	21,671
Less Depreciation	(21,526)	(21,279)	(19,977)	(18,106)	(17,753)
Result from ordinary activities before capital amounts	13	2,298	2,185	2,626	3,918
Capital grants and contributions	41,070	29,612	27,837	32,022	23,444
Gain / (loss) on disposal of assets	(328)	(2,526)	(1,470)	(2,764)	(3,908)
Significant items	0	0	62,796	(4,054)	0
Surplus from all activities	40,755	29,384	91,348	27,830	23,454

Variations to 2004 by Income / Expenditure

The result from ordinary activities before capital amounts, gain / (loss) on disposal of property, plant and equipment and significant items has decreased from a surplus of \$2,298,000 for the 2004 year to a surplus of \$13,000 in the 2005 financial year. Some of the components contributing to the increase in the result from ordinary activities before capital amounts include:

Revenue

i) *increased general rates income \$1,882,000*

General rates revenue has increased due to the following factors:

- the rate-pegged increment of 3.5%,
- a special rate variation of 4% approved by the Minister for Local Government and
- natural growth in the number of assessments.

ii) *increased sewerage annual charges income \$364,000*

Increase due to growth in the number of assessments and the charge increased from \$430 to \$435 per annum. Refer to section 3.5 for analysis of sewerage services.

iii) *increased domestic waste management annual charges \$260,000*

Increase due to growth in the number of services and the charge increased from \$173.50 to \$178 per annum.

iv) *increased interest income \$604,000*

Increase due to additional funds held for investment and an increase in interest rates over the year of approximately 0.5%.

v) *increased water user charges \$1,296,000*

Revenue has increase due to a 10% increment in user charges as well as higher consumption after water restrictions ended during the year.

vi) *increased building fees \$398,000*

Building fees have increased in conjunction with continued strong economic activity in the shire as well as a high level of building applications received prior to the introduction of new environmental requirements for new dwellings.

vii) *increased holiday park profits \$383,000*

Council's operating result from holiday park operations continue to improve due to increased demand and higher fees on premium products.

Expenditure

- i) *increased employee costs \$2,813,000*

Salaries & wages and employee leave entitlements have increased due to wage indexation rates of 3.5% in addition to employment of an additional 60 full-time equivalent staff during the 2005 financial year.

- ii) *increased insurance expense \$367,000*

Insurance costs have increased largely due to higher public liability premiums.

- iii) *increased operating lease rentals \$109,000*

Operating lease rentals have increased in conjunction with the leasing of additional computer hardware in 2005.

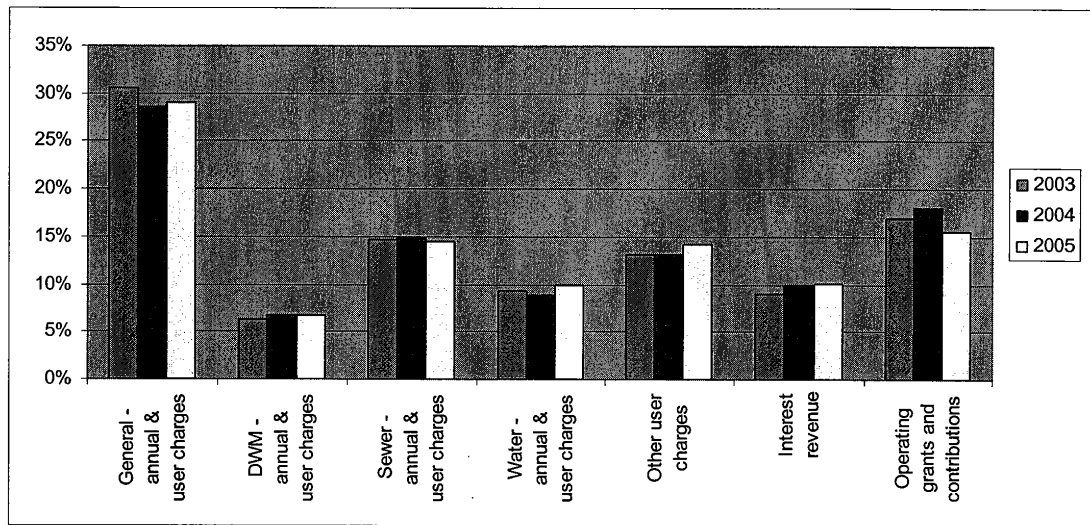
- iv) *increased electricity and heating costs \$231,000*

Electricity and heating costs have increased as a result of price increases and greater consumption by water and sewerage pumping stations and treatment plants.

3.1 COUNCIL REVENUE SOURCES

	2005	2004	2003	2002	2001
	\$'000	\$'000	\$'000	\$'000	\$'000
Revenues from ordinary activities	85,162	79,969	72,347	69,207	64,889
Expenses from ordinary activities	(63,084)	(56,392)	(50,185)	(48,475)	(43,218)
Result from ordinary activities before depreciation	22,078	23,577	22,162	20,732	21,671
Less Depreciation	(21,526)	(21,279)	(19,977)	(18,106)	(17,753)
Result from ordinary activities before capital amounts	552	2,298	2,185	2,626	3,918
Capital grants and contributions	41,070	29,612	27,837	32,022	23,444
Gain / (loss) on disposal of assets	(867)	(2,526)	(1,470)	(2,764)	(3,908)
Significant items	-	-	62,796	(4,054)	-
Surplus from all activities	40,755	29,384	91,348	27,830	23,454

Council's relative reliance on its material income streams as detailed on the previous page has remained steady over the last three years.



3.2. CAPITAL GRANTS AND CONTRIBUTIONS

Capital grants received during the period amount to \$1,515,000 and largely consisted of grants for Roads to Recovery, construction of the art gallery, cycleways / walkways, bus shelters and the environment.

Capital contributions received during the period amounted to \$39,555,000. This can be broken down as follows:-

	2005	2004	2003
	\$'000	\$'000	\$'000
Non cash contributions from developers	20,856	12,493	11,473
Section 94 Contributions - cash	7,551	5,912	4,694
Section 64 Contributions - cash	9,606	7,927	6,402
RTA Contributions	525	388	425
Non cash dedication of Tweed Valley Way	0	0	61,726
Other contributions	1017	567	1,509
TOTAL	39,555	27,287	86,229

Section 94 and 64 Contributions

At 30 June, 2005 Council had \$22,097,000 held as a restricted asset for S94 contributions. S64 receipts are treated as a recoupment of infrastructure constructed in prior years and accordingly there are no unexpended S64 contributions. Council places all such receipts into internal reserves. Unexpended S94 contributions comprised:

	2005	2004	2003
	\$'000	\$'000	\$'000
Open Space	7,292	5,020	4,031
Community Facilities	2,280	3,153	2,816
Car Parking	1,101	1,048	907
Street Trees	89	74	53
Roads	8,572	6,658	7,732
Traffic Facilities	144	136	129
Bridges	0	0	-242
Footpaths / Cycleways	436	288	229
Drainage	913	502	468
Other	1,270	812	547
Restricted Assets	22,097	17,691	16,670

3.3 GAIN / (LOSS) ON SALE OF ASSETS

Council's loss on sale of assets comprise the following items.

	2005	2004	2003
	\$'000	\$'000	\$'000
Profit on sale of real estate assets held for resale	0	0	350
Profit on sale of plant and equipment	32	253	64
Loss on disposal of roads infrastructure	(788)	(1,182)	(371)
Loss on disposal of water and sewer infrastructure	(1,862)	(1,562)	(1,413)
Profit/(Loss) on sale of property	2,290	(35)	(100)
Total	(328)	(2,526)	(1,470)

Loss on disposal of infrastructure represents the written down value of the assets replaced or reconstructed.

Profit on sale of property is largely represented by the sale of land owned by sewer fund located at Chinderah.

3.4 WATER SUPPLIES

The result for the year ended 30th June 2005 can be effectively broken down as follows:

(i) Operating Result

Water supply activities can be summarised as follows:-

	Actual	Actual	Actual
	2005	2004	2003
	\$'000	\$'000	\$'000
Rates and service availability charges	2,876	2,644	2,681
User charges	5,790	4,643	4,161
Interest	2,444	2,482	2,126
Other	890	704	662
Grants - PWD		0	0
- Other	344	402	287
Capital Contributions	6,548	5,529	4,524
Total Revenue	18,892	16,404	14,441
Management Expenses	3,453	3,016	2,297
Operating Costs	3,366	2,960	3,175
Other	419	293	286
Depreciation	3,225	3,072	2,970
Loss/(Gain) on Disposal of Assets	768	1,236	871
Interest	1	31	66
Total Expenses	11,232	10,608	9,665
Operating Result	7,660	5,796	4,776

The above results are presented prior to internal elimination entries.

(ii) Key Indicators

	2005	2004	2003
	\$	\$	\$
Average rate / service availability charge per assessment	93	82	94
Management & Operating costs per assessment	221	203	191

(iii) Explanations for Significant Variances to Prior Year

Revenue

Water service availability charges have increased in accordance with a 10% increment in the annual charge. User charges have increased in conjunction with population growth and relaxation of water restrictions subsequent to the drought. Capital contributions fluctuate from year to year dependent on the number and size of developments.

Expenditure

Management expenses and operating costs have increased largely due to a revision of activity based costing allocations during the 2005 financial year.

3.5 SEWERAGE SERVICES

The result for the year ended 30th June 2005 can be effectively broken down as follows:

(i) Operating Result

Sewerage services activities can be summarised as follows:-

	Actual	Actual	Actual
	2005	2004	2003
	\$'000	\$'000	\$'000
Rates and service availability charges	11,408	11,136	10,335
User charges	1,058	1,056	768
Interest	2,626	2,559	1,901
Other	428	38	79
Grants - PWD	194	311	1,585
- Other	364	365	350
Capital Contributions	11,282	6,289	5,649
Total Revenue	27,360	21,754	20,667
Management Expenses	2,895	2,469	2,204
Operating Costs	5,302	4,795	3,988
Other	1,091	283	294
Depreciation	3,775	3,604	3,517
Loss/(Gain) on Disposal of Assets	770	397	556
Interest	507	724	830
Total Expenses	14,340	12,272	11,389
Operating Result	13,020	9,482	9,278

The above results are presented prior to internal elimination entries.

(ii) Key Indicators

	2005	2004	2003
	\$	\$	\$
Average rate / service availability charge per assessment	393	403	397
Management & Operating costs per assessment	282	263	236

(iii) Explanations for Significant Variances to Prior Year

Revenue

Capital contributions fluctuate from year to year dependent on the number and size of developments.

Expenditure

Management expenses and operating costs have increased largely due to revision of activity based costing allocations as well as a major maintenance project relating to the management of biosolids at the Tweed Heads treatment plant.

3.6 NATIONAL COMPETITION POLICY REPORTING REQUIREMENTS

Under the National Competition guidelines Council is required to apply taxation equivalent principles to each business similar to those that would apply if they were operating in the commercial sector. Council declared business activities have been reported with operating details and assets disclosed on a gross basis in Council's special purpose financial report. Each activity has a required rate of return on its activities that is calculated as the operating result plus interest expense divided by the written down value of property, plant & equipment. Where the return on investment is below the required rate of return, the difference is disclosed as a subsidy from Council's General Fund activities. Dividends represent funds used from the relevant business activity for other functions of Council.

A summary of the financial performance of Council's declared business activities is :

Activity/Year	Revenue from Ordinary Activities \$'000	Expenses from Ordinary Activities \$'000	Result prior to capital amounts \$'000	Return on capital %	Subsidy \$'000	Dividends Paid \$'000
2005						
Water	12,312	11,255	1,057	0.7	-	89
Sewer	17,701	14,280	3,421	2.5	-	64
Holiday Parks	5,075	3,299	1,776	13.8	156	836*
Commercial Waste	1,129	1,373	(244)	(23.5)	244	-
2004						
Water	10,904	10,664	240	0.2	-	89
Sewer	15,172	12,327	2,845	2.4	-	63
Holiday Parks	4,540	3,148	1,392	10.7	580	816*
Commercial Waste	1,348	778	570	60.6	-	-

* Represents a contribution toward maintenance of Crown land managed by Council.

Commencing in the 2004 year, Council is permitted to pay an annual dividend from its water supply or sewerage business surplus. The dividend, calculated and approved in accordance with the Best Practice Management Guidelines, must not exceed 50% of this surplus in any one year, or the number of water supply or sewerage assessments at 30 June 2005 multiplied by \$30 (less the payment for tax equivalent charges, not exceeding \$3 per assessment). Council has not elected to pay any dividends under the abovementioned Best Practice Guidelines for the 2005 year.

In accordance with a direction from the Department of Energy, Utilities and Sustainability all Councils are to declare and pay a dividend representing taxation equivalents calculated under National Competition Policy guidelines. This dividend totalled \$93,000 and \$64,000 for water and sewer operations respectively for the 2005 financial year.

All business activities performed as anticipated by Council except for Commercial Waste activities where additional expenditure was incurred during the financial year on rehabilitation, drilling water bores, roadworks maintenance and drainage. The loss incurred by Council's Commercial Waste activities was funded from revenue and commercial waste reserves however is disclosed as a subsidy from general fund for national competition policy purposes.

4. STATEMENT OF FINANCIAL POSITION

4.1 NET CURRENT ASSETS

4.1.1 CASH AND INVESTMENTS

Council has net current assets of \$78,628,000 as at 30 June 2005. Net current assets however contains \$62,746,000 of externally restricted cash in the form of special purpose grants, security deposits, developers contributions and restricted water, sewer, domestic waste management and Crown Reserve Caravan Park funds. Also included in Council's net current assets is \$4,527,000 of externally restricted receivables and other current assets relating to water, sewerage and domestic waste management activities.

In addition, Council has allocated \$20,759,000 to internally restricted cash to fund long term commitments.

After funding internal and external restrictions Council has unrestricted cash of \$1,929,000.

4.2 NON-CURRENT ASSETS AND LIABILITIES

Council has a net non-current asset position of \$845,923,000 which consists largely of externally restricted investments not budgeted for expenditure in 2006, property, plant and equipment, water, sewer and drainage infrastructure, Council controlled road infrastructure, loans, and provisions for employee entitlements.

4.2.1 PROPERTY, PLANT AND EQUIPMENT

During the year Council capitalised the following property, plant and equipment:

	2005	2004
	\$'000	\$'000
<i>Non-cash Developer Contributions</i>		
Open Space	3918	296
Roads and Drainage Network	10,445	8,293
Water Supply Network	1,557	1,089
Sewerage Network	4,936	2,815
<i>Non-cash Grants/contributions</i>		
Bush Fire	0	207
PWD - Sewer	51	312
<i>Council Constructed / Purchased Assets</i>		
Land and Buildings	4,089	5,051
Plant and Equipment	4,498	5,149
Roads and Drainage	8,693	15,198
Water Supply Network	10,218	9,707
Sewerage Network	7,436	5,056
Other Structures	996	38
	56,837	53,211

The major elements of Council's constructed / purchased assets for the 2005 financial year were:

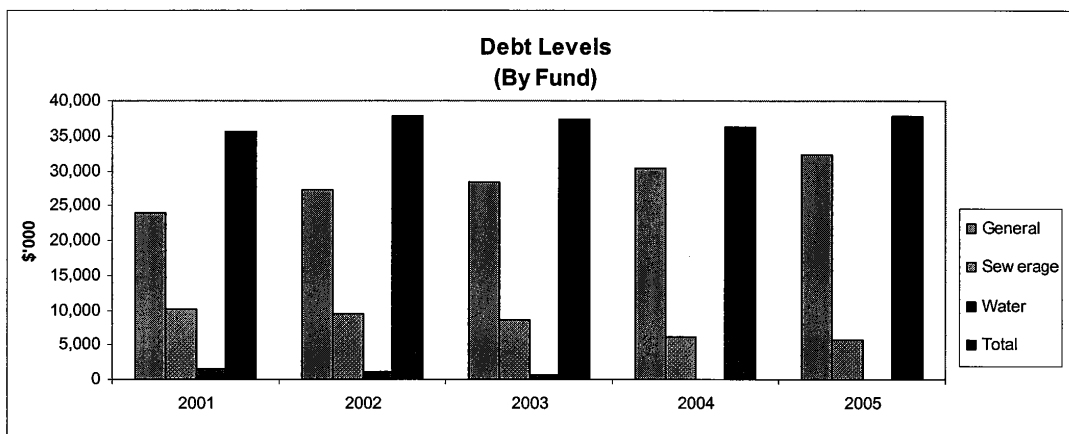
	\$'000
Local Roads Reconstruction	7,552
Bridge Construction	1,329
Sewerage Treatment Works	3,873
Other Sewer Infrastructure	3,321
Water Reticulation	4,170
Water Reservoirs	1,208
Other Water Infrastructure	4,843
Buildings	2,386
Plant and Equipment	4,005
Land Purchases	1,159

4.2.2 ASSET MANAGEMENT

Asset management is an important part of Council's operations. Council's infrastructure assets represent the largest item on Council's balance sheet and in most cases, the depreciation expense attaching to Council's assets represents Council's largest expense item in the statement of financial performance. In addition to annual reassessment of the useful life of major infrastructure assets, Council's management is currently considering other asset management issues such as regular revaluations and better financial planning based on an improved understanding of the cost of maintaining each asset throughout its useful life.

As at 30 June 2005 Council has estimated that it would cost approximately \$117,062,000 to rehabilitate its infrastructure assets and buildings to a "satisfactory standard". \$105,952,000 of this estimated expenditure relates to Council's roads infrastructure. Estimated annual costs to maintain infrastructure at this "satisfactory standard" is \$23,370,000. Council is budgeting to spend \$25,605,000 in the 2006 financial year on maintaining its infrastructure assets. These figures have been assessed by Council staff and are unaudited.

4.2.3 LOANS LIABILITY



Council's overall debt position has increased during the last twelve months by \$1,550,000 with external borrowings for General Fund increasing by \$1,986,000. During the financial year General Fund borrowed \$4,837,000 to fund the following projects:

	\$'000
Roads and Drainage	2,100
Bridges	1,000
Tweed Coast Holiday Parks	590
Tweed Respite Centre	495
Tweed Depot	300
Museum Improvements	300
Kingscliff Hall	100
Public Toilets	100
Flood Mitigation	237
Other	205

5. PERFORMANCE INDICATORS

Council's performance can be measured using selected indicators. We provide an analysis of key performance indicators as disclosed at Note 13 to the general purpose financial report.

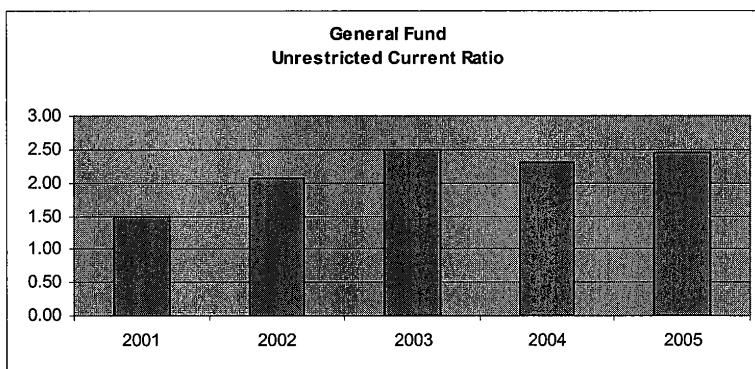
Unrestricted Current Ratio

The unrestricted current ratio represents Council's capacity to meet its commitments from current assets net of externally restricted cash, investments and receivables.

Factors influencing Council's unrestricted current assets ratio include:

- planning and budgetary controls
- cash management and the timing of cash flows
- the level of internally restricted assets
- credit management policies and economic circumstances

General Fund Unrestricted Current Ratio



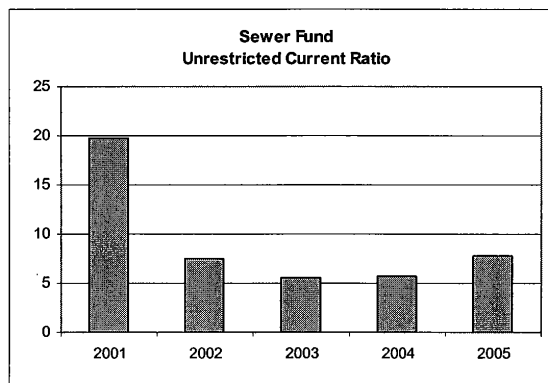
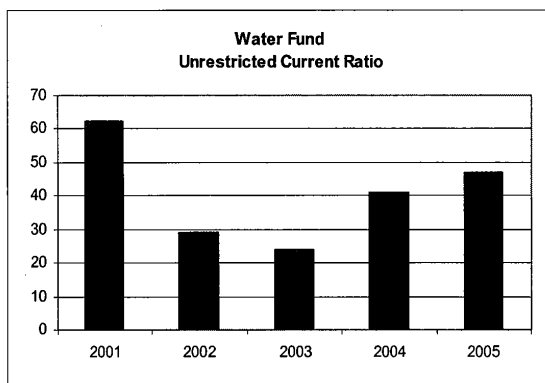
Council’s general fund unrestricted current ratio remains at an acceptable level of 2.44 as at 30 June 2005. This means that Council has \$2.44 in liquid assets for every \$1 in liabilities. The trending of this ratio over the last five years highlights the stability of the general fund unrestricted current ratio and illustrates Council's sound short-term financial position.

General Fund Long-Term Objectives

It is important to note that the unrestricted current ratio does not reflect Council’s capacity to fund long term infrastructure needs nor the state of the infrastructure itself. Council needs to assess its infrastructure requirements and develop strategies to ensure the long-term viability (ability to provide services) of its assets. (Refer to 4.2.2 for further discussion)

Sewer and Water Fund Unrestricted Current Ratio

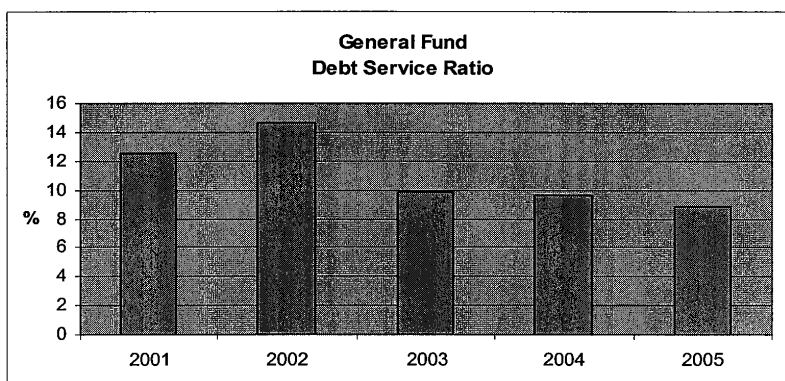
The unrestricted current ratio for water and sewer activities may fluctuate significantly. Yearly variations in the ratio may result from the build up of internal reserves and the impact of lower debt levels and will continue to fluctuate in the future as further funds are collected and expended on infrastructure improvements. As at 30 June 2005, Council's water and sewer fund unrestricted current ratio are at acceptable levels.



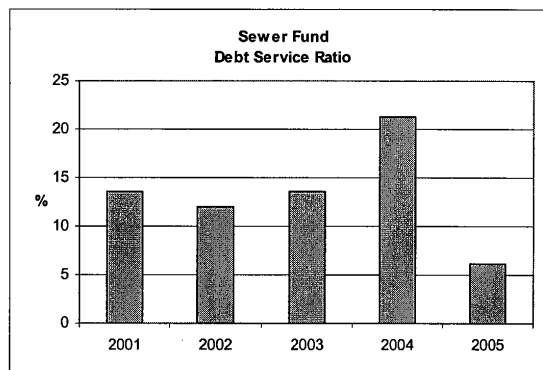
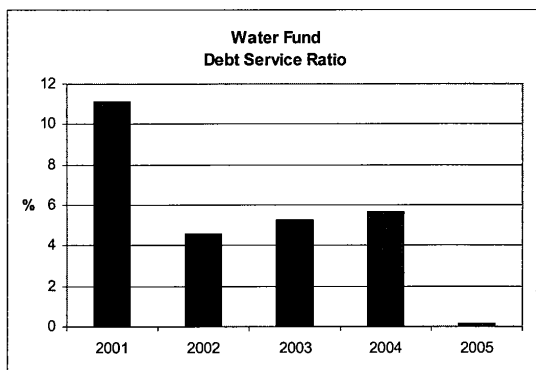
Debt Service Ratio

This indicator assesses the degree to which revenues from ordinary activities are committed to the repayment of debt. Factors influencing a council’s debt service ratio include:

- the rate of new development in the shire
- Council’s debt policy
- interest rate movements and loan terms
- capital investment strategies and capital contributions policies
- the level of cash reserves available to reduce the level of borrowings
- the state of Council’s infrastructure / age of assets.



Council’s general fund debt service ratio has remained relatively static reducing from 9.67% in 2004 to 8.88% in 2005. This reduction is a function of Council maintaining approximately the same debt service commitments whilst revenue levels continue to increase. The above graph illustrates Council's management of debt service levels over the past five years. The current general fund debts service ratio is acceptable for a council with high population growth and corresponding infrastructure needs.

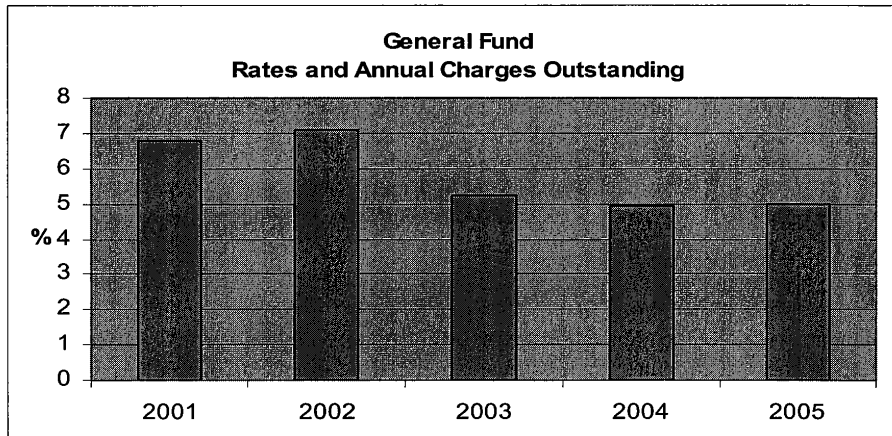


The above graphs illustrate the periodic borrowings to fund Council's capital works programmes for water and sewer funds. Sewer fund debt service ratio for 2004 increased due to early retirement of \$1,798,000 of loans during the year. Neither water or sewer fund borrowed money during the 2005 financial year.

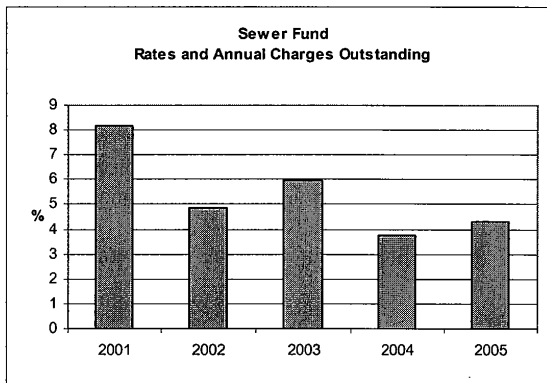
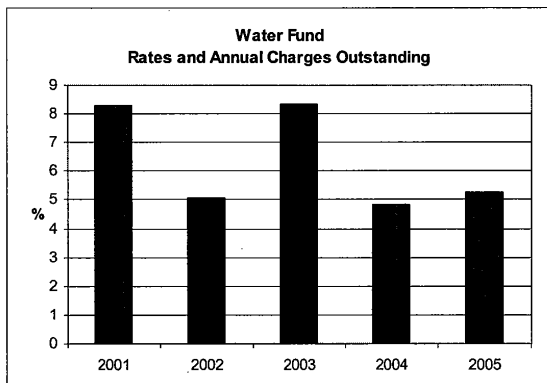
Rates and Annual Charges Outstanding Percentage

This indicator assesses the effectiveness of Council’s revenue collection. Factors influencing Council’s rates and annual charges outstanding ratio include:

- Council’s rating policy
- credit management policies
- the socioeconomic characteristics of the area
- environmental factors influencing ratepayers ability to satisfy their obligations.



Council’s general fund rates and annual charges outstanding percentage has remained stable at approximately 5% since 2003. This ratio level illustrates sound debt collection management and is at the lower end of industry statistics for rates and annual charges outstanding.



The above graphs illustrate the rates and annual charges outstanding ratio for water and sewer funds and reflect sound debt collection management practices.

6. OTHER CURRENT MATTERS

6.1 GOVERNANCE BEST PRACTICE

Recently Local Government Managers Australia and the New South Wales Independent Commission Against Corruption (ICAC) released a document titled "Governance Health Check" providing guidance on best practice for governance. This document allows each Council to self assess their level of compliance with good governance principles with a view to achieving standards of best practice.

Our knowledge of the local government sector has identified that most council's need to assess the status of material governance issues such as risk management, internal audit, audit committees and review major governance policies and procedures such as the code of conduct, conflicts of interest and gifts and benefits. Tweed Shire Council management has been pro-active in this regard and is continuing to implement best practice governance.

6.2 AUSTRALIAN EQUIVALENTS TO INTERNATIONAL FINANCIAL REPORTING STANDARDS (AIFRS)

The Australian Accounting Standards Board (AASB) is adopting International Financial Reporting Standards (IFRS) for application to reporting periods beginning on or after 1 January 2005. The AASB has issued Australian equivalents to IFRS, and the Urgent Issues Group has issued interpretations corresponding to IASB interpretations originated by the International Financial Reporting Interpretations Committee or the former Standing Interpretations Committee. These Australian equivalents to IFRS are referred to hereafter as AIFRS. The adoption of AIFRS will be first reflected in the Council's financial report for the year ending 30 June 2006.

Entities complying with AIFRS for the first time will be required to restate their comparative financial statements to amounts reflecting the application of AIFRS to that comparative period. Most adjustments required on transition to AIFRS will be made, retrospectively, against opening retained earnings as at 1 July 2004.

The Council's management team, with the assistance of its external auditor, has assessed the significance of the expected changes and is preparing for their implementation.

After analysing the anticipated impacts of AIFRS on Council's management has determined the following material impacts to the financial report for the year ended 30 June 2006.

i) Rehabilitation of Tip Sites and Quarries

Council is required to recognise a liability equivalent to the cost of rehabilitating its tip and quarry sites in accordance with applicable governing instruments such as EPA guidelines and development consents. This rehabilitation liability will be recognised in Council's financial records effective 1 July 2004 and will appear in the 2006 financial report comparatives for the first time. Accurate recognition of the liability to rehabilitate tip and quarry sites will assist Council to implement improved costing systems so that rehabilitation costs may be recovered through sale of quarry products, tip user charges and domestic waste management annual charges.

ii) Recognition of Defined Benefits Superannuation Plans

Under AIFRS Council is required to recognise its share of assets or liabilities relating to its defined benefit superannuation plan. Previously Council's share of the defined benefit plan has been disclosed in the financial report by way of note only.

AIFRS will introduce other financial reporting disclosures and impacts not previously required by Australian Accounting Standards and Council is abreast of these matters. Council's personnel have satisfied the requirements of Australian Accounting Standard AASB 1047 "*Disclosing the Impacts of Australian Equivalents to International Financial Reporting Standards*" and have provided greater detail of the material impacts of AIFRS at note 1 to the financial statements for the year ended 30 June 2005.

6.3 INTERNAL CONTROL ENVIRONMENT

We have previously forwarded a report to the General Manager commenting on Council's systems of internal control and management procedures. No significant breakdowns of internal control were encountered during the course of our audit nor did we become aware of the existence of items comprising material error, sufficient to cause us to issue a qualified audit opinion.

Subject to the foregoing comments the books of account and records of the Council were maintained in good order and condition and the information and explanations required during the course of our work were readily supplied by the General Manager and his staff.

Yours faithfully
THOMAS NOBLE & RUSSELL

Per:

.....
K R FRANEY (Partner)
Registered Company Auditor



THOMAS NOBLE & RUSSELL
Chartered Accountants

COUNCIL OF TWEED SHIRE
INDEPENDENT AUDIT REPORT

Scope

The financial report and Council responsibility

The financial report comprises the statement of financial position, statement of financial performance, statement of changes in equity, statement of cash flows, accompanying notes to the financial statements, and the Councillors' declaration for Tweed Shire Council (the Council), for the year ended 30 June 2005.

Our audit responsibility does not extend to the original budget information included in the statement of financial performance, statement of cash flows, Note 2(a) and Note 16 budget variation explanations and accordingly, we do not express an opinion on such. The Council is responsible for the preparation and true and fair presentation of the financial report in accordance with the Local Government Act 1993. This includes responsibility for the maintenance of adequate accounting records and internal controls that are designed to prevent and detect fraud and error, and for the accounting policies and accounting estimates inherent in the financial report.

Audit Approach

We have conducted an independent audit in order to express an opinion on the financial report to the Council. Our audit was planned and performed in accordance with Australian Auditing Standards in order to provide reasonable assurance as to whether the financial report is free of material misstatement. The nature of an audit is influenced by factors such as the use of professional judgement, selective testing, the inherent limitations of internal control, and the availability of persuasive rather than conclusive evidence. Therefore, an audit cannot guarantee that all material misstatements have been detected.

We have performed procedures to assess whether in all material respects the financial report presents fairly, in accordance with the Local Government Act 1993, including compliance with Accounting Standards and other mandatory financial reporting requirements in Australia, a view which is consistent with our understanding of the Council's financial position, and of its performance as represented by the results of its operations and cash flows.

We have formed our audit opinion on the basis of these procedures, which included:

- examining, on a test basis, information to provide evidence supporting the amounts and disclosures in the financial report, and
- assessing the appropriateness of the accounting policies and disclosures and the reasonableness of significant accounting estimates made by the Council.

While we considered the effectiveness of management's internal controls over financial reporting when determining the nature and extent of our procedures, our audit was not designed to provide absolute assurance on internal controls.

Independence

As auditor, we are required to be independent of the Council and free of interests which could be incompatible with integrity and objectivity. In respect of this engagement, we have followed the independence requirements set out by The Institute of Chartered Accountants in Australia, the Local Government Act 1993 and the Auditing and Assurance Standards Board.

In addition to our statutory audit work, we were engaged to undertake other services for the Council. These services are disclosed in Note 3d to the financial statements. In our opinion, the provision of these services has not impaired our independence.

Audit Opinion

In our opinion:

- (a) Council's accounting records have been kept in accordance with the requirements of the Local Government Act, 1993, Chapter 13, Part 3, Division 2; and
- (b) The Council's financial reports:
 - i. have been prepared in accordance with the requirements of that Division; and
 - ii. are consistent with the Council's accounting records; and
 - iii. present fairly the Council's financial position and the results of its operations and cashflows; and
- (c) all information relevant to the conduct of the audit has been obtained; and
- (d) there are no material deficiencies in the accounting records or financial reports that have come to light in the course of the audit.

**THOMAS NOBLE & RUSSELL
CHARTERED ACCOUNTANTS**

.....
K R FRANEY (Partner)
Register Company Auditor

Dated at LISMORE this 19th day of October 2005.



THOMAS NOBLE & RUSSELL

Chartered Accountants

COUNCIL OF TWEED SHIRE SPECIAL PURPOSE FINANCIAL REPORT

INDEPENDENT AUDIT REPORT

Scope

The financial report and Council responsibility

The financial report comprises the statement of financial position, statement of financial performance, accompanying notes to the financial statements, and the Councillors' declaration for Tweed Shire Council (the Council), for the year ended 30 June 2005.

The Special Purpose Financial Report has been prepared for distribution to the Council and the Department of Local Government for the purpose of fulfilling the requirements of National Competition Policy reporting. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the Council or the Department of Local Government or for any purpose other than for which the report was prepared.

Our audit responsibility does not extend to the best practice management disclosures in Note 2 and Note 3 and accordingly, we do not express an opinion on such notes. The Council is responsible for the preparation and true and fair presentation of the financial report in accordance with the Local Government Act 1993. This includes responsibility for the maintenance of adequate accounting records and internal controls that are designed to prevent and detect fraud and error, and for the accounting policies and accounting estimates inherent in the financial report.

Audit Approach

We have conducted an independent audit in order to express an opinion on the financial report to the Council. Our audit was planned and performed in accordance with Australian Auditing Standards in order to provide reasonable assurance as to whether the financial report is free of material misstatement. The nature of an audit is influenced by factors such as the use of professional judgement, selective testing, the inherent limitations of internal control, and the availability of persuasive rather than conclusive evidence. Therefore, an audit cannot guarantee that all material misstatements have been detected.

We have performed procedures to assess whether in all material respects the financial report presents fairly, in accordance with the Local Government Act 1993, including compliance with Accounting Standards and other mandatory financial reporting requirements in Australia, a view which is consistent with our understanding of the Council's financial position, and of its performance as represented by the results of its operations and cash flows.

We have formed our audit opinion on the basis of these procedures, which included:

- examining, on a test basis, information to provide evidence supporting the amounts and disclosures in the financial report, and
- assessing the appropriateness of the accounting policies and disclosures and the reasonableness of significant accounting estimates made by the Council.

While we considered the effectiveness of management's internal controls over financial reporting when determining the nature and extent of our procedures, our audit was not designed to provide absolute assurance on internal controls.

Independence

As auditor, we are required to be independent of the Council and free of interests which could be incompatible with integrity and objectivity. In respect of this engagement, we have followed the independence requirements set out by The Institute of Chartered Accountants in Australia, the Local Government Act 1993 and the Auditing and Assurance Standards Board.

In addition to our statutory audit work, we were engaged to undertake other services for the Council. These services are disclosed in Note 3d to the general purpose financial statements. In our opinion, the provision of these services has not impaired our independence.

Audit Opinion

In our opinion, the Council's Special Purpose Financial Report:

- i. has been prepared in accordance with the requirements of those applicable Accounting Standards detailed in Note 1 and the Local Government Code of Accounting Practice and Financial Reporting; and
- ii. is consistent with the Council's accounting records; and
- iii. presents fairly the financial position of Council's nominated Business Activities and the results of their operations.

**THOMAS NOBLE & RUSSELL
CHARTERED ACCOUNTANTS**

.....
K R FRANEY (Partner)
Register Company Auditor

Dated at LISMORE this 19th day of October 2005

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

5 [EO] EQ2005-174 Manufacture, Supply, Delivery and Unloading of RRJ Class 2 RCP Stormwater Pipes and Box Culvert

ORIGIN:

Contracts

SUMMARY OF REPORT:

Quotations for the supply of 375 mm to 1500 mm diameter reinforced concrete pipes and box culvert have been called.

The pipes and box culvert are to be used in Stage 1 of major reconstruction works on the Murwillumbah CBD stormwater drainage system.

RECOMMENDATION:

That Reinforced Concrete Products be awarded the contract for the supply and delivery of RRJ Class 2 RCP Stormwater Pipes and Box Culvert crown units with a total price of \$105,544.11 (GST Exclusive).

REPORT:

Quotations closing the 7 September 2005 have been called for the Manufacture, Supply, Delivery and Unloading of RRJ Class 2 Stormwater Pipes and Box Culvert crown units.

The reinforced concrete pipes and box culvert are to be used in Stage 1 of major reconstruction works to be carried out on the Murwillumbah CBD stormwater system.

At the close of tenders three (3) submissions to the tender had been received. Tenders were received from:-

- Reinforced Concrete Pipes
- Humes Pty Ltd
- Rocla

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Confidential Attachment - Supplementary Confidential Information to Agenda Item - EQ2005-174 Manufacture, Supply, Delivery and Unloading of RRJ Class 2 RCP Stormwater Pipes and Box Culvert (DW 1276560).
-

6 [EO] EC2005-163 Supply & Laying of Asphaltic concrete - Various Locations

ORIGIN:

Contracts

SUMMARY OF REPORT:

Tenders for the Supply & Laying of Asphaltic Concrete at various locations have closed.

The asphaltic concrete material will be used in resurfacing works identified in the 2005/2006 Infrastructure Program.

RECOMMENDATION:

That:-

- 1. Pioneer Road Services Pty Ltd be awarded the contract for the Supply and Laying of Asphaltic Concrete at various locations with a total price of \$561,213.64 (GST Exclusive).**
- 2. The Director Engineering and Operations be given delegated authority to approve variations up to \$100,000 above the initial contract price.**

REPORT:

Tenders for the Supply and Laying of Asphaltic Concrete - Various Locations, closed on the 28 September 2005.

The asphaltic concrete material will be used in resurfacing works identified in the 2005/2006 Infrastructure Program.

At the close of tenders, submissions had been received from two (2) asphalt suppliers. Tenders were received from:

- Pioneer Road Services Pty Ltd
- Boral Resources (QLD) Pty Ltd

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funds have been voted in the current 2005/2006 budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Confidential Attachment – Supplementary Confidential information to Agenda Item – EC2005-163 Supply & Laying of Asphaltic Concrete – Various Locations (DW 1279734).
-

REPORTS FROM THE DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

7 [EC] Banora Point Caravan Park

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

Council at its meeting on 5 October 2005 resolved that a report be brought forward outlining Council's actions to this date in relation to the Banora Point Caravan Park and with regard to the implementation of the Consent Orders.

RECOMMENDATION:

That this report be received and noted

REPORT:

On 12 August 1999 a Section 68 Application for Approval to Operate the Banora Point Caravan Park was lodged by Mr W Tschannen of Blackington Pty Ltd seeking approval for amendments to the existing approval to operate issued by Council 24 December 1996.

Subsequent to this the Park was inspected by Council officers on 26 October 1999 and again on 11 September 2001 during which a number of issues, in breach of the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations 1995 were observed and recorded.

A letter detailing these defects was forwarded by Council to the applicant, Mr Tschannen, dated 11 December 2001. Advice received indicated that these issues were not attended to and the applicant also indicated his reluctance to rectify and so on 30 April and 1 May 2002 a more detailed inspection of the Park was conducted by Council's Environmental Health Officers. This resulted in a significant number of breaches being observed in addition to those previously recorded and are contained in a confidential report to Council dated 16 October 2002.

The processing of the Section 68 Application was held in abeyance pending legal advice.

Subsequent to this, numerous meetings and discussions were held between Council officers, Council's legal representatives, the owner of the Park and his legal representatives. This resulted in Council's Solicitors advising that the most appropriate course of action would be to modify the "existing development consent" of the Park as a starting point so as to resolve all outstanding planning and regulatory issues.

On 26 November 2002 a Planning Consultant engaged by the owner of the park met with Council's solicitors to finalise issues which would be the subject of the Application to modify the existing development consent.

On 24 February 2003 Council received the Application (Section 96). Following receipt of the application Council's officers conducted a further inspection of the Park and provided comments back to Council's solicitors in correspondence dated 4 June 2003.

On 4 February 2004 another Section 68 Application for approval to operate was lodged by Blackington Pty Ltd in which approval was sought regarding further amendments to the application lodged on 12 August 1999.

On 18 February 2004 Council officers again conducted a detailed inspection of the Park to identify breaches of the Regulations and as a result of that inspection and due to the Park owner's reluctance to comply with the Regulations, Council sought to pursue compliance by initially serving Notice of Intention to serve an Order on the Park Owner/Operators in March 2004 followed by the serving of an Order for the same issues in April 2004.

On 2 June 2004 the Section 96 Application was refused by Council as the proposal did not satisfy the provisions of the State Environmental Planning Policy No 21 - Caravan Parks and the modifications sought are outside the scope of the Section 96 Application and is not substantially the same development to that approved by K94/15 and thus should be considered as a new development application only.

Some works were carried out by the Park Owner to comply but related to those of a minor nature only, but nevertheless, still in breach. The more serious issues have been pursued in Court via Stacks - The Law Firm on behalf of Council, which lead to a hearing in the Land and Environment court on 31 March 2005. This resulted in Consent Orders being issued by the Court at the time of the hearing and these are as follows.

The Consent Orders issued relate to the following:-

- (a) the provision and maintenance of adequate laundry facilities (not provided);
- (b) tie-down of caravans, rigid annexes and/or moveable dwellings installed on sites (not provided);
- (c) a Community Map as approved by Council to be displayed and the delineation and maintaining of all sites so as to be consistent with the Community Map;
- (d) carry out work to replace and/or repair all defects to nominated caravans, rigid annexes and moveable dwellings (totalling 45) owned by the Park and maintain them in a safe and healthy condition (eg. of defects – broken/shattered glass to windows and doors; windows hanging off; boarded up windows; rotted and holed floors; vandalised vans; leaking roofs; windows fixed shut with screws; missing windows/doors);
- (e) repair running gear to caravans (eg of defects – no wheels/axles; rusted drawbars; missing drawbars; servicing of brakes, wheel bearings).

Some work required which was not the subject of Consent Orders but intending to be included in legal action is as follows:-

- (i) the closing of the amenities therefore denying access for all residents;
- (ii) street lighting not operating;
- (iii) pot-holes in internal roads;
- (iv) inadequate servicing of refuse bins;
- (v) the securing of burned-out caravans so as to deter further vandalism and provide barriers to safeguard the children residing in the Park. It took several months to either remove the remains of the burned-out structures or provide adequate security fencing to the site.

No further incidences of caravans and other structures being burned-out and totally destroyed have occurred since. It is important to note that issues as per (i) to (iv) inclusive occur from time to time which result in further complaints being received by Council from not only the Long Term residents but also Short Term occupiers including those (who depart quickly) travelling around the country.

Subsequent to the Court Hearing, Council officers from the Environment & Health Services Unit have conducted inspections of the Park to ascertain the status of work required for compliance with the Consent Orders as set by the Land & Environment Court. Some work, as observed, has been completed so as to comply and a further inspection was scheduled for 24 August 2005 to determine the status of other work noted previously as being outstanding in relation to the Consent Orders. Access to the Park to conduct an inspection was denied to Council officers by Mr Tschannen who Council has recognised previously as being the Director of Blackington Pty Ltd, owner of the Banora Point Caravan Park. Prior to this scheduled inspection, a number of inspections were arranged but cancelled at the last minute by the Park Owner as it was "not convenient" for his staff to be in attendance to arrange access to amenity buildings.

In the interim period and prior to 24 August 2005, Council, on advice from Stacks advised by way of letter dated 21 July 2005 to Blackington Pty Ltd that the Section 68 Application for Approval to Operate (dated 4 February 2004) is refused and the reasons for this decision were outlined in the letter.

An appeal was filed on 4 August 2005 in the Land & Environment Court by Blackington Pty Ltd regarding Council's refusal of the Section 68 Application for Approval to Operate and a Call-Over by telephone was scheduled for 19 September 2005, as advised by Stacks in letter to Council dated 10 August 2005.

Also, as mentioned earlier, a Section 96 Application was lodged on behalf of Blackington Pty Ltd seeking approval to make significant changes to the Park. Examples of changes sought include:-

- (a) the re-classification of Long Term Sites to Short Term Sites which would ultimately affect the future of the persons residing at the time – meaning, that after 150 days these persons would be required to vacate, some of whom are in their twilight years.
- (b) the Approval by Council for a new Community Map which indicated a swimming pool, games room, additional sites, unacceptable car parking arrangements for some residents and other sites in place of amenity buildings. This application was lodged by Darryl Anderson Consulting on 24 February 2003 on behalf of Blackington Pty Ltd and refused by Council on 2 June 2004. An appeal was filed by Blackington Pty Ltd but was withdrawn a short time later.

Currently there are no planning issues being actioned by Council.

There have been difficulties with the management of the park over the long term. This has included residents complaints of intimidation and threats. This has extended to the point where living in the park has become unsuitable and unbearable.

In addition to this, a considerable amount of time has been spent by Council officers in their endeavours to exercise their duties in bringing this Park into conformity, not forgetting the amount of monies expended in legal fees to date and the expected expenditure of further monies and Council officers time.

An appropriate result in resolving the issues associated with the conduct by the owner of the Park and the management of same would be for Council to pursue legal action to close the Park forthwith and relocate at the cost of the Park Owner the remaining Long Term residents, not necessarily in that order before someone is either severely injured or killed as a result of the violent behaviour occurring within the Park.

In addition to this, Council's inspection staff have advised they consider it is an unsafe environment for them to enter the Park to conduct further inspections, as evidenced in the article "New Van Park Law offers some hope" as published in the Tweed Sun on 6 October 2005 (attachment to this Agenda).

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

[1. *Extract from Tweed Sun 6 October 2005 - DW 1279907.*](#)

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ORDERS OF THE DAY

1 [NOM] Quarry - Lot 2 DP 792256, Terranora

NOTICE OF MOTION:

Administrator Boyd moves:

In responding to a presentation made to the Tweed Shire Council Administrators on 7 October 2005, in which strong opposition was expressed to the proposed extension to the basalt quarry at Lot 2 DP 792256, Terranora, I will move that:-

1. The Minister for Planning be advised of the Tweed Shire Council Administrator's support for the people and recommend that any application for extension of this quarry be refused.
 2. A copy of the presentation provided to the Administrators be forwarded to the Minister.
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CONFIDENTIAL MATTERS

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

1 [EO] Naming of Park at Banora Point

REASON FOR CONFIDENTIALITY:

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

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

2 [EO] Tweed District Water Supply Bray Park Weir Refurbishment

REASON FOR CONFIDENTIALITY:

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

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

3 [EO] EC2004-049 Bray Park WTP Augmentation - Contract Variation & Assignment

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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