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SCHEDULE OF OUTSTANDING RESOLUTIONS

Schedule of Outstanding Resolutions

FOR COUNCILLOR'S INFORMATION:

17 March 2004

REPORT FROM DIRECTOR ENGINEERING SERVICES

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

202

Councillor H James

Councillor B M Luff

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

Current Status: Reassessing technical aspects including alternative sites.

16 June 2004

REPORT FROM DIRECTOR PLANNING & ENVIRONMENT

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

432

Councillor M R Boyd

Councillor S M Dale

RESOLVED that this item be deferred.

Current Status: Deferred.

4 August 2004

2 [NOM] Section 149 Certificates

NOTICE OF MOTION:

Cr G J Lawrie

Cr L F Beck

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

Current Status: Meeting held. Data cleansing to be completed.

ITEMS DEFERRED IN COMMITTEE

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

REASON FOR CONFIDENTIALITY:

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

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

C 123 RESOLUTION:

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

Current Status: A further DCP Workshop was held in November and a report on Development Control Plan No 5 will be presented to Council upon finalisation of the Flood Study.

15 September 2004

2 [NOM] Public Toilet at Tumbulgum

NOTICE OF MOTION:

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

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

Current Status: Report to be prepared.

6 October 2004

7 [PE] Northern Rivers Farmland Protection Project

**Cr R D Brinsmead
Cr J F Murray**

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

Current Status: Report being prepared.

20 October 2004

ORDERS OF THE DAY

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

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

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

Current Status: Study to be completed.

19 January 2005

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY

18 [EC] Council Land, Pandanus Parade, Cabarita

Cr L F Beck
Cr G B Bell

RESOLVED that Council defers a decision on this matter until after a report has been received from the Probity Officer.

Current Status: Awaiting a report from the Probity Officer.

QUESTION TIME

[QT] Notice Extraordinary Council Meeting held Wednesday, 5 January 2005

Cr S M Dale

Asked: -

Can it be explained how the NSW Cane Growers Association were aware of the Extraordinary Council Meeting held Wednesday, 5 January 2005 as early as 29 December 2004 and can it be explained why councillors supplied with council mobiles were not telephoned while on holiday break as well as being faxed to their homes warning of this meeting of Council?

The General Manager advised that he will take this question on notice for a response to be provided.

Current Status: Awaiting further information at which time a response will be provided.

[QT] Australia Bay Lobster Project

Cr S M Dale

Asked did Michael Dalton, of the Australia Bay Lobster Project, receive a response to his request to attend the Extraordinary Council Meeting of Wednesday, 5 January 2005 following his fax to you at 10.25am Wednesday, 5 January 2005?

The General Manager advised that he will take this question on notice for a response to be provided.

Current Status: Awaiting further information at which time a response will be provided.

2 February 2005

QUESTION TIME

1 [QT] Department of Primary Industries "Bug Farm"

Cr L F Beck

Asked:-

1. Could arrangements be made for those Councillors who are interested to visit the "bug farm" at the Department of Primary Industries station at Bribie Island.
2. Could Council request Mr Michael Dalton to advise the date of the public meeting that he agreed to hold at the last meeting with him.

The General Manager responded that the Director Planning and Environment would advise Councillors of arrangements for this visit and would also make enquiries of Mr Michael Dalton to ascertain the date of the public meeting.

Current Status: To be advised.

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MAYORAL MINUTE

Mayoral Minute

Councillors,

1. Banora Point Residents' Association

7 February – attended Banora Point Residents' Association Meeting

2. Tweed Business Chamber

8 February – Tweed Business Chamber Breakfast at Sth Tweed Heads

3. Tweed Aquatic Project

9 February – met with GM and executives of Morgan Banks to discuss Tweed Aquatic Project

4. Salvation Army Red Shield Appeal

10 February – met with Chairman Seagulls and Cr. Bell regarding Salvation Army Red Shield Appeal

5. Cudgen Hornets Club

11 February – Sportsman Dinner at Cudgen Football Club

6. Business Excellence

16 February – Business Excellence Breakfast at Tweed Heads

7. Tweed Shire Public Inquiry

16 February – called to give evidence at Inquiry into Tweed Shire Council

INVITATIONS ACCEPTED:

- 17 February – Tweed Tourism Forum
- 17 February – Tweed Art Gallery Advisory Committee Meeting
- 21 February – Green Corps Graduation at Fingal
- 22 February – meeting with Margaret May re Bilambil Tennis Club
- 23 February - Rotary unveil refurbished town clock Main Street Murwillumbah
- 25 February – TEDC Board Meeting
- 27 February – Seagulls Intra Club Sports Duathlon
- 28 February – Lay wreath 8th Battalion Royal Australian Regiment 35th Anniversary

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

- Women at Work International – Women’s Day Festival 2005 **8 March 2005** Gold Coast Convention & Exhibition Centre
 - Local Government Tourism Conference **13-15 March 2005** at Forbes
-

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT

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

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

MATTERS FOR CONSIDERATION

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

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1 [PE] Development Application DA03/0512 for the Establishment of a Residential Aged Care Facility at Lot A DP 415245, Lot B DP 415245 No. 194 Byangum Road, Murwillumbah - Request for Reduction of Contributions

ORIGIN:

Development Assessment

FILE NO: DA03/0512 Pt3

SUMMARY OF REPORT:

Council at its meeting of 3 December 2003 approved a residential aged care facility at No. 194 Byangum Road, Murwillumbah. The formal development consent was issued on 4 December 2003.

Condition 9 relates to the Section 94 contributions and condition 10 relates to the water and sewerage headworks charges. In both conditions and on the attached contribution sheets it is clearly stated that the contributions shown are fixed for a period of 12 months from the date of the consent and that payments after that time are at the rates applicable at the time of payment.

By letter dated 6 December 2004 the applicant forwarded a cheque for \$373,643.78 for the contributions. The letter referenced an incorrect development application number and a receipt was issued for this amount on 16 December 2004. As the payment was made after 12 months from the approval date the contributions were recalculated to be consistent with those applicable at the time of payment.

On this basis an account for an outstanding amount of \$14,920 was sent to the applicant.

The applicant has now requested that Council accept the payment of the contributions in accordance with the original charges. A copy of the submission is attached to this agenda for Councillors consideration.

The approval clearly states that the charges are applicable for 12 months from the date of the consent and this policy has been consistently applied. In this instance the payment was made 2 days late and in the circumstances Council may consider waiving the additional costs.

RECOMMENDATION:

That Council confirms that the contribution required by Condition Nos. 9 and 10 of Development Consent DA03/0512 for the establishment of a residential aged care

facility at Lot A DP 415245, Lot B DP 415245 No. 194 Byangum Road, Murwillumbah are to be at the rate applicable at the time of payment.

REPORT:

As per summary.

OPTIONS:

1. Decline the request in accordance with Policy.
2. Agree to the request.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If the request is agreed to there will be financial implications to the relevant contribution fund.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

This Policy has been consistently applied however, the time period of two days is considered minor.

UNDER SEPARATE COVER:

1. Submission from the applicant dated 23 December 2004 (DW 1138768)
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2 [PE] Development Application DA04/0989 for a Six (6) Storey Multi Dwelling Residential Development Comprising 6 x 3 Bedroom Units at Lot 73 DP 237806, No. 10 McGregor Crescent, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA04/0989 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application for the demolition of an existing dwelling and subsequent construction of a six (6) storey residential flat building. The proposed development comprises six (6) units (one on each floor), twelve (12) basement car parking spaces, a car wash bay/visitor car space and associated site works and landscaping.

A near identical building is proposed for No.1 Powell Street, approximately 70m from the subject site. The applications were lodged concurrently however, access issues with the proposed development in Powell Street mean that a recommendation is still pending.

Each of the proposed units provides for three (3) bedrooms, two (2) bathrooms, a balcony and associated living and dining areas. An elevator is also to be incorporated.

The application is predominantly compliant with Council's control's relating to multi-dwelling housing of this nature. The issues of most significance relate to the following matters:

1. minor encroachment into building height plane as per DCP 18;
2. relative disparity between size of proposed building and area of site; and
3. potential impacts associated with overshadowing.

Each of the issues is addressed within the report.

Pursuant to Section 91 of the *Environmental Planning and Assessment Act*, 1979, the application is identified as Integrated Development requiring a dewatering license under Part 5 of the *Water Act*, 1912. The Department of Infrastructure, Planning and Natural Resources has reviewed the proposal and provided general terms of approval in this regard.

Also under consideration as part of this application, is the payment of contributions towards the cost of implementing the Tweed Heads Master Plan. With a draft Section 94 plan nearing completion, it is considered that any negotiations for a voluntary payment should be commensurate with the likely per unit rate. At this stage, Council's Strategic Planning Unit has identified that amount to be approximately \$3,700.

Previously, Council has resolved for the Director of Planning & Environment to negotiate a voluntary contribution of up to \$2,000 per unit with the final amount agreed to for DA04/0939, being \$1,300 per unit.

The applicant for the current application has subsequently offered to pay \$1,300 per unit on the basis that it is consistent with the amount previously negotiated.

It is considered that the \$1,300 amount is no longer realistic in light of the figure anticipated in the draft Section 94 plan. Furthermore, it is considered that accepting any amount less than that likely to be incorporated into the Section 94 plan may compromise Council's ability to require future developers to pay the adopted rate.

As a result it is recommended that Council resolve to negotiate a voluntary payment of up to \$3,700 per unit in accordance with the draft Section 94 Plan.

RECOMMENDATION:

That: -

1. Council notes that a contribution plan is under preparation for the public infrastructure to implement the Tweed Heads Master Plan.
2. Council generally supports the application and refers it to the Director Planning & Environment to negotiate a contribution up to \$3,700 per unit (consistent with the draft Section 94 plan) under a voluntary agreement for public infrastructure identified in the Tweed Heads Master Plan.
3. The approval be issued by the Director Planning & Environment under delegation in accordance with the recommended conditions in this report.

REPORT:

Applicant: Astute Builders Pty Ltd
Owner: Ms MA Hawke
Location: Lot 73 DP 237806 No. 10 McGregor Crescent, Tweed Heads
Zoning: 2(b) Medium Density Residential
Cost: \$1,200,000.00

BACKGROUND:

DA03/0989 and DA03/0988 were lodged concurrently on the 9th August 2004. Each application is for a six (6) storey residential flat building within the Tweed Heads Master Plan Area. The design of each of the proposed buildings is fundamentally the same and the same consultants are involved in each project.

The applications were lodged prior to the adoption of the Tweed Heads Master Plan. Nevertheless, each application is considered to be generally in accordance with the relevant objectives outlined for the subject area.

Some issues have arisen in the assessment of the application for No.1 Powell Street (DA03/0988) that have delayed any determination on that application.

A report was prepared for the application at 10 McGregor Crescent (DA03/0989) and was due to be reviewed by the Development Assessment Panel in late December 2004.

At this time, Council resolved to prepare a Section 94 contribution plan to implement the recommendations of the Tweed Heads Master Plan. Those applications ready to be determined were subsequently left to negotiate a voluntary contribution with Council's Director of Planning & Environment.

At its meeting of 15th December 2004, Council resolved the following with respect to a twelve (12) storey building at No.5 Florence Street, Tweed Heads: -

- 1. Council note that a contribution plan is under preparation for the public infrastructure to implement the Tweed Heads Master Plan.*
- 2. Council generally supports the application and refers it to the Director Planning & Environment to negotiate a contribution up to \$2,000 per unit under a voluntary agreement for public infrastructure identified in the Tweed Heads Master Plan.*
- 3. The approval be issued by the Director Planning & Environment under delegation in accordance with the recommended conditions in this report.*

Council's Strategic Planning Unit has recently confirmed that a draft Section 94 Plan is nearing completion and will be reported to Council in the near future. It is estimated that the cost per unit is likely to be around \$3,700. It is considered that despite there being no

formal Section 94 plan in place, any negotiations for a voluntary payment should be mindful of the amount likely to be levied once the Section 94 plan is formalised.

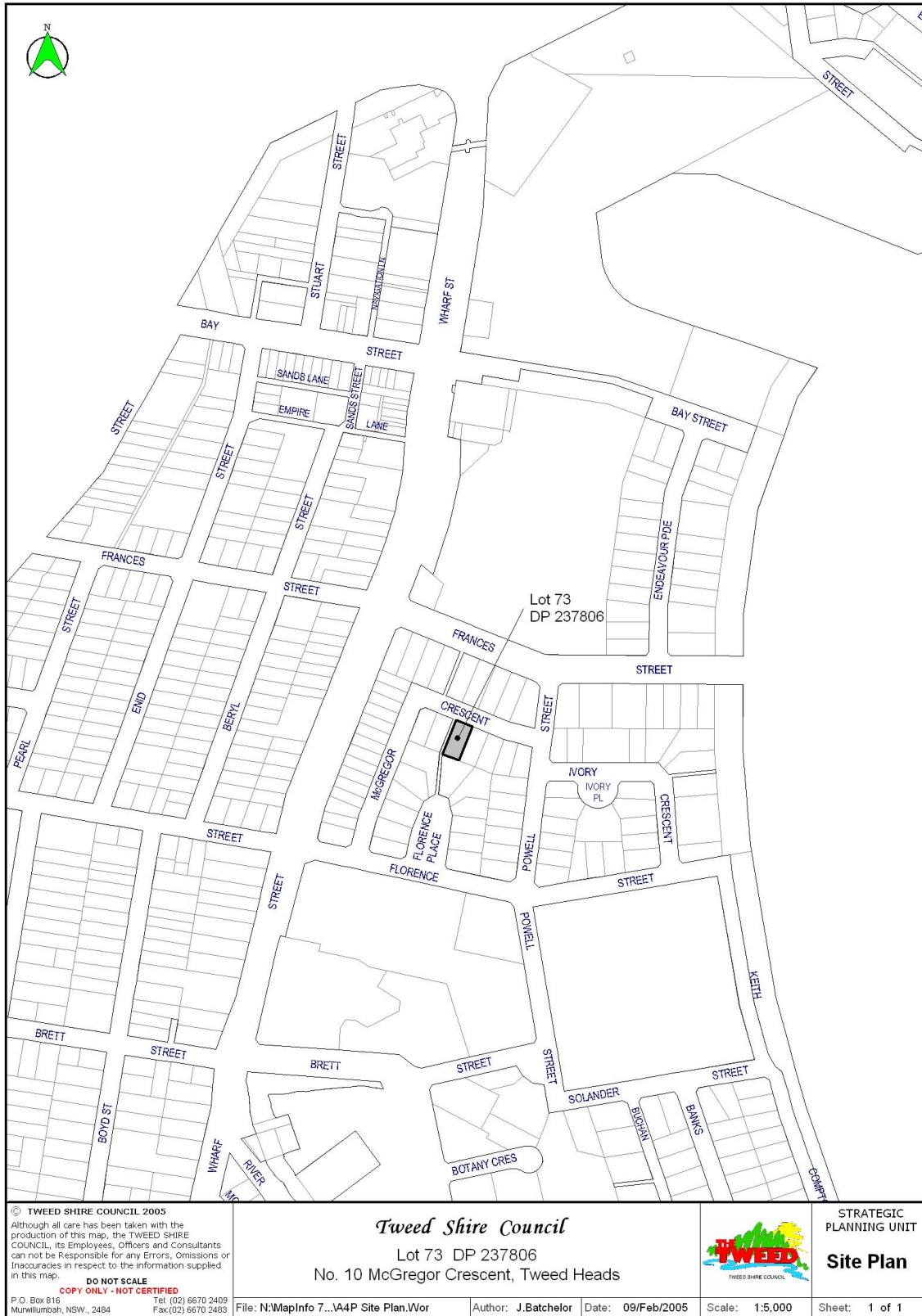
The subject site is of a regular shape with a northern frontage to McGregor Crescent of 18.29m, a depth of 39.1m and a total site area of 713.5m². The site is generally level with surface levels ranging from RL 3.16m near the southern boundary to RL 2.81 near the northern boundary.

The site is presently occupied by a modest two (2) storey brick, attached dual occupancy building known as "Kookaburra Nest". There is no aspect of the existing development that is of any particular significance.

The subject site is located approximately 500m to the south of the Tweed Heads CBD on generally level land between Wharf Street and the Tweed River. The surrounding area is presently experiencing a significant change in character as the older detached dwellings and unit buildings on large lots are progressively being redeveloped to provide high-density residential apartments in accordance with the relevant planning controls applicable to the area.

The site is in close proximity to the Tweed Centro Shopping Centre, the Tweed Heads Hospital, the Tweed Bowls Club, Civic Centre and University campus.

SITE DIAGRAM:



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

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

Tweed Local Environmental Plan 2000

The subject land is zoned 2(b) Medium Density Residential under the provisions of the Tweed LEP 2000.

The objectives of the 2 (b) zone state:-

Primary objective

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

Secondary objectives

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

Development for the purposes of multi-dwelling housing is permissible with consent in the subject zone. The proposed development is considered to exhibit elements of quality architectural design that achieve good urban design outcomes. The projected roof form and use of cantilevered balconies are likely to positively contribute the character of the local area. The density of the proposal is considered appropriate given the close proximity to the Tweed Heads sub-regional centre. The proposal is generally seen to be consistent with the objectives of the 2(b) Medium Density Residential zone.

Clause 15 - Availability of Essential Services

The subject site has an existing connection to all essential services. There is existing capacity available to accommodate the proposed development. The applicant has prepared a Preliminary Stormwater Management Plan with no issues of concern raised by Council's Infrastructure Engineer.

Clause 16 - Height of Building

The proposed development is six (6) storeys in height and is compliance with the height restrictions applicable to the site.

Clause 35 - Acid Sulfate Soils

The subject site is identified as containing Class 2 Acid Sulfate Soils on Council's Planning Maps. A preliminary acid sulfate soil assessment has been submitted with the application concluding that an acid sulfate soil management plan is not required in this instance. Council's Environment and Health Officer has reviewed the supporting information and raised no objection in this regard.

North Coast Regional Environmental Plan (NCREP) 1988

The proposed building exceeds 14m in height and is subject to the provisions of Clause 51 of the NCREP. Clause 51 states:-

- (2) *The council shall not, without the concurrence of the Director, grant consent to a development application for the erection of a building over 14 metres in height.*
- (3) *In deciding whether to grant concurrence to a development application in respect of development referred to in subclause (2), the Director shall take into consideration the likely regional implications of the development as regards its social, economic and visual effect and the effect which it will or is likely to have on the amenity of the area.*
- (4) *The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development for the purpose of a building over 14 metres in height in the same way as those provisions apply to and in respect of designated development.*

The proposed development incorporates a maximum height of approximately 22m. Council has delegation to assume the concurrence of the Director of the Department of Infrastructure, Planning and Natural Resources in this regard. There is no SEPP No.1 objection associated with the application. The development is consistent with the relevant provisions of Clause 51 and the other relevant considerations under the NCREP 1988.

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

Clause 30 of SEPP No.65 requires the consent authority to consider each of the ten (10) design quality principles when determining a development application for a residential flat building.

In this regard, the applicant has provided a comprehensive assessment of the proposal against the relative design quality principles. It is considered that the design of the proposed development exhibits suitable regard for these principles and demonstrates good practice in urban design. The modern appearance of the building is in keeping with the evolving character of the area.

State Environmental Planning Policy No.71 - Coastal Protection

The subject site is within the coastal zone and is affected by the provisions of SEPP No.71. The proposed building exceeds 13m in height however is not subject to the provisions of Part 3 - Significant Coastal Development as the application requires the concurrence of the Department of Infrastructure, Planning and Natural Resources under Clause 51 of the North Coast Regional Environmental Plan 1988. Council has delegation to assume concurrence in this regard and is therefore the consent authority on the application.

With regard to the matters outlined in Clause 8 the proposal is considered satisfactory and is generally in accordance with the objectives of the Policy.

Tweed Heads Town Centre Master Plan

The Tweed Heads Master Plan establishes a vision for the Town Centre of Tweed Heads. The document provides urban design guidelines for each precinct together with indicative plans and sections to illustrate the principal planning objectives and design intent.

The subject site is located in the Riverside High Density precinct and is restricted to a six (6) storey height limit in accordance with the Plan. The Plan identifies McGregor Crescent as a secondary street within the precinct and encourages traffic calming measures to maximise pedestrian movement.

It is considered that the proposed development is generally consistent with the vision set out in the Master Plan. The high density nature of the proposal represents an efficient use of land close to the Tweed Heads CBD. The proposal demonstrates consistency with the design guidelines contained in the Master Plan with the proposed building providing for interesting elevations and strong vertical and horizontal articulation.

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

No draft environmental planning instruments applicable to the proposed development.

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

Development Control Plan No.2 - Site Access and Car Parking

According to the provisions of DCP 2, multi-dwelling housing generates a car-parking requirement of 1.5 on-site car parking spaces per unit with 25% to be accessible as visitor parking. A total of seven (7) resident spaces and two (2) visitor spaces are therefore needed to attain numerical compliance with the DCP. The proposed six (6) unit development incorporates a basement car park for twelve (12) vehicles - eight (8) of which are to be provided in a stacked arrangement. Each of the spaces in the tandem configuration are to

be allocated to the same dwelling with two (2) of the stand alone spaces to be utilised for visitor parking and two (2) more for additional resident parking.

An intercom system is to be required via a condition of consent to ensure access to the visitor parking is available.

A car wash down bay/visitor car space is proposed adjacent to the entry driveway in front of the building.

It is considered that the proposed development satisfactorily meets the provisions of DCP 2. The stacked arrangement is considered acceptable on the basis that each tandem space is allocated to a single unit - thereby reducing the risk of any traffic conflict.

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

Council's adopted design flood level for the Tweed Heads area is 2.65m AHD. Under the provisions of DCP 5, the minimum residential floor level is required to be 2.95m AHD. The ground level of the proposed unit building provides for a ground floor level at RL 4.12m AHD and is fully compliant with the requirements of DCP 5 in this regard.

The original design incorporated a floating surge protector at the entry point to the basement car park. Council's Infrastructure Engineer expressed concern with this aspect of the proposal and advised that; *"mechanical barriers will only be permitted in exceptional cases where the provision of structural barriers is impossible or unreasonable to apply"*. In response, the applicant has amended the gradient of the proposed driveway to enable the driveway itself to provide as a structural protection. The amended design has been reviewed and found to be satisfactory with the relevant provisions of DCP 5.

Development Control Plan No.18 - Tweed Heads

Under the provisions of DCP 18 the subject site is identified within the Tweed River Precinct. The objectives of this Precinct include:-

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

The proposal is consistent with the objectives and the desired character of the surrounding high-density residential precinct. The DCP identifies that the residential precincts should be characterised by attractive landscaped streets and that comprehensive landscape plans are to be prepared. The applicant has satisfied this requirement with the provision of a statement of landscape intent and associated landscaping plan. It is considered that the proposed landscaping will assist in enhancing the amenity of the development.

The following table identifies the proposed developments' compliance with the other relevant provisions of DCP No.18:-

REQUIREMENT	COMMENT
Section 2.4.3 - View Corridors	<p>Figure 2.4 of the Development Control Plan identifies a view corridor between Razorback Hill, the ocean and the horizon beyond Flagstaff Hill. The proposed building, which comprises six (6) storeys, is unlikely to affect views from other existing developments in the locality.</p> <p>In addition, given the location of the proposed building, it is unlikely to project above the horizon when viewed from the designated locations.</p>
Section 9.3 - Building Envelopes	<p>The design of the proposed building exhibits minor encroachments into the building height plane on the western and eastern elevations. The applicant has sought to justify these encroachments on the following grounds:</p> <ul style="list-style-type: none"> ▪ the areas of encroachment are limited to the upper levels and comprise small sections of roof, open balcony and sections (articulated lengths) of wall; ▪ the proposed encroachments at the upper levels do not add to the bulk and scale of the building and maintain appropriate setback distances from the boundary; ▪ the design complies with the six (6) storey height limit; ▪ the building contributes positively to the locality in terms of urban design outcomes ▪ the building setback to property boundaries increases with building height; and

	<ul style="list-style-type: none"> ▪ the areas of encroachment are negligible and are unlikely to create any adverse visual, privacy or shadow impacts on adjoining properties. <p>Having regard to the minor nature of the proposed encroachments, and in light of the abovementioned considerations, it is considered that a variation to the building envelope provision is acceptable in this instance. The bulk of the proposed building is considered acceptable and is further offset by the articulation of in the buildings elevations and the variation in the roofline.</p>
<p>Clause 11 - Residential Design Guidelines</p> <ul style="list-style-type: none"> ▪ Building Mass ▪ Energy Efficiency ▪ Wind Mitigation ▪ Overshadowing 	<p>The design of the proposed building mass achieves the objectives of the building mass provisions by articulating external walls and the inclusion of balconies such that continuous unbroken lengths do not exceed 15m.</p> <p>A NatHERS Certificate has been supplied with the application demonstrating that each proposed unit achieves or exceeds the minimum 3.5 star rating.</p> <p>The proposed building is considered unlikely to create any adverse wind effects at ground level.</p> <p>The subject site and the surrounding area provide for a six (6) storey height limit and is intended to provide for high density residential development. As a result, it is considered that certain shadow impacts are inevitable.</p> <p>The shadow diagrams prepared as part of the application show that adjoining properties will maintain a reasonable amount of solar access despite being periodically overshadowed during the day. In this regard, it is considered important to note that no objection has been received from the affected residents on the matter.</p>

	<p>It is considered that shadow impacts are an unavoidable consequence of providing for a six (6) storey height limit. The impacts associated with the shadow are not considered significant enough to warrant refusal of the application. It is likely that the adjoining allotments will be the subject of similar redevelopment proposals in the near future.</p>
<ul style="list-style-type: none"> ▪ Rooflines 	<p>The proposed roof design provides a visually interesting skyline and is considered to be consistent with the objectives of this provision.</p>
<ul style="list-style-type: none"> ▪ Privacy 	<p>The proposed building is not considered likely to present a significant risk of overlooking. All living areas and balconies are orientated towards the Powell Street frontage and side boundary setbacks of 5m further reduce the potential for any adverse impacts.</p>
<ul style="list-style-type: none"> ▪ Security and Surveillance 	<p>The design of the proposed building achieves the objectives of this provision by providing security lighting within the grounds, intercom access for the basement car park and foyer areas and orientating the living areas towards the street for increased surveillance.</p>
<ul style="list-style-type: none"> ▪ Material and Colours 	<p>Materials proposed include a combination of rendered concrete, aluminium, steel, timber and glass. Certain materials have been used to highlight the articulation of the building and create interest in the façade.</p>
<ul style="list-style-type: none"> ▪ Access, Car Parking and Car Wash bays 	<p>A basement car park is to be provided as part of the proposed development. The car park is sufficient in meeting the relevant generation rates outlined in DCP 2. A car wash down area (with pervious surface) is proposed adjacent to the access driveway, forming part of the front lawn area. The car parking arrangements are generally considered to be satisfactory.</p>
<ul style="list-style-type: none"> ▪ Open Space and Balconies 	<p>The proposed building comprises six (6) units with a floor area greater than 85m². Accordingly, the proposal is required to provide a total of 150m² of landscaped open</p>

	<p>space.</p> <p>The proposal incorporates approximately 266m² of open space at the ground and podium level. In addition, approximately 334m² is provided as provided as useable private open space (in the form of a balcony) attached to the main living area of each dwelling. The total amount of landscaped area is approximately 600m² and is therefore satisfactory with regard to the provisions of the DCP.</p>
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It is considered that the proposed development is generally consistent with the provisions of DCP 18 and the desired outcomes for the high-density residential precinct. All the relevant issues pertaining to view corridors, building envelopes and design guidelines have been suitably addressed by the applicant. The potential impacts associated with overshadowing have been considered reasonable given the six (6) storey height limit applicable and the design features of the proposed building.

Development Control Plan No.39 - Energy Smart Homes Policy

The applicant has undertaken a NatHERS assessment of the proposed development pursuant to the provisions of the DCP. The assessment indicates that each of the units achieves or exceeds the minimum requirement of 3.5 stars.

Development Control Plan No.47 - Cut and Fill on Residential Land

DCP 47 limits the depth of cut and fill to 1m unless it can be demonstrated that the earthworks are compatible with the natural landform and will not adversely affect adjoining properties.

As with similar development of this nature, the proposed apartment building requires excavation works for the basement car park that will extend below 1m. The applicant has substantiated these proposed works through the preparation of an erosion and sediment control plan and a stormwater management plan that have been assessed and considered appropriate. Council's Environmental Health Officer, Council's Infrastructure Engineers, Council's Building Surveyor and the Department of Infrastructure, Planning and Natural Resources have all reviewed these plans, with no objections raised subject to the recommended conditions of consent.

It is considered that the proposed development has been suitably prepared to ensure that all appropriate measures are in place to ensure that the proposal is consistent with the objectives of the DCP.

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

NSW Coastal Policy 1997

The proposed development is consistent with all relevant strategic objectives of the Policy.

Demolition

The applicant has lodged a Demolition Works Plan in accordance with Council's policy. Council's Building Services Unit have reviewed the plan and raised no objections in this regard.

(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

Compatibility with Adjoining Land Uses

The subject land is located in an area designated for high-density urban living. Redevelopment of the area is underway with several six (6) storey unit buildings recently being completed in the area. The proposed development is consistent with the emerging built character of the area and represents an appropriate use of land in close proximity to the Tweed Heads CBD.

Bulk, Scale and Building Design

As discussed in this report, the proposed development is considered to attain the objectives of the relevant planning provisions for the area relating to bulk, scale and building design. Whilst the size and scale of the proposed development represents a significant contrast in comparison to the single dwellings presently in the area, it is considered that the redevelopment of the locality (as intended in Council's planning controls) is imminent.

On this basis, and considering the architectural merit of the proposal, any impacts associated with the relative size of the development are reduced.

It is acknowledged that the subject site is relatively small in contrast to the size of the building however, it is considered that the articulation in the design of the building assists in reducing any impacts associated with its relative size. Furthermore, it is noted that Council has no requirements relating to site amalgamation or minimum allotment sizes for residential flat buildings. As such, any opportunities to impose standards in this regard are limited.

Privacy

The proposed development incorporates balconies at every level of the building. Internal and external privacy is considered good. No objections were received in relation to this aspect of the development.

Overshadowing

The overshadowing impacts associated with the proposed six (6) storey building are identified on the Shade Projections Plan submitted with the

application. The impacts have been considered as part of the DCP 18 assessment earlier in this report. The most significant impacts are apparent on the adjoining dwellings to the south-west and the south-east of the subject site. Whilst the potential for these impacts is acknowledged, no submission has been received in this regard from the affected residents/land owner. Furthermore, it is considered that certain overshadowing is unavoidable in an area open to six (6) storey development. The proposed building will not overshadow any public open space and the majority of adjoining dwellings will be largely unaffected.

Given the likelihood of the surrounding dwellings being redeveloped in the future, the limited number of properties affected and the lack of public submissions, it is considered that the overshadowing impacts associated with the proposal are not sufficient enough to warrant refusal of the application.

(c) Suitability of the site for the development

The proposed multi dwelling development is to be carried out upon land that is suitable for medium density purposes and has been zoned as such under Tweed LEP 2000.

The proposed design and configuration of the development is considered consistent with the newly emerging land use character and pattern. The subject site is in close proximity to a number of local service nodes including the university, hospital, civic centre, shopping precinct and commercial activities. The suitability of the site for the purposes of the proposed development has been further demonstrated by way of general consistency with the relevant statutory and non-statutory guidelines applying to the site.

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

The application was advertised for a thirty (30) days in accordance with Council's notification policy. During this period, no submissions were received.

(e) Public interest

Subject to conditions of consent, the proposed development is considered to be consistent with the public interest and suitable for approval. It is considered likely that similar redevelopment will occur in the subject locality in the near future.

OPTIONS:

1. Approve the application in accordance with the recommendation.
2. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the application be refused, the applicant has the right o appeal in the Land and Environment Court.

POLICY IMPLICATIONS:

A voluntary contribution amount to be negotiated with the applicant with regard to the Tweed Heads Master Plan may influence Council's ability to require a different amount, upon completion of the relevant Section 94 plan. Furthermore, it is likely that other applications currently pending approval will seek to use previously negotiated amounts as a basis for any offer.

CONCLUSION:

The proposed development provides for high density residential development in an area that provides for a wide range of services. The nature of the development is consistent with the strategic objectives for the area contained within Council's planning documents and the Tweed Heads Master Plan.

Having considered all aspects of the proposed development, it is considered that on balance, the proposed six (6) storey apartment building is suitable for conditional approval. The applicant has satisfactorily addressed all relevant matters and the proposal is predominantly compliant with all relevant planning controls.

UNDER SEPARATE COVER:

Nil.

3 [PE] Development Application DA02/1136.09 for an Amendment to Development Consent DA021/1136.09 For a Mixed Commercial/Tourist Accommodation Development Including 8 units at Lot 2 DP 979921 and Lot 3 DP 964996, No. 32-34 Marine Parade, Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA02/1136 Pt6

SUMMARY OF REPORT:

Council is in receipt of a Section 96 Application seeking an amendment to DA 02/1136, which granted approval for the demolition of an existing two-storey commercial/residential development and the erection of a mixed commercial/retail and tourist accommodation development (known as Nor Nor East).

The approved building is presently under construction and subsequently it has been realised that there are two design faults that require amendment. The S96 application is accompanied by revised drawings depicting the relocation of a fire hydrant to ensure compliance with the Building Code of Australia and changes to the driveway located off Hungerford Lane to ensure an adequate driveway access grade.

The requested amendments are considered appropriate and necessary to ensure compliance with the Building Code of Australia and the Australian Standards for driveways. Each amendment has been assessed on its merits and has been assessed in the context of the variation only, as this is not an opportunity to re-visit the original determination.

RECOMMENDATION:

That Development Application DA02/1136.09 for an amendment to Development Consent DA021/1136.09 for a mixed commercial/tourist accommodation development including 8 units at Lot 2 DP 979921 and Lot 3 DP 964996, No. 34 Marine Parade Kingscliff be amended in the following manner:

Amend Condition 1 to reads as follows:

1. The development shall be completed in accordance with the Statement of Environmental Effects and
 - Drawing No. SK01 Revision A - SK07 Revision A prepared by Pacific Projects Group and dated March 2003 (27/3/2003),except where varied by the approved S96 Plans:

- Drawing No. A.01/01-06 & A.02/01-02 & A.03/01-02 prepared by Pacific Projects Group and dated September 2003 (Amended 11/11/2003);
- Drawing No. A.01/06 Revision C prepared by Pacific Projects Group and dated September 2003 (25/09/2003); and
- Drawing No. F.03 Revision B dated 16 November 2004, F.04 Revision B dated 15 November 2004, F.05 Revision B dated 16 November 2004, and F.07 Revision A dated 22 November 2004, prepared by Pacific Projects Group.

except where varied by these conditions:

Add Condition 1A to reads as follows:

- 1A. This consent does not approve the buildings works (pertaining to the driveway entrance off Hungerford Lane) proposed as part of this application. Council has no power under the Environmental Planning and Assessment Act 1979 to grant retrospective consent to a development application in respect of works undertaken without development consent.

The applicant's attention is drawn to the provisions of Section 125 and 126 of the Environmental Planning and Assessment Act 1979.

The applicant is required to lodge an application for a Building Certificate pursuant to S149 of the Act in respect of the unauthorised works. This Certificate is to be to Council within 30 days from the date of the notice of determination of DA02/1136.09 and subject to that certificate being issued.

Add Condition 1B to reads as follows:

- 1B. The car park for the proposed development is to be utilised only in relation to the use of the tourist units and not the commercial component of the development.

REPORT:

Applicant: Pacific Projects Group (Developments) Pty Ltd
Owner: Brosnan Family Pty Ltd and Brosnan Hotels Pty Ltd
Location: Lot 2 DP 979921 & Lot 3 DP 964996, No. 32-34 Marine Parade
Kingscliff
Zoning: 3(b) General Business
Cost: \$1,900,000.00

BACKGROUND:

Council approved the development application in June 2003. The approved application comprised three (3) retail/commercial premises on the ground floor to Marine Parade and 8 tourist accommodation apartments, in a part three and four storey building.

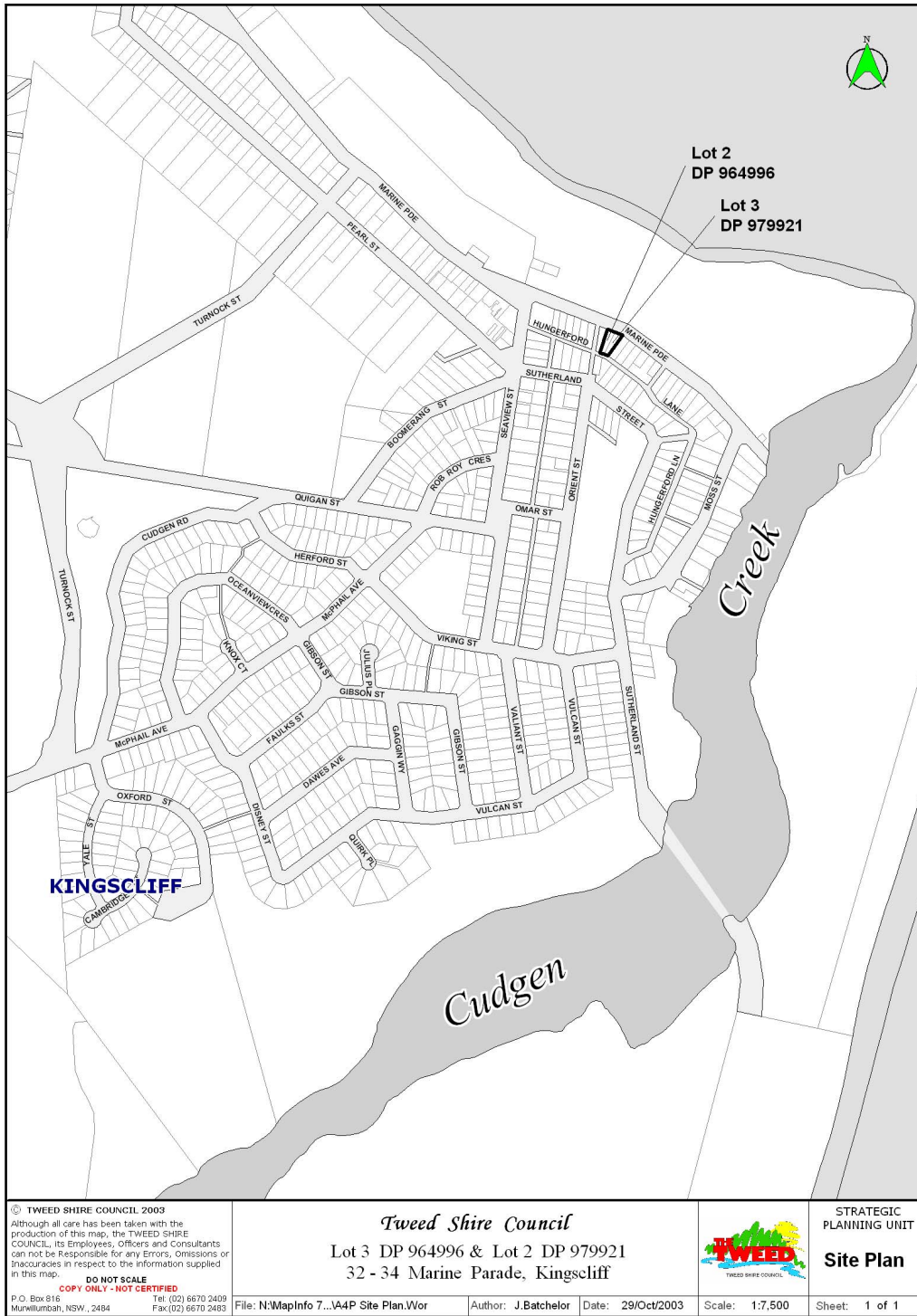
In September 2003 Council received the first S96 application to vary the original consent. The S96 was accompanied by a new set of plans detailing substantial internal and external design changes and sought to amend or delete nine conditions/specifications relating to roof penetrations (including a lift over run), building classification, pedestrian awnings, future uses; release of subdivision certificate, and access easements. Council approved this application in November 2003.

Council is now in receipt of the second S96 Application, to vary the original consent. The changes are detailed on revised plans and depict a new location for a fire hydrant and a revised driveway design. This would necessitate a change to Condition 1 of the development consent to reflect the revised plans.

The S96 Application was re-notified to the original adjoining properties that were notified in addition to the original objectors to the proposal. Residents were given fourteen days (between 22 December 2004 and 10 January 2005) to review the submitted documentation and provide a written submission to Council. During this time Council received eight (8) submissions in relation to the S96 Application. The letters mainly objected to the single access driveway width and the potential for traffic congestion in Hungerford Lane. These objections are discussed in more detail later in the report.

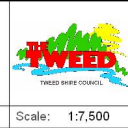
Following is an assessment of each of these requests of amendment purely on the merit of the request itself rather than re-visiting the original determination.

SITE DIAGRAM:



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Tweed Shire Council
 Lot 3 DP 964996 & Lot 2 DP 979921
 32 - 34 Marine Parade, Kingscliff



STRATEGIC
 PLANNING UNIT
Site Plan
 Scale: 1:7,500
 Sheet: 1 of 1

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

S96 of the Act specifies that on application being made by the applicant a consent authority can modify the development consent only if it is satisfied that the proposed modified development is substantially the same as the approved development and that all relevant consultations and submissions have been undertaken.

Having regard for these criteria the variations are assessed as follows:

Variation 1 - Amendment to the driveway off Hungerford Lane

The applicant has provided the following details of the amendment:

"The current configuration is a 6m wide two way driveway with a gradient of 1:7.2 (taken through the centre) that extends in a straight line to the kerb. This configuration fails on two accounts. Firstly the gradient exceeds those required by code along its eastern length (1:4.6 gradient). Incoming traffic must travel along this edge to activate the card reader. Secondly, the gradient of the driveway to the rear access door for residents exceeds code requirements for a fire escape (1:8 max).

The proposed configuration is a nominal 4m wide one way driveway with a maximum gradient of 1:7.3 at the eastern end and 1:13.6 on the western end (measured at right angles to Hungerford Lane) that sweeps around a landscape area containing the card reader and addresses Hungerford lane approximately a meter west of the original arrangement.

In summary this configuration has the following benefits over the existing approved plans:

- *Achieves acceptable gradients;*
- *Compels traffic along these gradients;*
- *Provides additional landscaping;*
- *Maintains the Q100 stormwater heights;*
- *Maintains sufficient access to service 30 Marine Parade; and*
- *Augments the landscaping to the south east corner".*

The application was referred to both Council's Traffic and Transport Engineer and Council's Technical Officer to review this element of the S96 Application. The following referral comments were received.

"The above application appears to be to modify an internal parking access driveway.

A separate application to modify the driveway width across public road reserve associated with the development was received separately.

The S138 Road Act application was assessed and approved on 16 December 2004 in accordance with Council's Access to Property Specification and AS2890.2004.

The basis for the approval of the S138 is as follows:

- (1) The planning assessment for the application and report states that the 8 on site car spaces are for residential / accommodation use and a cash contribution paid for the 7.7 staff and customer spaces required i.e. the car park is not for the commercial components.*
- (2) Tweed Shire Council's Driveway Access to Property - Design Specification in Table 5.1 clearly states a driveway width at the boundary of 3.5m and 6.5m at the kerb is required for local streets.*

It is my opinion that accommodation units are obviously classified as 'Units'.

- (3) AS2890.1.2004 supports Council's Policy as follows:*

- a) Table 1.1 p9: User Class 1A (residential);*
- b) Table 3.1 p29: Access Facility Category for local road and <25 spaces is 1.*
- c) Table 3.2 p29: Access Driveway Width - Category 1 - Entry width is to be between 3.0 and 5.5m*

Clearly the approval of the S138 application is consistent with Council Policy and the applicable Australian Standard at the time.

The S138 approval does not pre-empt any decision the Planning Assessment Unit may make in regards to the subject Modification of Consent Application in regard to parking aisle widths and manoeuvring which are specified in DCP 2 and Landscaping.

In regards the internal modifications, whilst this is a planning Assessment Unit issue, the submitted plans appear to be inadequate to make a decision as they don't show the car parks or demonstrate the impact of the internal changes on manoeuvrability and sight lines.

In regard to the traffic impact of the requested modification it is advised that the driveway widths at the public road comply with relevant standards.

Hungerford Lane is a low speed, low volume laneway and the car parks are for 'residential' use. If on rare occasions an entering vehicle had to wait for an exiting vehicle it would be unlikely for any through traffic to be delayed.

Based on this review, which demonstrates compliance with the Australian Standard for driveways Council is satisfied that this proposed amendment is satisfactory, and substantially the same development as the development for which consent was originally granted and can therefore be supported.

Variation 2 - Amendment to the location of the fire hydrant

The applicant has provided the following details of the amendment:

"The fire hydrant was shown at the south east corner of the site, facing Hungerford Lane, in front of the garden bed. This location is unsuitable as it fails to provide a radiant heat shield between the hydrant and the building as required by the Building Code of Australia.

The heat shield must be three metres high by four metres long and of masonry construction. The only available existing wall already houses the gas bottles and the mechanical exhaust duct riser. Because there are minimum distance requirements between these elements introducing the hydrant on the existing wall meant a re-arrangement of these other services. A paramount consideration was also maintaining the adjacent landscaped area.

The proposed solution involves relocation and re-shaping of the mechanical exhaust duct riser so that its external wall can also act as a heat shield for the hydrant. The new shape of the duct riser reduces its impact on the adjacent landscaped area. The gas bottle storage has been relocated to maintain service separation. By re-locating the water metre to the western boundary of the site, an effective landscaping screen is achieved along Hungerford Lane.

In summary this configuration has the following benefits over the existing approved plans:

- *Achieves compliance with the Building Code of Australia;*
- *Maintains the landscape across the front of the building;*
- *Softens the impact of services ducts, storage areas and the like from Hungerford Lane"*

On review of this argument Council concurs that the impact of the proposed change is negligible. There will be no change to the external appearance or height of the building other than improvements to the screening of the gas bottle storage area. Based on this review, which demonstrates compliance with the Building Code of Australia Council is satisfied that this proposed amendment is satisfactory, and substantially the same development as the development for which consent was originally granted and can therefore be supported.

Submissions

The S96 Application was re-notified to the original adjoining properties that were notified in addition to the original objectors to the proposal. Residents were given fourteen days (between 22 December 2004 and 10 January 2005) to review the submitted documentation and provide a written submission to Council. During this time Council received eight (8) submissions in relation to the S96 Application. The following table details the areas of concerns raised in these submissions:

Table 1 - Issues raised in objection to the S96 Application

SUBMISSION	IMPACT ASSESSMENT	COMMENT
<i>Servicing the commercial developments from Marine Parade will cause additional traffic congestion.</i>	The previous uses on the site were serviced from Marine Parade as there was previously restricted access from Hungerford Lane. When the original DA was approved it was on the basis that the commercial developments would still be serviced from Marine Parade itself. This S96 does not change this arrangement.	This objection does not warrant amendment or refusal of the current S96 Application.
<i>One-way access is not acceptable off a laneway.</i>	Australian Standard 2890.1 2004 specifies that developments (located off a local road) with less than 25 parking spaces is to have a driveway entry width of between 3 and 5.5m. The proposed S96 complies with this Australian Standard.	This objection does not warrant amendment or refusal of the current S96 Application.
<i>The driveway would be unsuitable for traffic movements of this sort.</i>	The proposed driveway complies with the Australian Standard and is considered appropriate by Council's Traffic & Transport Engineer.	This objection does not warrant amendment or refusal of the current S96 Application.
<i>The amendment would create an inability to access and egress the site in a forward direction in such a narrow laneway situation.</i>	The driveway width will not affect the ability of vehicles to enter or exit the site in a forward direction. The internal isle width within the car park is 6.2m with additional manoeuvring area to enable vehicles to exit a car space and leave the site in a forward direction.	This objection does not warrant amendment or refusal of the current S96 Application.
<i>There would be a non-compliant parking bay geometry.</i>	This S96 does not change the internal car-parking configuration. The car parking spaces as detailed in the previous approved plans is satisfactory.	This objection does not warrant amendment or refusal of the current S96 Application.
<i>Due to the reduction in driveway width collisions will occur.</i>	Council's Traffic and Transport Engineer has provided that Hungerford Lane is a low speed, low volume laneway. If on rare occasions an entering vehicle had to wait for an exiting vehicle it would be unlikely for any through traffic to be delayed.	This objection does not warrant amendment or refusal of the current S96 Application.
<i>Hungerford Lane will be backed up by queuing.</i>	As detailed above Council's Traffic and Transport Engineer has not raised this as an issue requiring amendment.	This objection does not warrant amendment or refusal of the current S96 Application.
<i>The southwestern car space will be difficult to access (blind 90° steep uphill reverse movement).</i>	This S96 does not change the internal car-parking configuration. The car parking spaces as detailed in the previous approved plans is satisfactory.	This objection does not warrant amendment or refusal of the current S96 Application.
<i>The effect of the narrow driveway will be exacerbated by the proposed Development at</i>	Australian Standard 2890.1 2004 specifies that developments (located off a local road) with less than 25 parking spaces is to have a driveway entry width	This objection does not warrant amendment or refusal of the current S96 Application.

SUBMISSION	IMPACT ASSESSMENT	COMMENT
<i>30 Marine Parade which will increase the spaces from 8 to 14.</i>	of between 3 and 5.5m. If DIPNR issues approval for the proposed development at 30 Marine Parade the parking spaces will increase from 8 to 14 spaces. This would still enable compliance with the Australian Standard. The proposed S96 complies with this Australian Standard.	
<i>Hungerford Lane is the sole means of delivery to the whole commercial and residential aspect of the development and the reduced driveway is inadequate.</i>	Hungerford Lane provides access to a car park that accommodates 8 car parking spaces. These spaces are for the uses connected to the tourist accommodation only and are not for use in conjunction with any commercial function. The reduced driveway entrance is acceptable for this use.	It is recommended that an additional condition of consent be imposed further clarifying that the use of the car park is for the units only. See Condition 1B.
<i>The S96 Application seeks to amend issues, which objectors originally raised as reasons for refusal.</i>	Objections were originally received regarding the inadequacy of the parking and access arrangements. Approval was issued based on the best information available at the time. Since then revised sectional drawings identified a small problem with a section of the driveway. The current S96 is lodged to rectify this area of non-compliance in a manner that still results in compliance with the Australian Standard.	This objection does not warrant amendment or refusal of the current S96 Application
<i>The building, which is under construction at the moment, has no provision structurally for anything but the new driveway.</i>	The structural elevation to Hungerford Lane has been built at the proposed width of approx. 4m wide as opposed to the approved 6m wide. However, no connecting driveway has been constructed to date. The applicant has provided that this work is structurally sound and that the building could still be rectified to reflect the approved 6m width and still be structurally sound if necessary. As this work has technically been constructed without consent Council cannot issue approval for this element of works retrospectively. Council must now request the applicant to lodge a S149 Building Certificate to certify that the work has been constructed structurally. As part of this application Council can determine whether it is appropriate for a fine to be issued for the unauthorised work.	It is recommended that an additional condition of consent be imposed requiring the applicant to lodge a S149 Building Certificate to certify structural integrity of the elevation to Hungerford Lane. See Condition 1B.
<i>Major concessions were already granted. Further concessions should be refused.</i>	The proposed amendments are not considered to be concessions but rather an opportunity to rectify areas of the design that require amendment in accordance with the Building Code of Australia and the relevant Australian	This objection does not warrant amendment or refusal of the current S96 Application

SUBMISSION	IMPACT ASSESSMENT	COMMENT
	<p>Standard.</p> <p>Furthermore, Council has an obligation to assess the proposed changes on the merits of each amendment only. The lodgement of a S96 application is not an opportunity to re-visit the existing determination.</p>	

These submissions have been considered in the assessment of the S96 Application and are not considered to warrant refusal of the application. However, the imposition of two new conditions of consent is recommended following a review of the issues raised as detailed above.

In determining this S96 modification, an assessment has been undertaken having regard to the relevantly applicable matters referred to in section 79C of the Environmental Planning & Assessment Act 1979.

The application does not raise concern having regard to any Threatened Species.

It is considered that the recommended amendments will result in substantially the same development as approved and therefore can be dealt with pursuant to Section 96 (2) of the Environmental Planning & Assessment Act, 1979.

OPTIONS:

1. Approve the S96 Application in accordance with the recommendation;
2. Refuse the S96 Application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should Council refuse the S96 Application, the applicant has a right of appeal to the Land & Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Each proposed amendment has been assessed on its merits and has been assessed in the context of the variation only, as this is not an opportunity to re-visit the original determination.

Having assessed the S96 Application against the current applicable controls, the application is considered to warrant approval.

UNDER SEPARATE COVER:

Nil.

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

ORIGIN:

Development Assessment

FILE NO: DA04/0099 Pt1

SUMMARY OF REPORT:

Council approved a community based Childcare Facility at its meeting of 1 December 2004. The project is assisted by Council, State and Federal government funding and donations raised from local fundraising.

The development approval included as Condition No.10 the imposition of a s.94 Tweed Road Contribution Levy in the amount of \$20,105. The Chillingham & Tyalgum Community Preschool is seeking a waiver to the contribution on the basis that funds are not available to cover it and as such the viability of the project is at risk.

This report concludes that the waiver is contrary to Council's established and consistent practice in the collecting of funds for public infrastructure however, in the circumstances Council may consider it justifiable.

RECOMMENDATION:

That Council advises the Chillingham and Tyalgum Community Preschool Inc that the request to waive the Tweed Road Contribution is not supported and that the contribution levy is to be paid in full.

REPORT:

Applicant: Chillingham & Tyalgum Community Preschool
Owner: Tweed Shire Council
Location: Lot 110 DP 728119 Carraboi Terrace, Tyalgum
Zoning: Unzoned
Cost: \$300,000.00

BACKGROUND:

Council has received a request from the Chillingham and Tyalgum Community Preschool seeking a waiver of a s.94 Contribution levied on Development Approval DA04/0099 for a 'Childcare Facility' at Lot 110 Carraboi Terrace Tyalgum.

The approved childcare facility was assessed on the basis of its capacity to cater for a maximum 20 children. Tweed Road Contribution Plan No.4 was used in calculating the appropriate road levy, which at the determined vehicle trip rate of 67.5 trips is \$20,105.

It is normal practice that all developments are required to pay applicable contributions to ensure that funds are available to provide necessary public infrastructure. The monetary levies are proportionate to the demand generated by the development. A number of community based projects have sought a waiver of contributions and in the majority of cases Council has not supported the requests.

Further, Council resolved at its meeting of 5 May 1999:

"That unless exempted by legislation, development applications for works of public benefit submitted by or for charities, community groups, public bodies or religious organisations, which generate a demand for provision of increase in public amenities and services as identified in an adopted Section 94 contribution plan will be liable for payment of contribution as set out in such a plan."

The approved childcare facility is a non profit community development. Based on the applicant's submission it would appear that the provision of the childcare facility within the Tyalgum Village will be compromised if the road contribution of \$20,105 is not waived, this appears to have arisen because development expenditures such as contributions were not accurately accounted for.

In seeking the request to have the road contribution waived the applicant has provided the following grounds: -

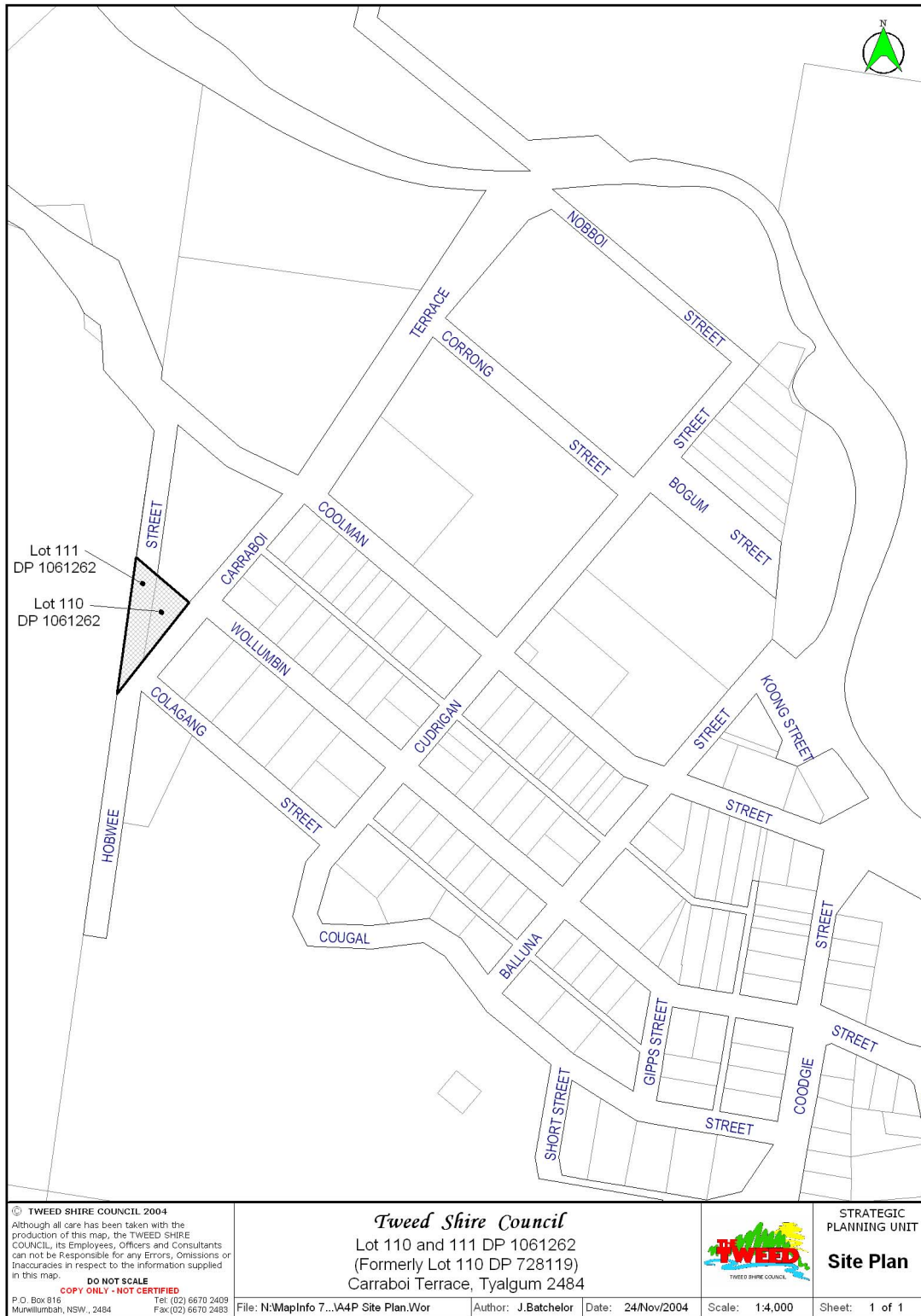
- *Tyalgum Community Preschool is a non-for-profit community organisation, run by for and with the local community. The construction of the Preschool will ensure a solid future for the children of the town, thus benefiting the community and the Shire.*

- *The construction of the Preschool in the village proper will see an immediate reduction in traffic to the old Preschool site (ie. Bray's Creek). This will include parents who will no longer be required to drive their children, as living in the village will enable them to walk their children to Preschool.*
- *An initial quote from the builder has been received, and all monies raised to date are committed in this regard. The quote did not include extra costs that the Preschool will need to secure for completion, including extra requirements regarding sewage & car parking requested by Council. Worst case scenario is that we will be unable to proceed at all and state and federal monies secured will have to be returned. This, as I am sure you would appreciate, would be an enormous blow to a community who are excited by the potential the new Preschool brings, not to mention negate Council's hard work in securing land.*
- *The long and short of it is that the Preschool does not have the money to make the s.94 contribution without jeopardizing the completion of the new Preschool.*

Council considered the site for the then proposed Preschool on 4 June 2003 and resolved on 16 June 2003 to proceed with the purchase of the land to facilitate the provision of a preschool. In addition Council will be undertaking road improvements to ensure that the local road network is suitable to service the additional demands generated by the preschool. Council's time and expenditure in this matter has and will be considerable.

Council may wish to consider the likely significant value and benefit to the families of the Tyalgum local community in determining the appropriateness of the request to waiver the contribution, in light of the applicants submission on the viability of the project.

SITE DIAGRAM:



OPTIONS:

1. Advise the Chillingham and Tyalgum Community Preschool Inc that the request to waive the Tweed Road Contribution is not supported and that the contribution levy is to be paid in full.
2. The Section 94 Tweed Road Contribution levy on Development Approval DA04/0099 in the amount of \$20,105 be waived in order to secure the provision of the Tyalgum Preschool and the applicant be advise to lodge a s.96 modification application to delete Condition No.10 of DA04/0099.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Should Council waive the Tweed Road Contribution levy there exists a possibility that it may serve as a perceived precedence for other community organisations to seek similar dispensation. In isolation a waiver in this case is not likely to have any adverse policy implications however, it has the potential to arise on a cumulative basis.

CONCLUSION:

Having considered the matters raised in this report it is considered that the request to waive the s.94 Tweed Road Contribution is inconsistent with the Council's resolution of 5 May 1999 and contrary to the intent and purpose of the adopted Tweed Road Contribution Plan No. 4. However, it is noted that the provision of the Preschool within the Village of Tyalgum will provide a much needed asset of significant community benefit.

UNDER SEPARATE COVER:

Nil.

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5 [PE] Development Application DA04/0533 for Extensions to Youth Club at Part Lot 1 DP 133066 Florence Street, Tweed Heads - Request for Waiving of Contributions

ORIGIN:

Development Assessment

FILE NO: DA04/0533 Pt1

SUMMARY OF REPORT:

Council at its meeting of 1 September 2004 approved extensions to the Twin Towns Police and Community Youth Club located on the Tweed Heads Recreation Ground at Tweed Heads. As part of the submission Council was asked to waive the contributions applicable to the development.

This request was not supported and Condition 8 of the consent requires Section 94 contributions of \$10,859 for roads and \$69 for Council Administration Offices and Technical Support facilities. Condition 9 also requires a total of \$21,882 for water and sewerage headworks.

The applicants have again written to Council requesting that these contributions be waived. A copy of the submission is attached to this agenda for Councillors consideration. It should be noted that the reference in the submission to Development Application fees for other projects relate to the application fees not S94 contributions.

On 15 July 1999 Council adopted the following resolution in relation to contributions: -

"That unless exempted by legislation, development applications for works of public benefit submitted by or for charities, community groups, public bodies or religious organisations, which generate a demand for provision of increase in public amenities and services as identified in an adopted Section 94 contribution plan will be liable for payment of contribution as set out in such a plan".

It is acknowledged that this is a significant community project however on the basis of the above resolution, the request cannot be recommended. If Council supports the submission a Section 96 application would be requested to delete Conditions 8 and 9 of the consent approval conditions.

RECOMMENDATION:

That the Twin Towns Police and Community Youth Club's request for the waiving of contributions in relation to DA04/0533 not be supported.

REPORT:

As per summary.

OPTIONS:

1. Not support the request.
2. Support the request.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If the request is supported then the relevant contribution funds will not receive that income.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

On the basis of Council's resolution of 15 July 1999 the request should not be supported.

UNDER SEPARATE COVER:

1. Applicants submission (DW 1150851)
-

6 [PE] Development Application DA04/1518 for Demolition of an Existing Dwelling and the Erection of a Three (3) Storey Dwelling at Lot 21 Section 12 DP 28390 No. 40 Seaview Street, Tweed Heads South

ORIGIN:

Building Services

FILE NO: DA04/1518 Pt1

SUMMARY OF REPORT:

An application has been received for the erection of a three (3) storey residence on the abovementioned property.

The proposal has been notified in accordance with Council's modification policy and two submissions have been received which raise objections in relation to the proposal.

RECOMMENDATION:

That subject to amended plans being submitted which satisfy Council's Engineering and Operations Division in relation to the encroachments over the sewer main which runs across the rear of the property, Development Application DA04/1518 for demolition of an existing dwelling and the erection of a three (3) storey dwelling at Lot 21 Section 12 DP 28390 No. 40 Seaview Street, Tweed Heads South, be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by these conditions of consent.
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0020]
3. The erection of a building in accordance with a development consent must not be commenced until: [GEN0120]
 - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

- (b1) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

- (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

PRIOR TO COMMENCEMENT OF WORK

- 4. 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]

- 5. **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]

6. 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]

7. 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]

8. 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]

9. Residential building work:

- (1) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:

(i) in the name and licence number of the principal contractor, and

(ii) the name of the insurer by which the work is insured under Part 6 of that Act,

- (b) in the case of work to be done by an owner-builder:

(i) the name of the owner-builder, and

(ii) if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (2) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0290]

10. 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]

DURING CONSTRUCTION

11. 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]

12. 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]
13. 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]
14. 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]
15. 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]
16. 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]
17. 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]
18. 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]
19. **A Sewer manhole** is present on this site. This manhole is not to be covered with soil or other material or concealed below ground level.

Should additional fill be proposed in the area of the sewer manhole Council's Engineering Services Division must be consulted and suitable arrangements

- made for the raising of the manhole to the satisfaction of Council's Manager Public Utilities.
- [DUR0840]
20. 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]
21. All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass and zoning.
- [DUR1000]
22. 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]
23. 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]
24. 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]
25. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.
- [DUR1160]
26. In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:
- i. All required erosion and sedimentation control devices have been installed and are operational.

- ii. Required toilet facilities have been provided on the site.
 - iii. A sign has been erected on the site identifying:
 - Lot number
 - Builder
 - Phone number of builder or person responsible for site.
 - iv. All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.
 - v. That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.
- [DUR1200]
27. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1210]
28. Swimming Pools (Building)
- A. The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).
 - B. Swimming pools shall have suitable means for the drainage and disposal of overflow water.
 - C. The pool filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
 - D. In the event that Council is not utilised as the inspection/certifying authority:-
 - a. Within seven (7) days of the filling of the pool a Compliance Certificate in the prescribed form shall be submitted to Council together with the prescribed fee, by the Accredited Certifier to certify that all works have been completed in accordance with the approved plans and conditions of Consent and that the swimming pool safety fencing has been installed and complies with AS 1926.
- [DUR1280]
29. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR1290]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

30. 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]
31. 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]

32. 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]

33. Prior to the issue of an occupation certificate or interim occupation certificate suitable landscaping which provides a form of privacy screening to the dwelling on the northern side of the property is to be provided along the section of the northern boundary adjacent to the dwelling on the adjoining site.

[POCNS01]

USE

34. Swimming Pools (Building)

A. It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).

B. The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).

[USE0250]

35. The swimming pool is not to be used for commercial purposes without prior Development Consent.

[USE0260]

REPORT:

Applicant: Mr GB Robinson
Owner: Mr GB Robinson
Location: Lot 21 Section 12 DP 28390 No. 40 Seaview Street, Tweed Heads South
Zoning: 2(a) Low Density Residential
Cost: \$480,000.00

BACKGROUND:

A development application has been received for the demolition of an existing two (2) storey residence and the erection of a three (3) storey residence on property described as Lot 21 Section 12 DP 28390 No. 40 Seaview Street, Tweed Heads South. The allotment is zoned 2(a) Low Density Residential under Council's Tweed Local Environmental Plan 2000 and the area has a maximum height limit of three (3) storeys.

The site itself is situated on the high side of Seaview Street and has two street frontages being Seaview Street and Marie Street, with an outlook to the east. The area of the block is 860m² and has a width of approximately 18.7 metres.

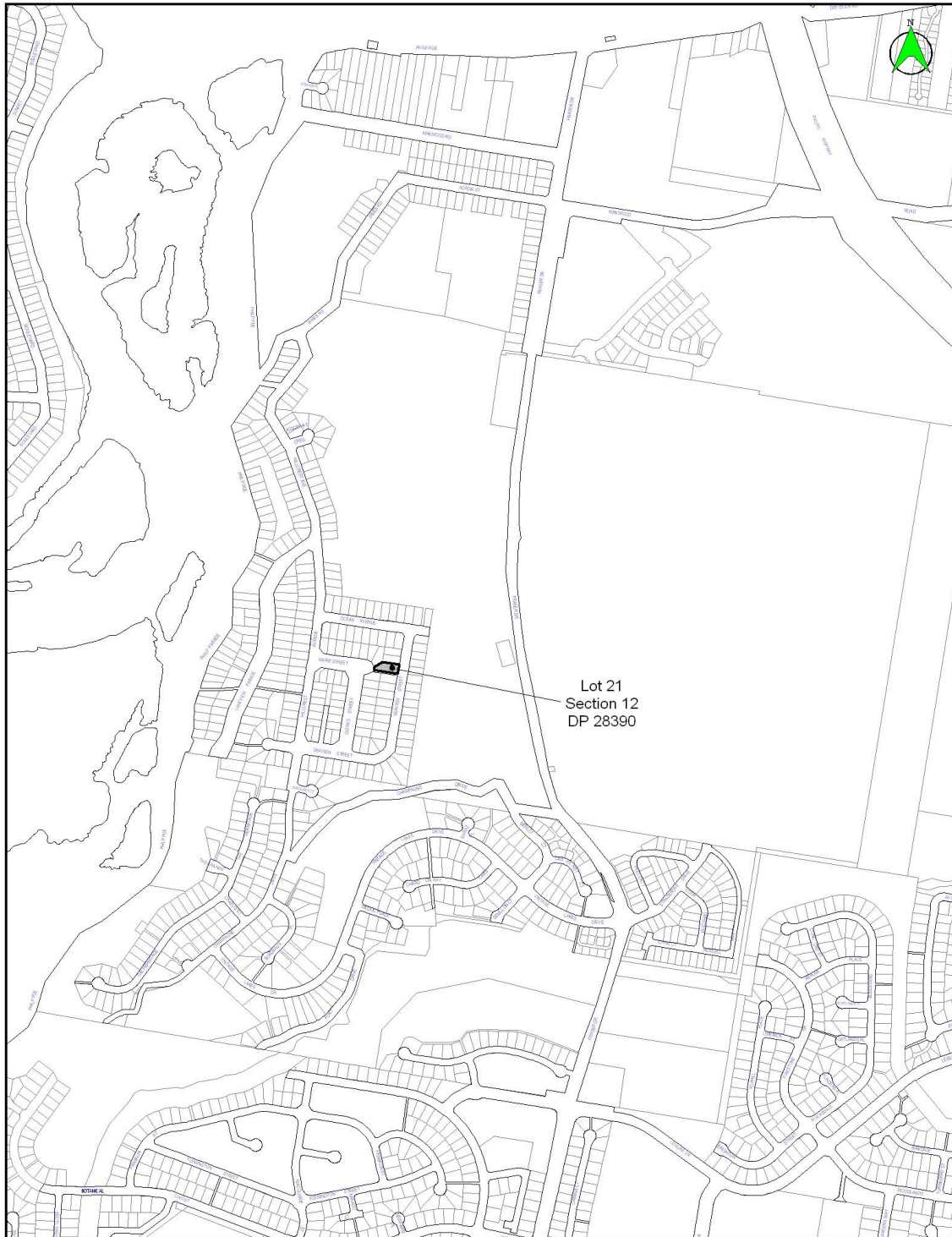
The proposal has incorporated modern architectural design with main living and entertaining areas orientated to the east north east to take advantage of views towards the Pacific Ocean.


The majority of dwellings within the area are two storey or high set due to the slope of the land however three storey dwellings are permissible.

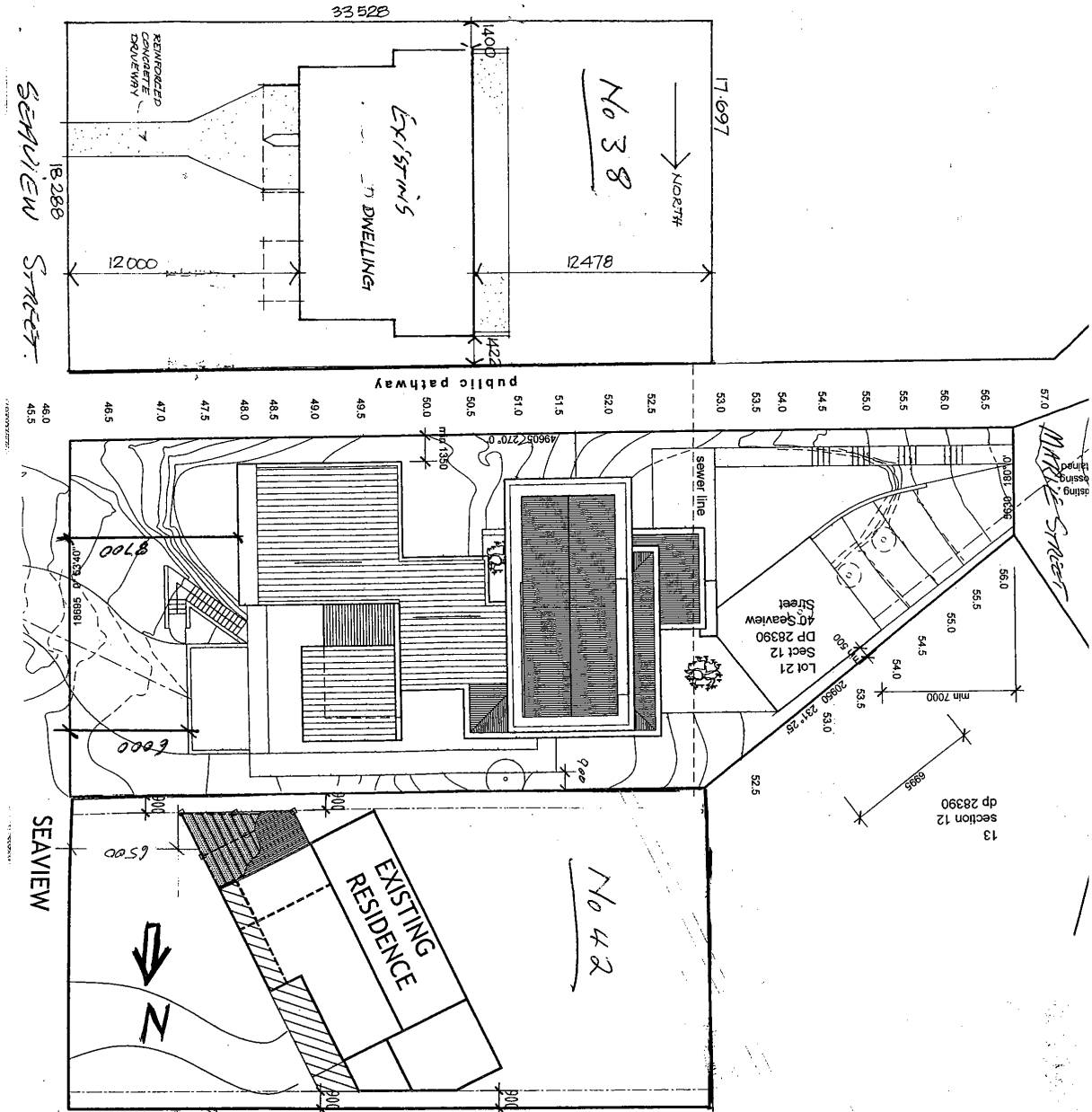
The proposal before Council has been stepped back up the allotment with portions being two and three storeys when measured vertically through the proposal. The external walls of the proposal comprise varying finishes including colourbond metallic sheeting, stone cladding and rendered finish.

The roof will be metal clad with a colourbond finish and be of varying pitch between 2 and 15 degrees. The designer has also proposed a dual access, one from Seaview Street and one from Marie Street and two double garages, one at the front and one at the rear of the property.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2005 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Murwillumbah, NSW., 2484 Tel. (02) 6670 2409 Fax (02) 6670 2483</p>	<p style="text-align: center;"><i>Tweed Shire Council</i> Lot 21 Section 12 DP 28390 No. 40 Seaview Street, Tweed Heads South</p>		<p>STRATEGIC PLANNING UNIT Site Plan Scale: 1:10,000 Sheet: 1 of 1</p>
<p>File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 04/Feb/2005</p>			



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

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

Tweed Local Environmental Plan 2000

The land is zoned 2(a) Low Density Residential and it is considered that the proposal is consistent from the primary and secondary zone objectives of the land.

State Environmental Planning Policies

SEPP71 - Coastal Protection

The proposal complies with the aims of the policy.

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

No draft planning instrument affects this application.

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

Development Control Plan No. 2 - Site Access and Parking Code

DCP2 requires 1 space per dwelling plus provision for driveway parking of another vehicle. The proposal incorporates 4 car parking spaces and therefore complies with the policy.

Development Control Plan No. 39 - Energy Efficient Housing

The proposal complies with the policy.

Development Control Plan No. 47 - Cut and Fill

The proposal complies with the objectives of the plan.

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

The proposal will satisfy any of the matters prescribed.

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

The proposed dwelling will be situated in an established residential area with dwellings of varying designs. The design of this building has incorporated

modern architectural trends which should have positive impacts on the future character of the area.

With the exception of the garage at the front of the allotment the development has utilised to contouring the land requiring minimal cut and fill. With regard to the garage the cut will be relined in accordance with requirements of DCP47.

Between the dwelling property and the garage at the rear of the property exists a sewer main. It is proposed to provide a deck and wall over the top of this area, however, this will not comply with Council's guidelines for work in close proximity to sewers or draft infrastructure referrals policy and as a result the proponent will be requested to amend the design to ensure the area is accessible for access to sewer. Conditions of consent will also be imposed in relation to the provision of footings adjacent to and within the angle of influence of the sewer main.

(c) Suitability of the site for the development

The site is an existing residential allotment which is currently occupied by a dwelling. This dwelling is to be demolished to make way for the proposed development which is consistent with the aims of the policy.

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

In accordance with Council's modification policy the proposal was notified to seven property owners, being those adjoining and those thought to be affected by the proposal.

As a result of this process two submissions were received, one from the owner of the property immediately to the north and one from the property owner immediately to the south.

These submissions have been reproduced below for Council's information: -

SUBMISSION 1

"Regarding the receipt of notification of development application no. DA04/1518, we would like council to consider the following concerns.

The proposed new dwelling will have an open entertainment area which will directly face a new deck we have only completed this month which was approved by council. The pertinent level of the new dwelling we believe will be above the level of our new deck within very close proximity, thus completely destroying our privacy as this area in the last month has become an area in which we dine each evening and on the weekends and holidays.

We have built this deck for the hotter months as the heat inside our house became intolerable during the summer months after we had our

breezeway destroyed by the erection of a new dwelling on the northern side a few years ago. This deck also allows us to take advantage of the excellent view that it affords as this was lost when the dwelling at 44 Seaview St. was built. At the time we did not consider writing a submission with the view of maintaining friendly neighbourly relations. As a result our lifestyle and resale value of our home has been greatly disadvantaged. However with the thought of exactly the same effects thrust upon us and completely destroying our chances of making our house cool for a substantial part of the year as well as losing our privacy and lowering the resale value of our home, we have decided to stand up for our rights. We are very concerned that this apparently towering dwelling will block much of the breeze from the south-east, a critical comfort factor in the summer heat.

The fact that the proposed dwelling is completely out of character with the other dwellings in Seaview St. was stated by Ross Cameron in a telephone conversation as the primary reason for notifying us of the proposed new development. This would not be an issue with us except for the fact that the house at 44 Seaview St also towers above us casting shadow over our house and gardens. Our dwelling will be left looking like a toilet block between two grandstands. We are naturally concerned that such a scenario will make our house considerably less attractive to a proposed buyer as well as to us.

We are disappointed that council is not prepared to send a suitably qualified staff member to personally inspect the site and discuss the plans. Such an inspection may have allayed our fears and made this letter unnecessary. It seems very unfair that as long-term residents of our street our day to day lifestyle can be eroded by the erection of this new dwelling without any apparent concern by council with regard to it's appropriateness to the area and it's residents. Each specific neighbourhood is an environment that must be appropriately developed just as the shire as a whole must be appropriately developed.

We are hoping that these concerns will be addressed and a qualified member of council will be able to give us a clear understanding of the relative heights of the proposed dwelling in relation to ours, so that we may understand the full impact of this application. We also hope that council is dedicated to development that considers the lifestyle of all individuals not just new development."

SUBMISSION 2

"My wife and myself concerns, re the above mentioned application are as follows.

- 1) While being a very modern design we feel it is out of character with all the residents of the surrounding area.*
 - 2) What little breeze if any will we share from the north.*
-

- 3) *We both feel that the proposed dwelling is too far forward (facing Seaview St).*
- 4) *Also it would tower over the residents of 42 Seaview St.*
- 5) *My wife and myself's telephone number can be given to Mr B Robinson who could contact us if he so decides to.*

We do not mind if council shows our letter, actually we would request that you do (to Mr Graham B Robinson).

Thank you for reading our letter."

A copy of the submissions was provided to the applicants consultant for comment resulting in the following submission: -

"Further to your facsimile dated 24 December 2004 we are pleased to provide the following additional information in relation to issues raised during the exhibition period.

Design

The proposal is contemporary in design and the applicant makes no apologies for moving the design standards forward in this regard. Such a style can only add character to the neighbourhood, reflecting current design trends for 2004 - 2005. Inspections of the area reveals a variety of designs have been adopted with no distinct style apparent, other than orientating the dwellings to the views to the Pacific Ocean to the east. In this regards Council's attention is drawn to the photo plates in the Statement of Environmental Effects. It is also submitted the area, due to its topographical features and commanding views of the Pacific Ocean, will continue to be redeveloped when smaller older houses come onto the market.

In terms of views the proposed dwelling has been carefully designed so as to protect neighbours direct views of the Pacific Ocean towards the east and across Seaview Street. The proposed house has been orientated in this manner and no loss of direct views will result.

It is considered the proposal adds interest to the streetscape, diversity to this residential precinct and the proposal as such has merit in this regard.

Setbacks

The subject site has frontage to two roads, being Marie and Seaview Streets. The front garage is setback a compliant 6 metres with the building proper setback a total of 8.7 metres from the Seaview Street boundary. The rear garage is setback a minimum of seven metres with

the dwelling again setback approximately 16 metres from the Marie Street property boundary. The proposed dwelling complies with Council's Building Line Policy and no variations are sought.

In terms of side boundaries the proposed development complies with Council's minimum setback requirements of 900mm with varied articulation to both the southern and northern boundaries. Native trees and shrubs will be planted adjacent to both side boundaries and where possible trees will be retained as indicated on the landscape concept plan for privacy purposes.

It is noted that a public walkway 1.8 metres wide to the southern boundary increases the minimum setback to 3.1 metres to the residential properties to the north. Accordingly sufficient spatial separation between dwellings is provided. In relation to the northern boundary due to the buildings articulation setbacks vary from 2.1 metres on the ground floor, to 3.9 metres on the first floor and to 2.7 metre on the second floor.

It is also submitted sufficient spatial separation is provided to the dwelling to the northern boundary in terms of the elevated outdoor living area which includes a swimming pool setback a minimum of 900mm to the northern boundary. Predominant view lines are orientated towards the Pacific Ocean vistas to the north east and the east. Due to differences in height between the pool deck and the adjoining properties outdoor living area direct line of sight between neighbours will be avoided. It is submitted that the neighbours privacy will not be impeded in this regard.

Height

The proposed dwelling house has been designed in accordance with Councils requirements pertaining to heights and complies with Council's three storey height limit for the area. In this regard the building is predominantly two storeys providing for varied articulation vertically and horizontally.

Sea Breezes

Sea Breezes are predominantly from the eastern quadrant but will vary from the north to the south throughout the year. In general it is considered the proposed development will not impede neighbours access to sea breezes from the north east through to the south east.

Property Values

With a buoyant property market this impossible to quantify and is not a matter for Council to consider under Section 79C of the Environmental Planning and Assessment Act, 1979.

In conclusion the proposed development has been designed to comply with Council's planning controls without the need for variations to the height and setback provisions under the various planning policies or extensive earthworks. The proposal is modern and reflects various contemporary design trends, while also considerate of the neighbourhood amenity. It is considered the proposal should be supported.

Should Council require any additional information in relation to the above issues please contact Planit Consulting on 66745001 to discuss."

In regard to Submission No. 1 the following comments are made: -

1. While the issue of design is of a subjective nature it is considered that the proposal reflects current trends in architectural design and has been orientated to take advantage of the views to the east and north east.
2. While the proposal is described as a 3 storey dwelling, perusal of the southern elevation identifies the building as predominantly 2 storey. It should also be noted that the property to the north is separated by a public pathway. This together with the existing setback of the dwelling and the setback of the proposal will give sufficient separation between the line of the buildings.
3. As indicated earlier in the report the proposal meets the minimum required setback of 6 metres required by Council. Furthermore, a sewer main exists between the rear of the dwelling and the rear garage which prevents the dwelling from being located farther back on the allotment.
4. This issue is not relevant to this property.

In regard to Submission No. 2 the following comments are made: -

As identified the proposal has an open verandah at ground floor level. This area will be setback approximately 2 metres from the northern side boundary and due to the varying levels of these two allotments will have an impact on privacy. It is considered however that this would be unavoidable with any development on this property of up to two storeys as it would be desirable to orientate any verandah or entertaining area towards the views to the north east and suitable landscaping along the northern boundary would provide some screening to the adjoining property.

In regard to the first floor level a swimming pool is proposed on the northern side with an over flow trough along the outside which will be setback 900mm from the side boundary. An outdoor entertaining area is also proposed behind the pool area and will be setback 4 metres from the northern side boundary. It is considered that due to the difference in levels, an element of privacy will still be maintained due to the site lines from this area which would be over the top of the development on the adjoining property.

In regard to breezes it is considered that the proposal will have some effect on these from the south but no more than that of a two storey development. It should also be noted that summer breezes are predominantly from the northern and eastern quadrant and the proposal will not have any significant impact on breezes from these directions.

In regard to the proposal being out of character with the area comments in this regard have been made previously in the report and an inspection of the area has identified varied architectural designs.

(e) Public interest

The proposal is consistent with the current zoning of the area and it is considered that the development will raise no other significant issues.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

While the proposed development has been the subject of objections from the owners of the properties which are adjacent to the northern and southern boundaries of the site, it is considered that a two storey residence of similar dimensions would have no less impact in regard to the issues raised in the submissions.

In regard to the submission from the owner on the northern side it cannot be argued that the proposal will not effect the privacy of this property however it would be extremely difficult to design a dwelling of reasonable size on the development site which does not impact on this property due to the design of the existing dwelling and the levels of the allotments.

It is therefore felt that the application be given favourable consideration subject to the conditions attached.

UNDER SEPARATE COVER:

Nil.

7 [PE] Development Application DA04/1129 for a Part 2 and Part 3 Storey Residential Development Comprising Six (6) dwellings at Lot 3 DP 617743, No. 15b Charles Street, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA04/1129 Pt1

SUMMARY OF REPORT:

Council has received an application for a 6 unit part 2 and part 3 storey residential flat building with access of Razorback Road. The applicant has previously been advised that the impact upon the scenic and visually amenity is not considered acceptable and that the application would be recommended for refusal. The site is visually prominent.

The Applicant and consulting architect have since met with Council's Director Planning and Environment and Planning Officer. It was agreed to hold the application in abeyance pending a report to Council and resolution on the acceptance or not of the visual impact of the development and the extent of non-compliance with the 2-storey height limit.

RECOMMENDATION:

That Council:-

1. Advises the applicant that the impact of the proposal upon the scenic and visual amenity of Razorback Hill is not acceptable, that the development does not attain the objectives of Section 7.0 of DCP 18 and under such circumstances Council resolves not to exercise its assumed concurrence powers in supporting the State Environmental Planning Policy No. 1 objections to Clause 16 of Tweed Local Environmental Plan 2000 regarding the height of the building; and
2. Delegates to the Director of Planning and Environment authority to determine the application.

REPORT:

Applicant: Great South East Developments Pty Ltd
Owner: Great South East Developments Pty Ltd
Location: Lot 3 DP 617743 No. 15B Charles Street, Tweed Heads
Zoning: 2(b) Medium Density Residential
Cost: \$2,500,000.00

BACKGROUND:

Council is in receipt of an application for a 6 unit part 2 and 3 storey residential flat building with access off Razor Back Road. The application is presently under assessment. The Applicant has been advised that the Development Assessment Unit considers the development visually obtrusive and contrary to the preservation of the scenic values of Razorback Hill. It was advised that the application would be referred to Council with a recommendation to refuse the application.

The Applicant and consulting architect have since met with Council's Director Planning and Environment and Planning Officer. It was agreed to hold the application in abeyance pending a report to Council and resolution on the acceptance or not of the proposed visual impact of the development and non-compliance with the lands 2-storey height limit.

The application was received on 6 September 2004. Council's Engineering, Environment and Planning Unit are presently assessing the application on the information submitted. Additional information will be required to finalise the assessment if Council's resolution is in the affirmative. The request has not been made to date due to the time and expenditure burden upon the Applicant. The application was publicly notified from 22 September to 7 October 2004. Eight (8) public submissions, including a petition of nine (9) signatories, have been received. The primary issues raised in the submission include:

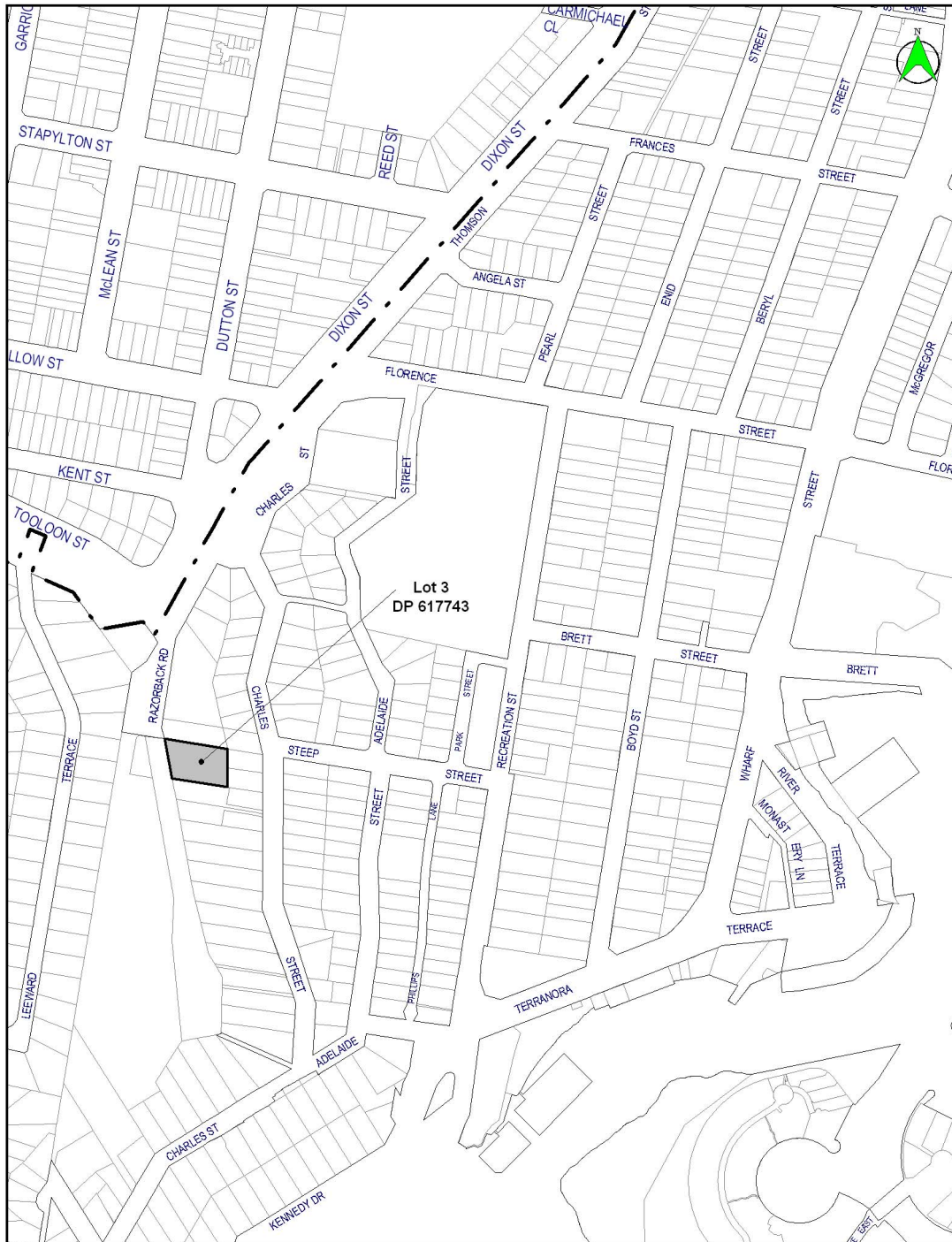
- Loss of scenic amenity
- Increased traffic on Razorback Road
- Poor visibility from the sites access to Razorback Road
- Inconsistent with the 2-storey height restriction
- Development inconsistent with the low density character of the area
- Development does not respect or preserve the visual amenity of the Razorback Hill

The land is within the area covered by Development Control Plan No.18 Tweed Heads. This DCP distinguishes the different areas, and their attributes, within the Tweed Heads precinct. The subject land is identified at Section 7.0 within the 'Razorback Precinct'. The objectives of this precinct state, inter alia:

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

The proposed development is considered to generally attain the first two objectives. However, the subject land is possibly the most visually prominent site in the Razorback precinct, particularly given its location on the upper hill side of the razorback ridgeline. The development proposal is considered visually prominent and does not attain the latter objective. The plans below illustrate the design and siting of the development.

SITE DIAGRAM:

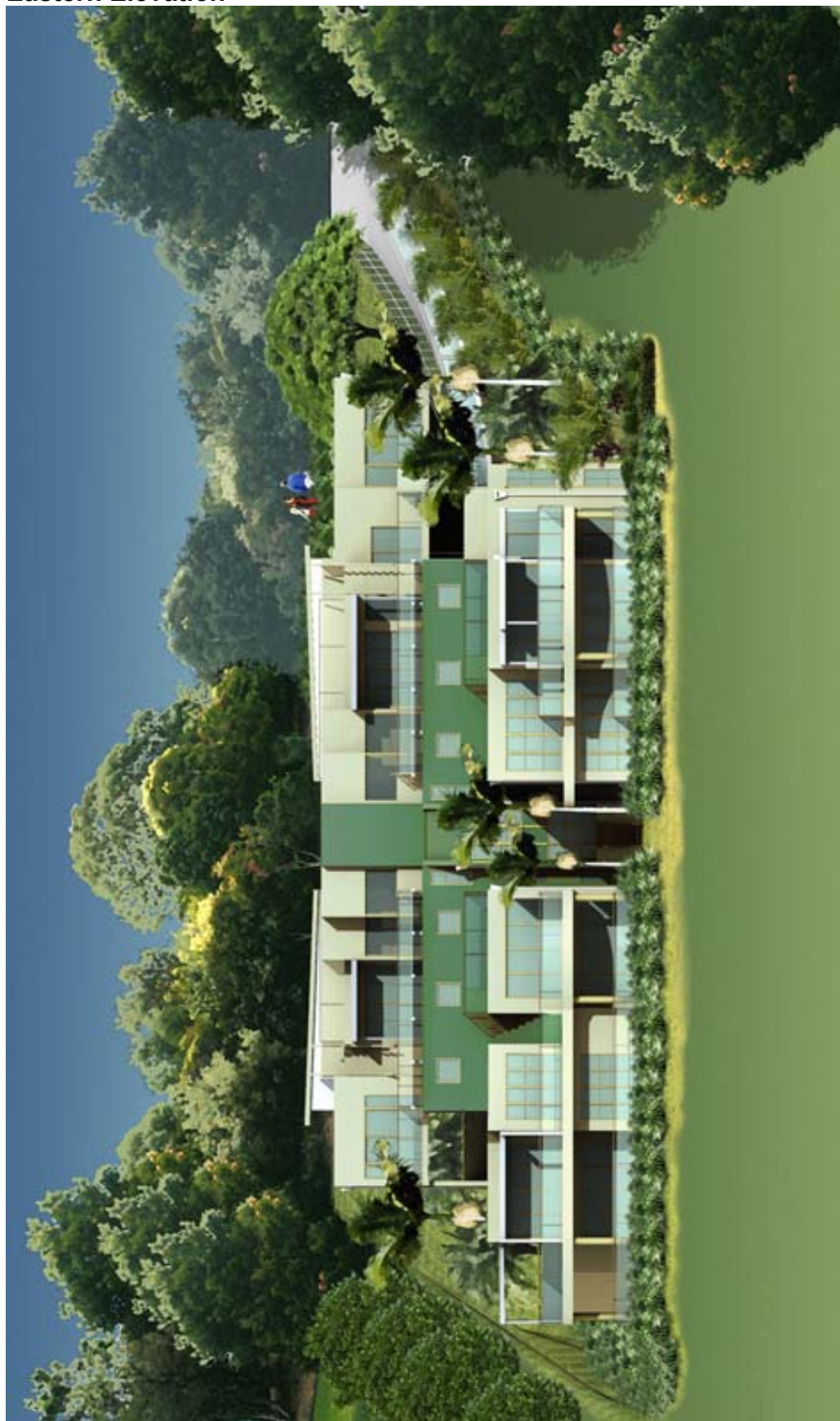


<p>© TWEED SHIRE COUNCIL 2005 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Tel: (02) 6670 2409 Murwillumbah, NSW, 2484 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i> Lot 3 DP 617743 No. 15b Charles Street, Tweed Heads</p>		<p>STRATEGIC PLANNING UNIT Site Plan</p>		
	File: N:\MapInfo 7...A4P Site Plan.Wor	Author: J.Batchelor	Date: 09/Feb/2005	Scale: 1:5,000	Sheet: 1 of 1

Northern Elevation

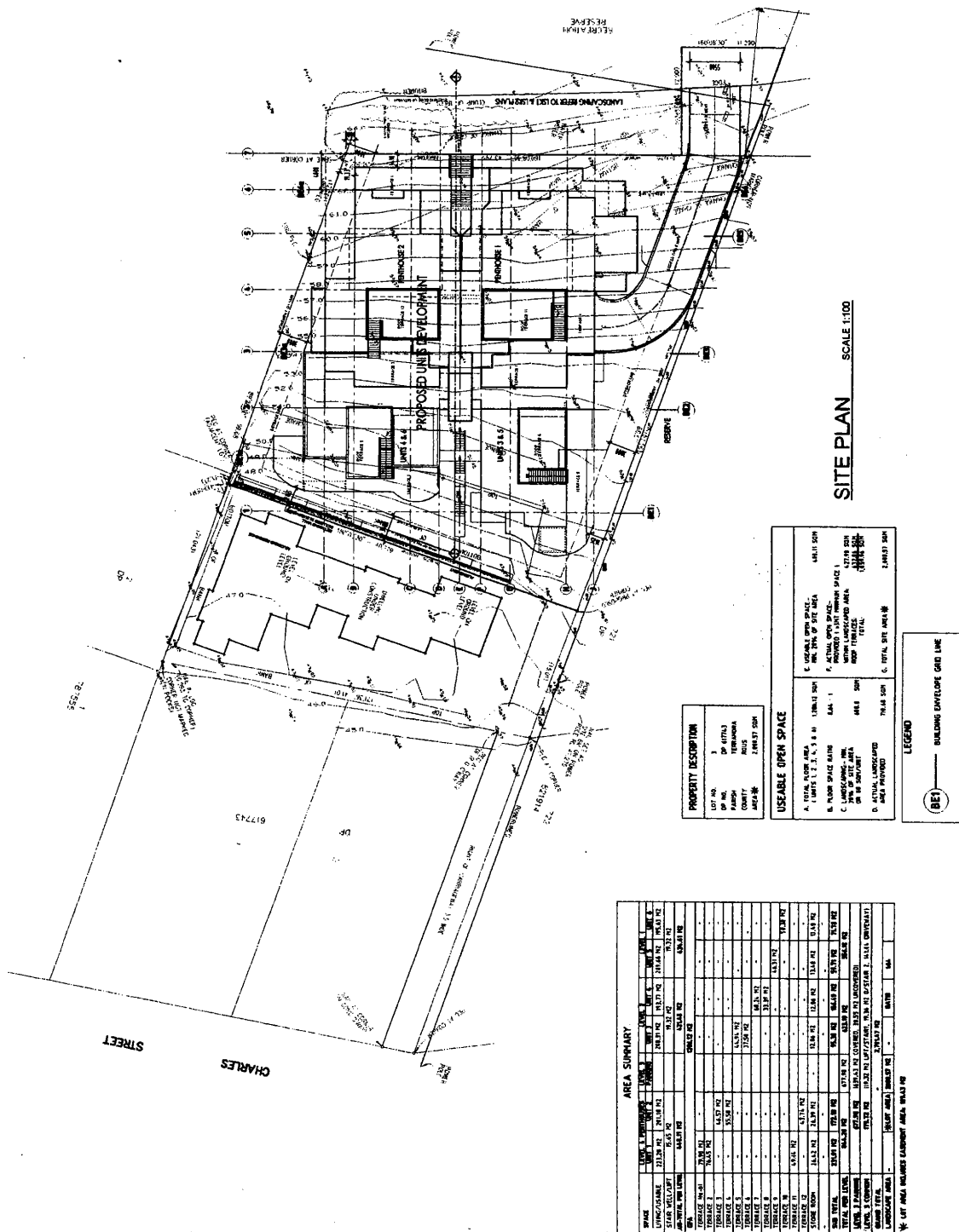


Eastern Elevation









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

Primary objective

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

Secondary objectives

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

The zoning seeks to discourage the under utilisation of Residential 2(b) land in close proximity to the Tweed Heads sub-regional centre. However, the development is considered to impact adversely on the Razorback Hill scenic amenity and is visually intrusive. Public submissions received in relation to this application further highlight these concerns. In this regard it is debatable as to whether the development constitutes a 'good' urban design outcome for the area.

Clause 16 of the Tweed LEP provides height controls, which in this instance is 2-storesy. The objectives of the height controls are:-

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

The land is particularly steep and is likely to provide design challenges for any form of development on the site, particularly as it relates to maintaining the 2-storey height limit. In this instance it is considered that the number of units and size of the building gives rise not only to exceeding the three-storey height limit but also in not retaining the environmental / scenic amenity of the area.

The North Coast Regional Environmental Plan 1988 and State Environmental Planning Policy Nos.65 & 71 apply to the site. A full assessment of the instruments is not warranted at this time.

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

There are no draft Environmental Planning Instruments of relevance to this matter.

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

The proposal is governed by DCP 2 Parking & Access, DCP 6 Multi Dwelling Housing and DCP 18 Tweed Heads. Preliminary assessment has identified that the development is generally compliant with the design criteria of DCP 6 however, the inconsistency with the objectives of Section 7.0 of the DCP 18, as it relates to visually prominent sites, and the general impact upon scenic and environmental amenity does not warrant a full assessment at this time. It is imperative that Council resolve on the level of acceptance of the visual impact of the development.

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

Satisfactory at this time. Preliminary assessment identifies that the development is not inconsistent with the provisions of the Coastal Policy 1997.

(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

Land that is very steep will nearly always result in building designs that are terraced or stepped. Following the contours of the site is generally considered the most acceptable form of building design both on a performance and cost basis. The result however is that buildings often look much larger when viewed head-on, particular in terms of counting the number of storeys. The proposed development, without attempting to disguise its size and departure from the two-storey height limit, is a good example. This development is generally two storey with components of three storey. Viewed from the front in plan view it may appear as four or more. The development is large but it also provides a unique design that provides for a significant level of internal amenity and functionality. In this instance, it is considered that the building design is very good but because of its scale is not considered the preferred option for the site due to the impact on scenic and visual amenity. The impact on the built and natural environment is therefore not considered acceptable from a planning point of view.

(c) Suitability of the site for the development

Preliminary site investigation concludes that the site is capable of supporting the proposed development. However, from an environmental amenity point of view it is contended that the site is not suitable.

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

As discussed previously in this report eight (8) public submission, including a petition of nine (9) signatories, was received during the notification period. The issues raised in the submissions essentially mirror those identified during preliminary assessment.

(e) Public interest

Given the likely impact upon Razorback Hill the development is not considered in the public interest.

OPTIONS:

1. Resolve that the impact upon the scenic and visual amenity of Razorback Hill is not acceptable, that the development does not attain the objectives of Section 7.0 of DCP 18 and under such circumstances Council resolves not to exercise its assumed concurrence powers in supporting the State Environmental Planning Policy No. 1 objections to Clause 16 of Tweed Local Environmental Plan 2000 regarding the height of the building and delegate a decision on the application to the Director of Planning and Environment.
2. Resolve that the impact upon the scenic and visually amenity of Razorback Hill is acceptable and that a full assessment of the application be referred back to Council for determination.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Having regard to the matters raised in this report it is concluded that the development is not suitable for the subject site and is not in the public interest and as such should not be supported.

UNDER SEPARATE COVER:

Nil.

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8 [PE] Draft Tweed Local Environmental Plan 2000, Amendment No 10 - Urban Release Area E - Terranora

ORIGIN:

Strategic Town Planning

FILE NO: GT1/LEP/2000/10 Pt5

SUMMARY OF REPORT:

The purpose of this report is to advise Council of the progress of Draft Local Environmental Plan 2000 Amendment No 10 - Area E, and to seek direction as to the future progress of this Project.

Council is in receipt of an objection from the NSW Roads & Traffic Authority. Council officers have been in discussion with RTA representatives over the past 8 months to overcome this objection. These discussions have proven ineffective, and the RTA has maintained its objection. The RTA's objection is based on potential traffic impacts on the Pacific Highway. Council's Traffic Engineers engaged the services of Veitch Lister Consulting to undertake a Review of the Tweed Road Development Strategy for the Banora Point area. It concluded that the potential impacts of Area E on the strategic road network in the area are small (relative to the base levels, without Area E). Council's Traffic Transport Engineers have advised the RTA needs to upgrade the Pacific Highway and its interchanges between Barneys Point Bridge and the Queensland Border at some stage in the future regardless of whether Area E is rezoned or not.

RECOMMENDATION:

That the Director of Planning and Environment prepares a comprehensive report on all the issues pertaining to the draft Plan to enable Council determination on how to proceed with the draft Plan.

REPORT:

The purpose of this report is to advise Council of the progress of this subject Draft LEP Amendment, and to seek direction as to the future progress of this Project.

Council is in receipt of an objection from the NSW Roads & Traffic Authority. Council officers have been in discussion with RTA representatives over the past 7-8 months to overcome this objection. These discussions have proven fruitless, and the RTA has maintained its objection. The RTA's objection is based on potential traffic impacts on the Pacific Highway. Council's Traffic Engineers advice concerning the RTA's advice is provided further into this report.

Background

Council engaged the services of Parsons Brinckerhoff to undertake draft LEP Amendment No 10 - Terranora Urban Release Area E. The draft Plan and accompanying documents (LES and maps) were undertaken in consultation with relevant State Government Authorities.

Draft Tweed LEP 2000, Amendment No 10 was publicly exhibited from Wednesday, 17 March 2004 to Friday, 7 May 2004. During this period a total of 137 submissions was received relating to the proposal.

A late submission was received from the NSW RTA on 10 June 2004 objecting to the draft Plan. A copy of this initial correspondence is attached. As can be seen the RTA's concern relates to the potential impact of the proposed rezoning on the operations of the Pacific Highway, in particular at the interchanges at Terranora Road, Darlington Drive and Minjungbal Drive. As a result of these submissions Council staff held a series of meetings and have provided the RTA with further information and analysis as requested, but these efforts over the past 8 months have not been successful.

On 11 January 2005 the RTA wrote to Council unwilling to remove its current objection over the draft Plan. A copy of this correspondence is attached for Councillors' information.

As can be seen, the final piece of correspondence from the RTA, despite maintaining their objection, it does provide options on how to possibly deal with Area E including:

- Staging of the development;
- Bringing forward capital work (Kirkwood Road overbridge);
- Developers entering into Deed Containing Agreements (DCAs) or Works Authorisation Deeds (WADs).

Although alternatives have been provided by the RTA they are very broad and don't provide much direction and potentially require greater research and analysis and further meetings and discussions between Council and the RTA without any certainty of an outcome. For example, the RTA has stated that it would consider staging of the

development, but have not stipulated what percentage of the proposed rezoning can be staged initially and have not provided traffic volume thresholds considered acceptable by the RTA leaving the issue very open ended. Further, the issue of DCAs and WADs to address infrastructure issues and roadworks needs to be clarified stating what roadworks would be required by the RTA and how the cost of these works is envisaged to be apportioned to Area E.

Council officers can continue to arrange meetings and provide further information to the RTA, but there is still no certainty as to whether an outcome considered acceptable by the RTA can be arrived at. So after several more months of negotiations with the RTA, Council may find itself in the same position. This questions the usefulness and merit of Council officers continuing further meetings with the RTA.

Engineer's Advice

Council has an extensive traffic model, which has recently been reviewed and updated.

As part of that process the Consultants (VLC) were requested to specifically investigate the impact of potential traffic generation on the Pacific Highway for Area E.

The VLC report finds that the Area E rezoning will produce increased traffic on the local road network, and to a lesser extent, on the Pacific Highway. However, the model results also shows that the impact of growth requires the upgrade of the Pacific Highway from Barneys Point to the border regardless of the Area E rezoning outcome.

Area E would increase the ultimate traffic volumes on the Pacific Highway at Barneys Point Bridge by 2% (1081 vpd) and at Terranora Creek Bridge by 4% (4294 vpd).

In summary, the RTA needs to upgrade the Pacific Highway and its interchanges between Barneys Point Bridge and the Queensland Border at some stage in the future regardless of whether Area E is rezoned or not. The only impact Area E has on the highway is that the timing of the required upgrading may need to be brought forward.

Options

1. Continue meeting with RTA Officers to try and arrive at an outcome.
2. Put Project on hold until RTA requirements/issues can be fully addressed.
3. Forgo further meetings with the RTA and present a full comprehensive report on the draft Plan to Council at a later meeting to enable Councillors to make a fully informed decision on how they wish to proceed with the draft Plan.

Conclusion

Council officers have been meeting and trying to negotiate an outcome with the RTA over the last 8 months. These discussions have proven unsuccessful. These discussions could continue indefinitely without any certainty of an outcome. Council's Traffic and Transport Engineering advice have stipulated the impact of Area E are

relatively small and that the RTA would need to upgrade that section of the Pacific Highway and its interchanges at some stage in the future regardless of Area E. It is recommended that Council follow Option 3 above.

RSTM&D 438 5314:18
Mr Michael Baldwin (02) 6686 1832
Northern Regional Office

The General Manager
Tweed Shire Council
P.O. Box 816
MURWILLUMBAH NSW 2484



LEP-AREA E

TWEED SHIRE COUNCIL
FILE No: GT1/LEP/2000/10 Pt. 4
DOCUMENT No: []
RECD 16 JUN 2004
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Draft Tweed Local Environmental Plan 2000, Amendment No 10 – Terranora Urban Release Area E.

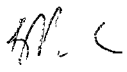
Dear Sir

I refer to your letter dated 16 April 2003, your reference GT1/LEP/2000/10 Pt2 The Roads and Traffic Authority (RTA) objects to the subject LEP amendment.

The RTA is concerned the proposed land release has major implications for the future operation and management of the Pacific Highway in Tweed Heads. Of particular concern is the reliance on use of the Pacific Highway to distribute local traffic through the Tweed Heads area. The proposal will specifically have impacts on the operation of the Terranora Road connection to the Pacific Highway, the Darlington Drive interchange as well as the operation and efficiency of Minjungbal Drive and connections to the Pacific Highway.

To move forward it is proposed a meeting with Tweed council Officers and RTA representatives be convened to discuss options to alleviate the concerns expressed above as well as Council's proposed Kirkwood Road connection. To arrange a suitable time for discussion may I suggest you contact Mr Wes Stevenson of the Pacific Highway Office on 6640-1014.

Yours faithfully

PC 
Peter Collins 8.6.4
Regional Manager, Northern Client Services

Roads and Traffic Authority
ABN 64 480 155 255

21 Varsity Street
Grafton, NSW 2460
PO Box 376
Grafton NSW 2460
T 02 6640 1000 FAX 02 6640 1000



RSTM&D 438 5351;33
04/2170
Mr Gregory Sciffer (02) 66401344
Email Greg_Sciffer@rtansw.gov.au

LEP - AREA E - TERRANORA.

TWEED SHIRE COUNCIL
FILE No. GT1/LEP/2000/10 Pt5
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General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

14 JAN 2005

Tweed Shire Council. Urban Area Release. Area E.

Dear Sir

Reference is made to your letter dated (GT1/LEP/2000/10 Pt5) dated 24 November 2004 concerning the proposed Local Environment Plan (LEP) for Area E at Terranora

Based on the information provided the Roads and Traffic Authority (RTA) is not prepared to remove its objection at this time.

Although the overall distribution of traffic generation from Area E will only have a relatively minor impact on the total road network, the existing intersections of the Pacific Highway with Terranora Road and Darlington Drive and the Minjungbal/Machinery Drive traffic signals are already experiencing congestion and delays generated by existing development.

The existing traffic signals at the junction of the Pacific Highway and Terranora Road have been subject to a lot of community concern and accidents. A 26% increase in traffic volumes would be unacceptable without significant improvements being undertaken to improve the level of service.

The existing Darlington Drive (South Tweed Interchange) and Minjungbal/Machinery Drive traffic signals are also experiencing congestion and increasing delays. At Machinery Drive the problem mainly relates to a lack of right-turn capacity.

Major network improvements currently at various stages of development by the RTA and Council (ie Banora Point Deviation, Tugun Bypass interchange, Kirkwood Road overbridge and connection to the Tweed Heads Bypass) have the potential to address most of the RTA's concerns with traffic potentially generated by Area E. For example, the traffic between Terranora Road and Tweed Heads South may not need to interact with Pacific Highway traffic in the future

Roads and Traffic Authority
ABN 64 480 155 255



These major developments are yet to be fully developed and approved. The timing of construction is also uncertain.

Other minor improvements, such as the widening of the Terranora Road intersection with the Pacific Highway and increasing the lane capacity at Machinery Drive could address some of the RTAs concerns. At this time there is no formal agreement to guarantee that the necessary infrastructure will be delivered in time to match the development of Area E.

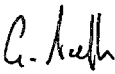
There are two options that the RTA would consider at this time:

- Option 1: Staging the development so it has minimal impact on existing highway junctions, infrastructure and traffic signal operations.
- Option 2: Advance the Kirkwood Road overbridge without the upgrading of the Fraser Drive link

In order to provide improvements along the State Road network the RTA now requires as a condition of rezoning separate agreements such as Deed Containing Agreements or Works Authorisation Deeds with developers to make sure that the necessary infrastructure and road works are undertaken to current legislative, environmental and construction standards.

A copy of this letter has been forwarded to the Department of Infrastructure and Natural Resources (DIPNR) for their information.

Yours faithfully


✓ Peter Collins
Regional Manager, Northern Client Services

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

9 [PE] Far North Coast Strategy - Department of Infrastructure, Planning and Natural Resources Grant

ORIGIN:

Strategic Town Planning

SUMMARY OF REPORT:

The Department of Infrastructure, Planning and Natural Resources (DIPNR) is currently preparing a Far North Coast Strategy. Council has been requested to provide data on a range of related matters. In recognition of this contribution the Department has provided each participating Council with a grant of \$11,000 (including GST). Council is free to use the Grant as it sees fit. No relevant projects have been identified to date.

RECOMMENDATION:

That:-

1. The Grant from the Department of Infrastructure, Planning and Natural Resources for \$10,000 (excluding GST) be accepted.
2. Council votes the expenditure of the funds.

REPORT:

As per report.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

10 [PE] Amendment to Development Control Plan No 40 Exempt & Complying Development

ORIGIN:

Strategic Town Planning

FILE NO: GT1/DCP/40

SUMMARY OF REPORT:

Two potential amendments to Development Control Plan (DCP) 40, Exempt and Complying Development, have been identified, as follows:

- Single dwelling houses and ancillary development;
- Temporary use of Council land for the purpose of filming.

In respect of the former, a great deal of effort is expended processing these Development Applications. If they meet deemed to satisfy criteria (eg, floor levels meet the requirements of DCP 5 - Development of Flood Liable Land) they can be just as effectively assessed by a private certifier.

The inclusion of temporary use of land for filming would bring this activity in line with other activities on Council land which are currently dealt with by way of DCP 40.

RECOMMENDATION:

That Council: -

1. Pursuant to Section 54 of the Environmental Planning & Assessment Act, informs the Director-General of the Department of Infrastructure, Planning & Natural Resources of its intention to prepare a draft Local Environmental Plan to bring into effect an amendment to Development Control Plan 40 Exempt and Complying Development.
2. Prepares an amendment to Development Control Plan No 40 - Exempt and Complying Development in respect of the following additional categories of complying development:
 - To expand the categories for the erection of single dwelling houses and ancillary development;
 - The use of Council land for the purposes of filming.

REPORT:

Two potential amendments to DCP 40, Exempt and Complying Development, have been identified, as follows:

- Single dwelling houses and ancillary development;
- Temporary use of Council land for the purpose of filming.

In respect of the former, a great deal of effort is expended processing these Development Applications. If they meet deemed to satisfy criteria (eg, floor levels, meet the requirements of DCP 5 - Development of Flood Liable Land) they can be just as effectively assessed by a private certifier.

The inclusion of temporary use of land for filming would bring this activity in line with other activities on Council land which are currently dealt with by way of DCP 40.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

11 [PE] Tweed Coast Surf Life Saving Strategy 2020

ORIGIN:

Strategic Town Planning

SUMMARY OF REPORT:

Council engaged GeoLINK to prepare a Surf Life Saving Strategy for the Shire. This has been completed. The major elements of the Strategy as presented by GeoLINK are as outlined in the body of this Report.

RECOMMENDATION:

That Council exhibits the Tweed Coast Surf Life Saving Strategy 2020 for a period of twenty-eight (28) days, for community comment, before finalisation.

REPORT:

Council engaged GeoLINK to prepare a Surf Life Saving Strategy for the Shire. This has been completed. The major elements of the Strategy as presented by GeoLINK are as follows:

Why a Strategy

- Tweed Shire is rapidly growing, with high levels of population growth expected to continue;
- Rapid population growth in the Tweed Shire is coupled with high levels of tourist numbers;
- With an increase in population and continued tourist visitation, it is expected that the demand for surf life saving services will increase over the next 20 years;
- The Tweed Coast beaches are a key element of the character and attraction of Tweed Shire. As such, Tweed Shire Council recognises surf life saving services along the Tweed Coast as providing a significant contribution to the quality of life of residents and visitors;
- This Strategy is a Tweed Shire Council initiative to formalise and improve Council's existing role with respect to surf life saving;
- The strategy focuses on ways Council can assist surf lifesaving clubs to provide beach safety services, recognising that these organisations have the knowledge, skills and expertise to provide the optimal level of surf life saving services on the Tweed Coast on weekends and public holidays only.

Strategy Objectives

This strategy has the following objectives:

- Identify and assess the existing situation with regard to surf lifesaving on the Tweed Coast;
- Identify and assess major strategic elements which have the potential to impact on the provision of surf life saving services to 2020;
- Identify and assess the future demands on, and needs of, the three existing surf life saving clubs on the Tweed Coast;
- Identify options for Tweed Shire Council to assist in meeting demands for surf life saving facilities; and
- Identify funding options to provide equipment, personnel and other surf life saving infrastructure and services required to meet demand on surf life saving services, especially outside the service provided by volunteers.

Existing Tweed Coast Surf Life Saving

- Tweed Shire is currently served by three volunteer surf life saving clubs:
 - Fingal Rovers SLSC
 - Cudgen Headland SLSC

- Cabarita Beach SLSC
- The Tweed Support Service, a joint initiative of the three SLSCs, provides expanded coverage along the coastline;
- Surf Life Saving NSW provides support to the Clubs;
- Private surf life saving facilities are proposed at SALT;
- Tweed Shire Council provides:
 - Contracts to SLSNSW for paid lifeguards during the summer and Easter holiday periods;
 - Funding to Clubs via S94 contributions and Council's maintenance program; and
 - In kind contributions and other assistance to surf clubs with respect to insurances, rates and other fees.

Surf Life Saving Trends and Needs

Major surf life saving trends

- Limited funding;
- Lack of membership growth;
- Increased demand for services; and
- Lack of communication between stakeholders.

Key areas of need to maintain and improve surf life saving on the Tweed Coast:

- Communication;
- Funding;
- Beach Access;
- Maintenance;
- Operations; and
- Accommodation

Key actions include:

- Council to continue current actions;
- Regular review of Council's roles and responsibilities in surf life saving;
- Improved coordination of Council's role in surf life saving;
- Establishment of a Beach Management Committee;
- Consideration of beach safety in the Development Assessment process;
- Provision of training and administrative support to surf clubs by Council; and
- Investigation into improved and new technologies to aid in beach management.

Implementation and Review

- Provision of surf life saving services requires a collaborative approach from stakeholders to achieve optimal outcomes;
- Majority of Strategy actions to be implemented within five years;
- Surf life saving organisations also have an important role to play in the monitoring and revision of the Strategy;

- This Strategy will be regularly reviewed and monitored by the Tweed Shire Council in conjunction with key stakeholders.

The Strategy sets out a series of detailed actions which are contained in Table 4.2 and are reproduced below:

Table 4.2 Tweed Shire Council Surf Life Saving Action Strategy

Action	Reason - Issues/ Needs Addressed	Resources	Cost	Priority/Timing
S94 Funding Continue provision of funding to SLSCs via S94 Plan No.16.	Reduce financial burden on SLSCs.	Council	Low	Existing and Ongoing
Council Maintenance Program Continue funding to SLSCs through Council's Maintenance Program	Reduce financial burden on SLSCs.	Council	Low (annually)	Existing and Ongoing
Miscellaneous Funding and In Kind Contributions Continue provision of miscellaneous funding (e.g. insurance for Council owned buildings) and in kind contributions.	Reduce financial burden on SLSCs.	Council	Medium	Existing and Ongoing
Paid Life Guards Continue contracting SLSNSW to provide paid lifeguard patrols consistent with contemporary legal requirements.	Ensure current level of surf life saving service is maintained.	Council, SLSNSW	High (annually)	Existing and Ongoing
Signage Provide and maintain existing beach management signage. Erect new information signage in accordance with legislative requirements.	Provide opportunities for public education. Meet legislative and legal requirements.	Council	Low	Existing and Ongoing
Council's Roles and Responsibilities Review and determine Council's roles and responsibilities in relation to beach safety and surf life saving based on contemporary legislation, legal standards and best practice guidelines.	Clearly identify role and responsibility of Council in relation the surf life saving services. Documentation and communication of these roles and responsibilities will avoid both confusion and unrealistic expectations	Council, Council's legal advisers, Council's insurers.	Low	Immediate and then at least Biannually

Action	Reason - Issues/ Needs Addressed	Resources	Cost	Priority/Timing
Liability		Council,		

Action	Reason - Issues/ Needs Addressed	Resources	Cost	Priority/Timing
Review and determine Council's liability in terms of identified roles and responsibilities with regard to contemporary legislation and legal standards.	Clearly identify risks to Council in relation to level of involvement in surf life saving services.	Council's legal advisers, Council's insurers.	Low	Immediate and then at least Biannually
Council Coordination Nominate Council staff members as primary and secondary contacts for SLS matters. Primary staff member to liaise with SLSCs to develop an understanding of local beach conditions and SLS needs. Advise SLSCs and Council staff of appointment.	Improve communication and cooperation between SLSCs and Council. Improve flow of information and trust between SLSCs and Council. Improve protocols for SLSC access to available funding.	Council	Low	Immediate
Beach Management Committee Establish a 'Beach Management' Committee including Councils nominated primary contact, Councillors, representatives from the SLSCs and representation from other beach user groups (e.g. board riders).	Provide for the regular dissemination and discussion of information relating to development and beach management issues. Improve communication and coordination between emergency services and rescue operations. Establish improved communication between Council and SLSC representatives.	Council, SLSCs, SLNSW, emergency services	Low per annum	High
Paid Life Guards Regularly review paid lifeguard patrols with regard to adequacy, coverage and effectiveness, in liaison with SLNSW and in accordance with the Civil Liability Act 2002.	Ensure that adequate funding is provided to SLNSW to provide additional life saving services where required.	Council, SLNSW	Low	High - Medium

Action	Reason - Issues/ Needs Addressed	Resources	Cost	Priority/Timing
Funding Distribution Establish clear protocol for SLSC funding applications to Council.	Improve the opportunity for SLSCs to access available funding from Council. Establish a clear record of funding assistance.	Council	Low	Immediately
Development Assessment Include beach safety as a consideration in the	Ensure planning decisions consider aquatic risks,	Council, SLNSW	Low	High

Action	Reason - Issues/ Needs Addressed	Resources	Cost	Priority/Timing
development assessment process for proposed development in the coastal corridor. Coastal development proposals to include an Aquatic Risk and Safety Audit in accordance with SLSNSW guidelines.	beach safety and access. Ensure SLSNSW is consulted in the consideration of key development applications. Improve consideration of population increases on coastline and emergency services.			
Educational Material Provide SLS educational material and SLSC promotional opportunities in Tweed Link (or other Council publications).	Source of information for general public on SLS and beach safety Opportunity for SLSCs to promote clubs and seek membership and support.	Council, SLSCs	Low	Medium
Beach Access Review beach access arrangements and establish a formal system of beach access control.	Restrict access to unpatrolled beaches. Encourage use of patrolled beaches Improve beach accesses for emergency vehicles.	Council, SLSCs	Medium	High - Medium
Operational Skills and Training Provide funding for skills training workshops for community groups including SLSC members.	Assist SLSCs to manage their organisations by providing opportunity to improve key skills such as book-keeping, secretarial, business management, marketing, grant applications and succession planning.	Council	Medium	Medium (and then triennially)
Administrative Support Provide administrative support to SLSCs (e.g. access to photocopiers, assistance with mail out of material).	Assist SLSCs with administrative tasks. Reduce financial burden on SLSCs and encourage the promotion of the SLSCs and dissemination of educational material.	Council	Low annually	High - Medium
Private Surf Life Saving Facilities Prepare a monitoring and management plan to identify mechanisms and opportunities for transition from private facility to an ongoing service.	Ensure private surf life saving services are regularly reviewed and long term future of such facilities is fully considered.	Council, SLSCs	Medium	Medium
Community Awareness Identify Surf Life Saving Clubs as a community group on Council's website, and provide for a	Foster improved community attitudes towards SLSCs. Improve communication	Council	Low	Low

Action	Reason - Issues/ Needs Addressed	Resources	Cost	Priority/Timing
link between Council's website and Tweed Coast SLSC websites.	between SLSCs and Council.			
SLS Training Provide SLSCs access to Council swimming pools for training activities at no cost.	Improve opportunities for SLSC recruitment and training at no cost to SLSCs.	Council	Low	Medium
Strategy Review Establish a working group to undertake a detailed review and assessment of this Strategy between 2015 and 2020.	Provide a formal mechanism for the detailed review of this Strategy to ensure currency.	Council, SLSCs, SLSNSW, community	Low	Low
Publicity Officer Investigate funding opportunities for a publicity officer to assist community groups including SLSCs	Improve community awareness of, and attitude towards, SLSCs. Improve community knowledge of beach safety issues. Provide opportunities to enhance SLSC membership.	Council	Medium - High	Medium - Low
Radio Communications Investigate opportunities to assist in the installation of radio communication towers along the Tweed Coast to improve regional communication.	Improve level of SLS service provided on the Tweed Coast.	Council, SLSCs, SLSNSW	Medium - High	Low
Storage Facilities Investigate opportunities to provide additional storage space for SLSCs.	Improve ability of SLSCs to keep and maintain equipment for use, training, repairs and parts.	Council, SLSCs, SLSNSW	Low - Medium	Low
Lifeguard Towers Investigate opportunities to assist with the installation of Lifeguard Towers along the Tweed Coast.	Improve level of SLS service provided on the Tweed Coast.	Council, SLSCs, SLSNSW	Medium - High	Low
Remote Beach Alarms Investigate opportunities to assist with the installation of remote beach alarms (fixed and portable) along the Tweed Coast	Improve level of SLS service provided on the Tweed Coast.	Council, SLSCs, SLSNSW	Medium - High	Low
Video Surveillance Investigate opportunities to assist with the installation of video surveillance along beaches on the Tweed Coast.	Improve level of SLS service provided on the Tweed Coast.	Council, SLSCs, SLSNSW	Medium - High	Low

The Strategy has been prepared following discussions with local Surf Clubs and Surf Life Saving NSW.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The nominated Actions have significant financial implications which have not yet been costed. For example, Council currently expends approximately \$180,000 (excluding GST) providing paid lifeguards for three surf club beaches and 3 non club beaches during a six week holiday period. Extension of this type of service would be of the order of hundreds of thousands of dollars.

However, these costs have to be weighed against the social and economic value of safe surf beaches. Therefore, before undertaking detailed costings and finalising the Strategy, it would be appropriate to seek community comments.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

1. Tweed Coast Surf Life Saving Strategy
-

REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER

12 [OGM] Quarterly Budget Review - 31 December 2004

ORIGIN:

Financial Services

SUMMARY OF REPORT:

This is the second quarter statutory budget review for this financial year and summarises the major expenditure and income changes to the 2004/05 Budget based on current projects to 30 June 2005. This statutory report is prepared in accordance with Local Government Financial Management Regulations Section 6 and 7. Council will have a balanced budget in the General Fund, in accordance with the original budget expectations, and surpluses in the Water and Sewer Funds.

RECOMMENDATION:

That:-

1. The Quarterly Budget Review Statement as at 31 December 2004 be adopted.
2. The expenditure and income, as detailed within the body of the report, be voted and adjusted in accordance with the revised total expenditure and income for the year.

Financial Summary by Corporate Goals and by Fund

Corporate Goal	Expenditure	Income	Net Cost
Community Projects	31,228,648	21,118,162	10,090,486
Economic Projects	5,308,796	4,170,606	1,138,190
Environmental Projects	14,751,236	9,197,501	5,553,735
Infrastructure Projects	93,423,362	82,231,083	11,192,279
Organisation Projects	4,630,579	34,677,679	(30,027,100)
Total	149,342,621	151,395,031	(2,052,410)
Fund	Expenditure	Income	Net Cost
General	83,998,333	83,998,333	0
Water	33,631,047	33,960,930	(329,883)
Sewer	31,713,241	33,435,768	(1,722,527)

Total All Funds	149,342,621	151,395,031	(2,052,410)
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REPORT:

Budget Review 31 December 2004 (Quarterly Budget Review)

The following Financial Statement is submitted in accordance with the Local Government Act 1993 – Financial Management Regulations Sections 6 and 7 and shows details of Council’s financial position for the period ending 31 December 2004 and estimated end of year financial position as at 30 June 2005.

This statutory Budget Review is prepared at the close of each quarter and shows the financial result between budgeted income and expenditure adopted by Council and the revised total expenditure and total income on present trends for the year.

	Item	Comments	Positive (Contribute to surplus)	Negative (Contribute to deficit)
GENERAL FUND				
<u>Environment & Community Services</u>				
1	Festivals Liaison	Meeting 15/12/2004		26,000
2	Pandanus Pde/SLSC Development	Road widening, boundary adjustment Mtg 15/12		4,115
3	Section 94 - CP 16	S 94 funding of road widening, boundary adjustment	4,115	
4	Museum Advisory Service	Extension of grant		8,000
5	Museum Advisory Service	Extension of grant	4,000	
6	Contract lifesaving	Increased patrols Christmas 04, Easter 05, + Casuarina Lifeguards, Mtg 15/12/04		68,741
7	Beach income - contribution by others	Consolidated Properties, Mtg 15/12/04	10,000	
8	Banora Point- Establishment Worker	Banora Point Community Centre - Establishment Worker		16,000
9	Section 94 – CP 3	S94 funding of Establishment Worker	16,000	
10	Community Worker Expenses	Funding agreement		550
11	Community Worker Grant	Funding agreement	550	
12	Community Options Expenses	Funding agreement		200,522
13	Community Options Grant	Funding agreement	200,522	
15	Art Gallery Electricity	Increase in electricity costs		10,000
16	Tweed Heads Auditorium hire	Free bookings		8,000
17	Casuarina Sculpture Donation	Discontinued at Casuarina request		20,000
18	113 Wollumbin St maintenance	Increase in building maintenance		2,000
19	5 Reynolds St maintenance	Roof replacement		3,300
20	Bilambil Sports Club	\$30,000 carry over from 2003/04		30,000
21	Civic Centre Restaurant	Actual expenses		1,600
22	Community Drug Action Team launch	Funding received 03/04, unexpended		1,500
23	Compacts Agreement	Initial estimate		123,180
24	Compacts Agreement	Initial estimate	123,180	

	Item	Comments	Positive (Contribute to surplus)	Negative (Contribute to deficit)
25	Health Legal Expenses	<i>Actual expenses</i>		8,300
26	Disposal of dead animals	<i>Actual expenses</i>		1,600
27	Environmental Health Legal Expenses	<i>Actual expenses</i>		11,200
28	Health Income	<i>Increased Revenue</i>	13,700	
29	Museums Study	<i>Correct estimate</i>		12,821
30	Heritage Collections	<i>Revised estimate</i>		20,000
31	Museums Capital	<i>Revised estimate</i>	32,821	
32	Seniors Week	<i>Grant application unsuccessful</i>	400	
33	Seniors Week	<i>Grant application unsuccessful</i>		400
34	Cities for Climate Protection	<i>Milestone 5 Expenditure</i>		4,400
35	Cities for Climate Protection	<i>Milestone 5 Funding</i>	4,400	
36	Sacred Heart Restoration	<i>Resolved Nov 2003 but never paid</i>		7,500
37	Civic Centre Air Conditioning	<i>Update Cncl Chambers Air Con</i>		20,000
<u>Planning & Environmental Services</u>				
38	Uki DCP	<i>Transfer of funds</i>		26,286
39	Local Area Plans	<i>Transfer of funds</i>	26,286	
40	Tweed Heads South land purchase	<i>EMT resolution 1/12/04</i>		200,000
41	Open Space Loans unexpended	<i>EMT resolution 1/12/04</i>	140,000	
42	D/A application fee	<i>Projected result on current trends</i>	160,000	
43	Construction Certificate Income	<i>Projected result on current trends</i>	35,000	
44	Inspection fee	<i>Projected result on current trends</i>	50,000	
<u>Office of the General Manager</u>				
45	Agri-Tourism Project	<i>Subject to \$65000 government funding</i>		35,000
46	Office Costs	<i>Increased Costs</i>		10,200
47	Interest on Investments	<i>Increase in investment returns</i>	300,000	
48	ELE Reserve	<i>Increase reserve for Superannuation</i>		244,759
49	Probity Officer	<i>Costs for Probity Officer - Pandanus Parade</i>		20,000
50	Donations	<i>Tsunami & SA Bushfire Appeal - Mtg 19/1,2/2</i>		10,000
<u>Engineering & Operations</u>				
51	Sports Fields Capital	<i>Sealing of access road Les Burger Fields</i>		20,000
52	Tweed Coast South	<i>Installation of softfall - Pottsville Neighbourhood Centre</i>		12,000
53	Section 94 - CP 15	<i>S 94 - of access road and softfall</i>	32,000	
54	Bitou Bush Removal	<i>Department of Land & Primary Industry Grant - Mtg 1/12</i>		12,000
55	Bitou Bush Removal - Grant Funds	<i>Department of Land & Primary Industry Grant - Mtg 1/12</i>	12,000	
56	Littoral Rainforest Restoration - Wooyung	<i>Littoral Rainforest Restoration and Vegetation - Wooyung - Mtg 1/12</i>		6,582
57	Littoral Rainforest Restoration - Grant	<i>Littoral Rainforest Restoration and Vegetation - Wooyung - Mtg 1/12</i>	6,582	
58	Black Spots Clothiers Hammond Drive Int.	<i>2004-05 Black Spots Program</i>		100,000

	Item	Comments	Positive (Contribute to surplus)	Negative (Contribute to deficit)
59	Black Spots Kyogle/Tyalgum Rd Intersect.	2004-05 Black Spots Program		50,000
60	Black Spots Kyogle Rd Chubs Curve	2004-05 Black Spots Program		80,000
61	Black Spots Kennedy Dr Gray St lights	2004-05 Black Spots Program		87,000
62	Black Spots Clothiers Ck Rd Waterlily Cl	2004-05 Black Spots Program		210,000
63	Black Spots Clothiers Ck Rd Kyndalyn Ct	2004-05 Black Spots Program		90,000
64	Black Spots Clothiers Hammond to Norths	2004-05 Black Spots Program		100,000
65	FAG Maintenance	2004-05 Black Spots Program	200,000	
66	RTA Black Spot Funding	2004-05 Black Spots Program	517,000	
67	Kirkwood Road	Purchase of Land Kirkwood Road		300,000
68	Sec 94 Funding CP4	Funding of Land purchase - Kirkwood Road	300,000	
TOTAL GENERAL FUND			2,188,556	2,223,556
	General Fund Deficit			35,000
WATER FUND				
69	Internal Charges – Water	Contribution to General Fund for Public Liability increase - refer September QBR		4,000
TOTAL WATER FUND			0	4,000
	Water Fund Deficit			4,000
SEWER FUND				
70	Internal Charges – Sewer	Contribution to General Fund for Public Liability increase - refer September QBR		4,000
TOTAL SEWER FUND			0	4,000
	Sewer Fund Deficit			4,000

General Fund

Based on current projection the General Fund is expected to remain as a “balanced budget” for the remaining 6 months of the financial year. Furthermore, any approval for funding of additional programs must be offset by a reduction in alternative program.

Water Fund

The Water Fund remains in a sound financial position with sufficient reserves to meet any unexpected costs. The Water fund has been positioned to go into surplus so the Unrestricted Working Capital at 30 June 2005 will be \$1,996,000.

Sewer Fund

The Sewer Fund remains in a sound financial position with sufficient reserves to meet any unexpected costs. The Sewer fund has been positioned to go into surplus so the Unrestricted Working Capital at 30 June 2005 will be \$1,996,000.

Unrestricted Working Capital

	General	Fund Water	Sewer
Unrestricted Working Capital – 30/06/04	3,744,663	1,666,117	273,473
Carry overs – 2003/04	0	0	0
September 2004 Budget Review	35000	333,883	1,726,527
December 2004 Budget Review	-35000	-4000	-4000
Est. Unrestricted Working Capital – 30/06/05	3,744,663	1,996,000	1,996,000

**Statutory Statement – Local Government Financial Regulations
(Sections 6 & 7) by “Responsible Accounting Officer”**

The responsible accounting officer of a council must: -

6. (b) *If any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.*

7. (1) *Not later than 2 months after the end of each quarter, the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the management plan that the council has adopted for the relevant year, a revised estimate of the income and expenditure for that year.*

(2) *A budget review statement must include or be accompanied by:*

(a) *a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*

(b) *if that position is unsatisfactory, recommendations for remedial action.*

Statutory Statement

I consider that the financial position of Council is satisfactory “having regard to the original estimate of income and expenditure”.



M A Chorlton
“Responsible Accounting Officer”
Chief Financial Officer
Tweed Shire Council

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

As discussed in the report.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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13 [OGM] Request for "In Kind" Support - Tweed Link

ORIGIN:

Governance

SUMMARY OF REPORT:

Council has received requests from various organisations asking that Council provide in-kind support/waives the fees for advertising in the Tweed Link. Details of the requests are reproduced in the body of this report.

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

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

RECOMMENDATION:

That Council determines this report.

REPORT:

Council has received requests from various organisations asking that Council provide in-kind support/waives the fees for advertising in the Tweed Link. Details of the requests are as follows:-

Organisation	Request	Est \$ Amount	Application Summary
Tweed Landcare Inc Far North Coast Weeds Dept Infrastructure Planning and Natural Resources	Janet Townsend requests advertising for two workshops on camphor laurel control 2005. First workshop Feb 27.	\$60 per advert est \$120 per year	Assistance given previously but paid for from council budget
Tweed Telecross	Request for article	Space value \$800	Assistance by way of small ad given previously

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should requests be approved for the waiving of fees for advertising in the Tweed Link, the income for the publication will be impacted by the amount of the fee reduction. It will also result in additional requests from other very worthwhile organisations.

At present the only "free" notifications are briefs for residents and progress association meetings.

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

POLICY IMPLICATIONS:

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

Festivals Policy.
Donations Policy.

UNDER SEPARATE COVER:

1. Correspondence from Janet Townsend (DW 1147132)
 2. Correspondence from Tweed Telecross
-

14 [OGM] Monthly Investment Report for Period Ending 31 January 2005

ORIGIN:

Financial Services

SUMMARY OF REPORT:

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

RECOMMENDATION:

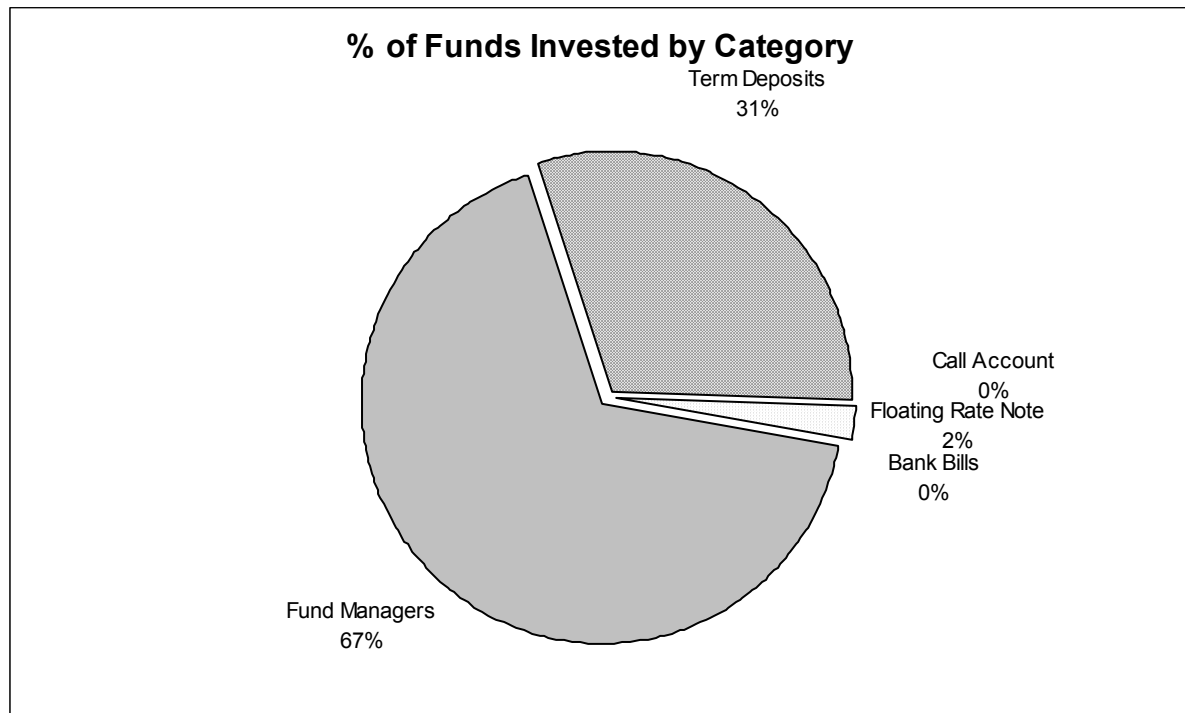
That this report be received and noted.

REPORT:

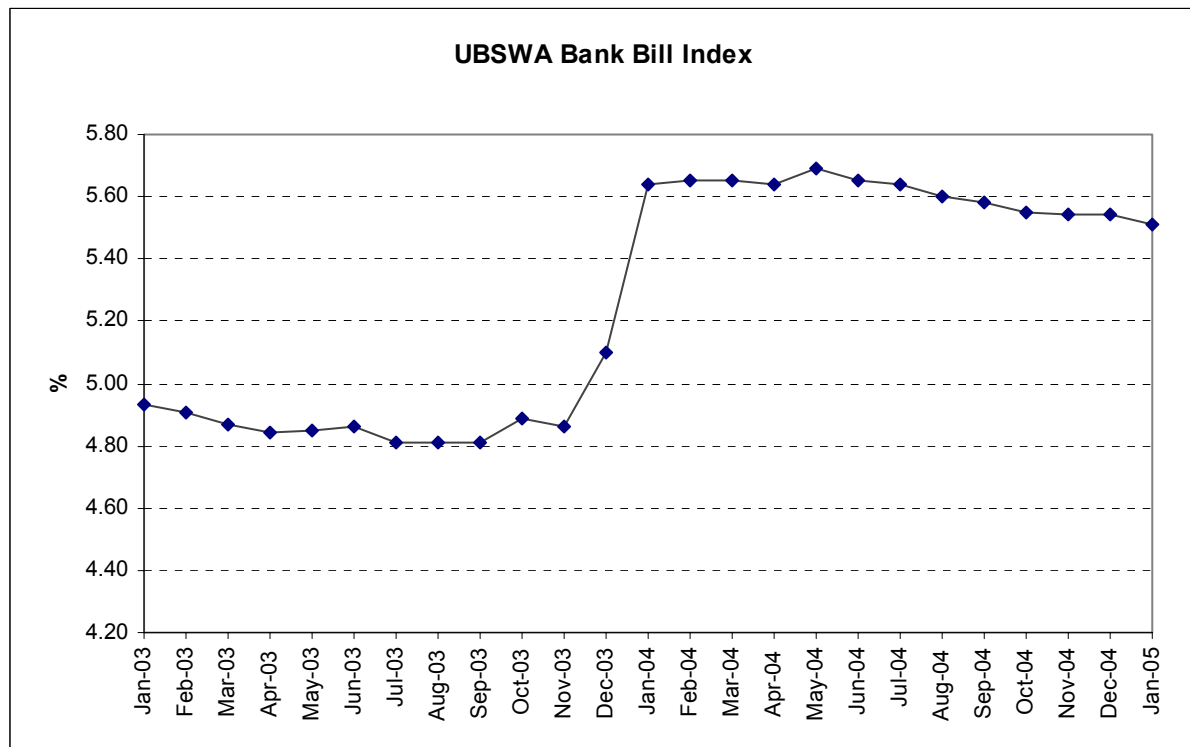
Report for Period Ending 31 January 2005

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

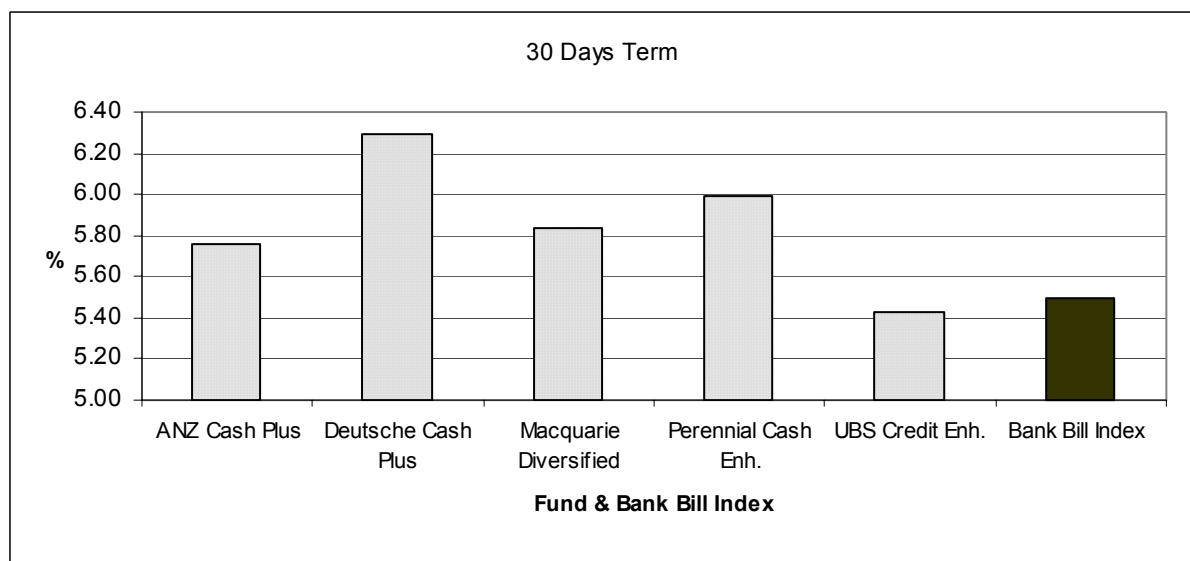
1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY



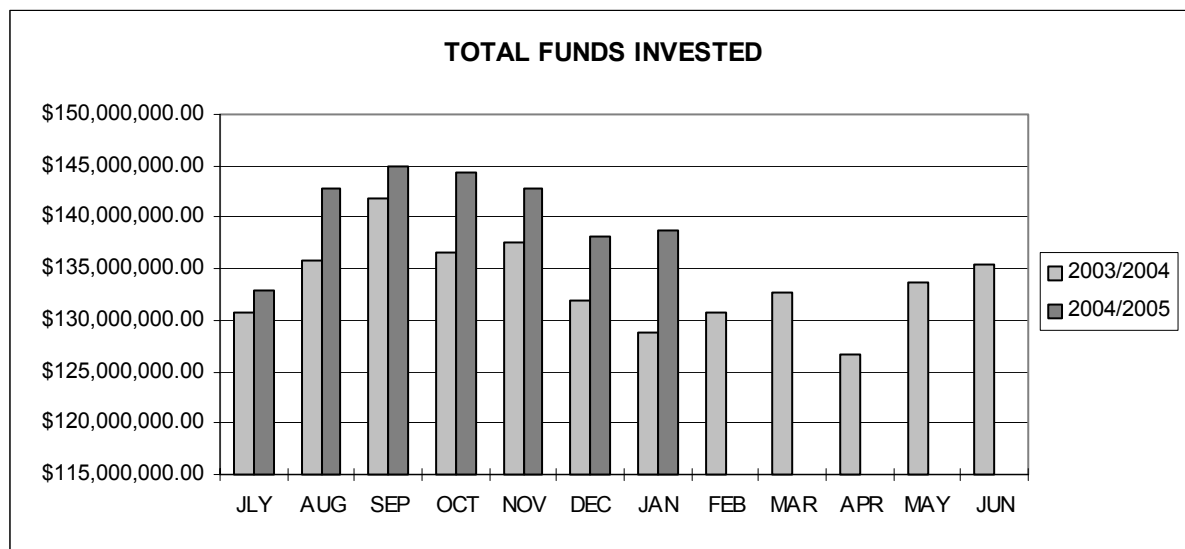
2. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)



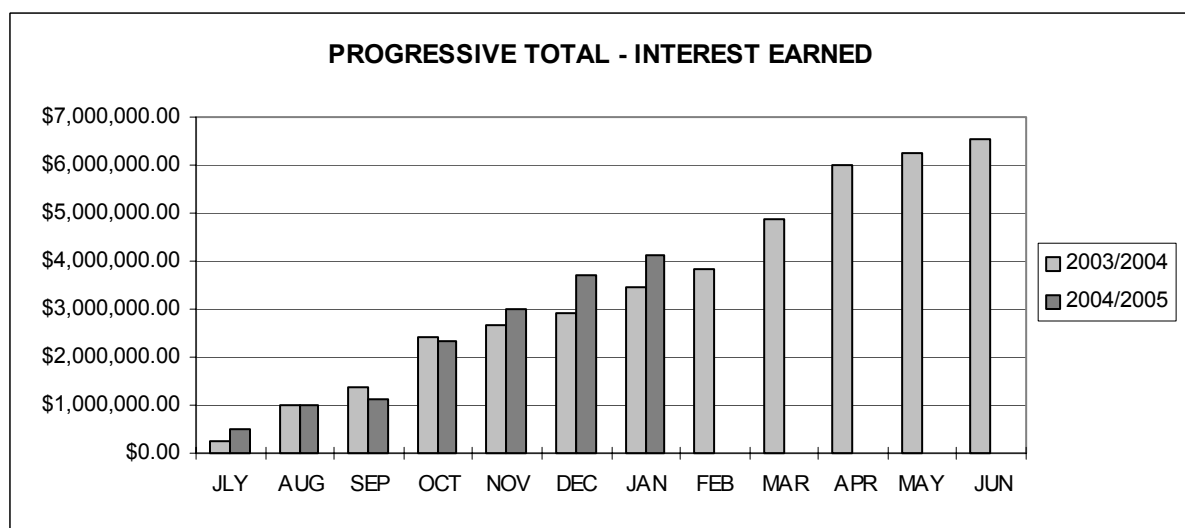
3. ANNUALISED RATE OF RETURN FOR FUNDS MANAGERS - NET OF FEES



4. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED



5. ANNUAL PROGRESSIVE TOTAL OF INTEREST ON TOTAL FUNDS INVESTED



6. MARKET COMMENTARY

There were some interesting economic developments this month, including the news that the inflation figure for the December quarter was higher than the market expected and that the rate of housing credit growth continues unabated. Pressure to increase interest rates appears to be building. This month the Reserve Bank clarified their position on the future direction of interest rates with the release of their Statement on Monetary Policy on 7 February, 2005 in which it indicated further interest rate rises were necessary in the short term to return to a "neutral" monetary policy position.

The general view is for inflation and interest rates to rise gradually over the next few years from the moderate levels currently prevailing.

Domestic Economy

Inflation (as measured by the Consumer Price Index) rose by 0.8% in the December quarter, following a gain of 0.4% in the September quarter. Over the 12 months to December, headline inflation registered 2.6%, up from 2.3% for the year to September. The annual rate continues to sit within the RBA's 2-3% target zone, but the unexpected rise has fuelled market speculation that a rise in interest rates is imminent.

A breakdown of the components of the Consumer Price Index showed large rises in food, transport (both up 1.4%) and housing (up 0.9%) had the greatest bearing on the overall increase. This was driven by increases in fruit, petrol and house prices.

Credit for housing rose 1.1% in December, continuing a trend seen in recent months. Retail sales were weaker than expected in November, rising only 0.1%. Annual growth rate slowed to 1.9%. This compares to substantial annual growth of 9.1% at end June 2004.

Australia's international trade balance was in deficit by \$2.37 billion in December, following the reported deficit of \$2.66 billion in November. This is a slight improvement but represents an ongoing concern for the future if the imbalance is not addressed soon.

Building approvals rose by 2.7% in December, following a 0.1% rise in November. Over the year, approvals are down 11.3%. Most of the monthly rise is attributed to the highly volatile apartment and townhouse market, which rose 27%. Private housing approvals fell 5.6%.

Interest Rates

The Reserve Bank left interest rates unchanged following its monthly Board meeting on the 2nd February. This is the 14th consecutive month of no change.

The forecast for interest rates is for no change over the coming months, with an expectation for higher rates ahead if economic data shows a rebound in the housing market and or a continuing trend of higher inflation.

Global Economy

The US Gross Domestic Product growth rate for the December quarter was 3.1% (annualised) and below market expectations. This result was down from the 4.0% growth rate experienced in the September quarter.

Consumer spending grew by 4.6% over the quarter, down slightly from the 5.1% growth in Q3. For 2004, overall annual growth was 4.4%, up from 3.0% in 2003 and the highest rate of growth since 1999.

US interest rates have now climbed to 2.50% with further increases likely. Interest rates are forecast to reach 3.25%-3.50% by year-end.

The trade deficit widened sharply in November to a new record high of \$US60.3 billion. This compares to a deficit of \$US56 billion in October. Exports fell 2.3% in the month but rose 6% over the year. In contrast, imports rose 1.3% in the month for a substantial increase of 19.8% over the year.

Statutory Statement - Local Govt Financial Management Regulations (Sect.19)

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

M. Clarke

Chief Financial Officer (Responsible Accounting Officer)

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS

15 [EO] Lease of Air Space - Overland Conveyor - Delta Electricity Pty Ltd and Sunshine Renewable Energy Pty Ltd

ORIGIN:

Design

FILE NO: DA02/1915 Pt 1

SUMMARY OF REPORT:

Council is currently negotiating the terms of a Lease Agreement with Delta Electricity Pty Ltd and Sunshine Renewable Energy Pty Ltd for the overland conveyor over Tweed Valley Way at Condong.

As the lease period will be an initial 5 year term with three further options of five years each (a total of 20 years, should all the options be exercised) there is a statutory requirement to register a plan of subdivision for lease purposes to create the area to be leased as a separate parcel, the parcel will exist for the duration of the lease.

Council as a roads authority has ownership of Tweed Valley Way, and as landowner must sign both the plan of subdivision for lease purposes and the Lease Agreement when the plan has been registered and negotiations are finalised.

RECOMMENDATION:

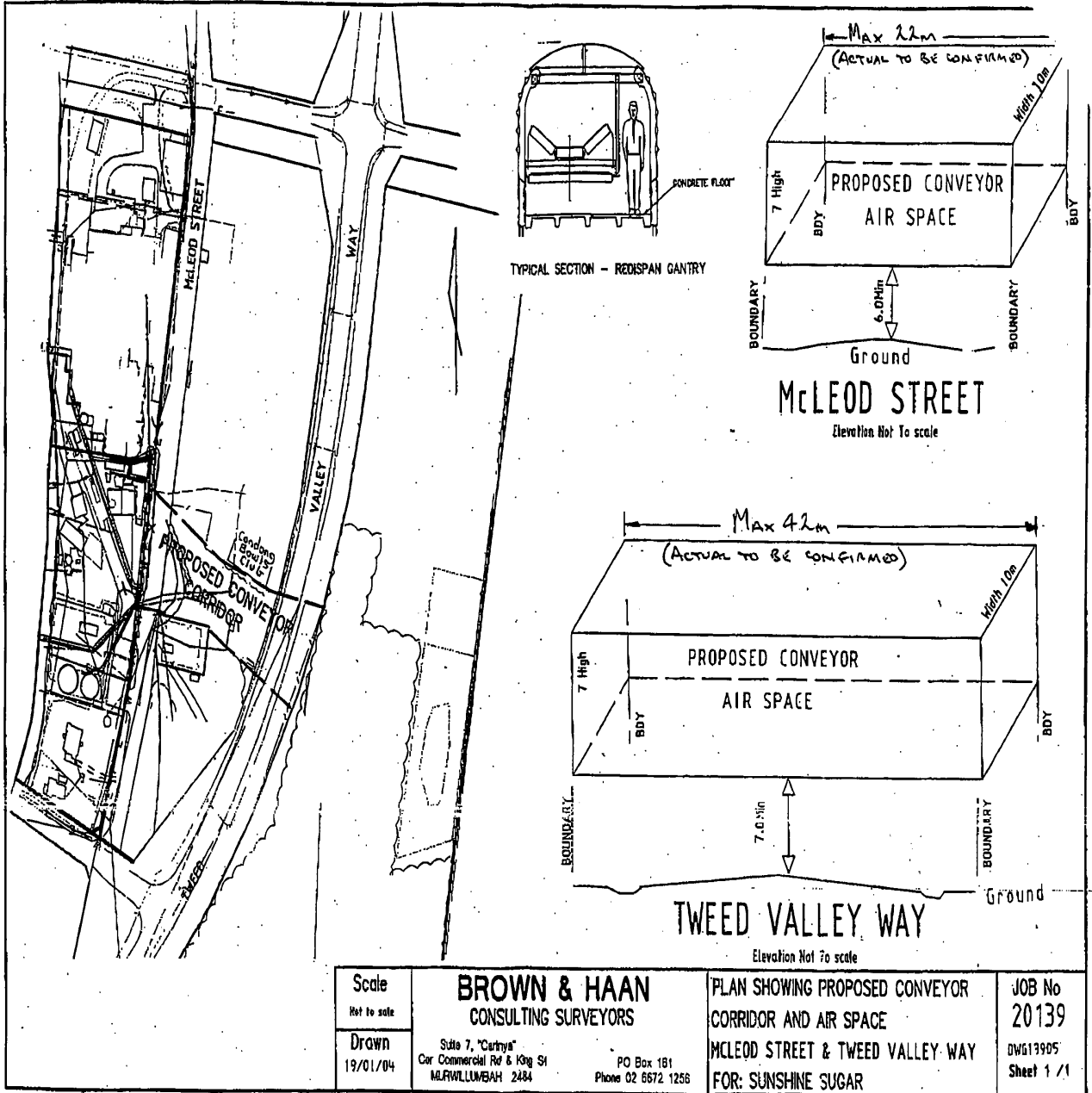
That

1. Council approves entering into a Lease Agreement with Delta Electricity Pty Ltd and Sunshine Renewable Energy Pty Ltd for a five (5) year term with three (3) options for five (5) years each for the lease of air space over the Tweed Valley Way;
2. All necessary documentation be executed under the Common Seal of Council.

REPORT:

As per Summary of Report. Below is an illustrative plan showing the air space corridor over Tweed Valley Way where the leased area is to be created as an individual parcel:

16/02 2004 16:49 FAX 02 6628 5898 SVO LISMORE + SVO M-BAH 008



The rental for the first year will be **\$6,000.00 plus GST** with annual CPI increases.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The rental obtained from the Lease Agreement to be directed to road maintenance.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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16 [EO] Flood Awareness Program

ORIGIN:

Works

SUMMARY OF REPORT:

Councils Building Services Unit tabled a report to Council titled [ES] Enclosure of Buildings Contrary to the Provision of Development Control Plan No. 5 - Development of Flood Liable Land. At its meeting 4 February 2004 it was resolved that Council:-

- "1. Looks into engaging a person to investigate potential buildings within the Shire that do not comply with the approval issued incorporating the provisions Development Control Plan No 5.*
- 2. Erects flood markers in affected areas of the Shire which will display the height of the 1954 flood.*
- 3. Brings forward a report that indicates an appropriate program of education.*
- 4. Conducts a workshop dealing with Development Control Plan 5."*

This report relates to items 2 and 3 of this resolution. The attached program was developed and an application was made to the Federal and State Governments for funding over 3 years under the Natural Disaster Mitigation Programme 2004/2005.

Funding for this program has recently been announced and Council have been advised that a grant of \$30,000 has been offered for the 3 year program. As this is a 1:1:1 grant program Council is required to contribute \$15,000 over the 3 year period. For this financial year funds are available in the Flood Mitigation Maintenance Programme.

RECOMMENDATION:

That Council:-

1. Adopts the program as submitted in the report.
2. Accepts the grant of \$30,000 over 3 years via the State Emergency Management Committee from the Federal and State Governments for funding of the Tweed Valley Community Flood Awareness Program.
3. Votes an amount of \$5,000 from the 2004/05 Flood Mitigation Maintenance Budget.
4. Allocates \$5,000 from the 2005/06 and 2006/07 budgets for the Program.

REPORT:

Councils Building Services Unit put forward a report to Council titled Enclosure of Buildings Contrary to the Provisions of Development Control Plan No. 5 - Development of Flood Liable Land. At its meeting 4 February 2004 it was resolved that Council:-

- "1. Looks into engaging a person to investigate potential buildings within the Shire that do not comply with the approval issued incorporating the provisions Development Control Plan No 5.*
- 2. Erects flood markers in affected areas of the Shire which will display the height of the 1954 flood.*
- 3. Brings forward a report that indicates an appropriate program of education.*
- 4. Conducts a workshop dealing with Development Control Plan 5."*

This report relates to items 2 and 3 of this resolution. The program which follows this report was developed and an application was made to the Federal and State Governments for funding over 3 years under the Natural Disaster Mitigation Programme 2004/2005.

Funding for this program has recently been announced and Council have been advised that a grant of \$30,000 has been offered for the 3 year program. As this is a 1:1:1 grant program Council is required to contribute \$15,000 over the 3 year period. For this financial year funds are available in the Flood Mitigation Maintenance Programme.

The program offers a range of methods for delivering the message including a web site, media releases, flood marker boards, pamphlets and Targeted displays by Council and the SES. SES Local Controller, Manager Environment and Health, Civic Liaison Officer & Infrastructure and Planning Engineer, and Manager Water have developed the program. It is proposed that this group will act as a Steering Committee for the program.

Eight (8) priority sites have been selected for the erection of the 1954 Flood Marker Boards. It is proposed to use the erection of these marker boards to signal the commencement of the Tweed Valley Community Flood Awareness Program. The signs have been made and are ready for installation.

Tweed Valley Community Flood Awareness Program 2005/07

**Tweed Valley Community Flood Awareness Program 2005-7.
Work Plan**

2005	Jan-05	Feb-05	Mar-05	Apr-05	May-05	Jun-05
1. Media Campaign through Council newsletter (Tweed Link) which is distributed to every household weekly.	Nil	1st article plus press release	2nd article plus press release	Shire Wide flood Pamphlet included in Tweed Link	3rd article plus press release	4th article plus press release
2. Installation of Floodmarkers throughout the Shire (Approx 34) indicating flood heights.	Nil	Installation of 8 primary markers 1st week in February	Evaluation of markers	Evaluation of markers		
3. Display Boards at Council offices and libraries including photos and general flood information.	Nil		Preparation of Displays	Display for month of April		
4. Preparation of TSC specific flood pamphlets.	Nil		Prepare Pamphlets	Publish Pamphlets in Tweed Link		
5. Preparation of Flood Awareness Web Site.	Nil	Commence Preparation of Web Page			Complete Web Page and Publish	
6. Community Contact through community groups, schools and festivals. This operation would be carried out by SES.	Nil	As required	As required	As required	As Required	As required

2006	Nov-06	Jan-06	Feb-06	Mar-06	Apr-06	May-06
1. Media Campaign through Council newsletter (Tweed Link) which is distributed to every household weekly.	1st article plus press release	Shire Wide flood Pamphlet included in Tweed Link	2nd article plus press release	3rd article plus press release	4th article plus press release	
2. Installation of Floodmarkers throughout the Shire (Approx 34) indicating flood heights.	Installation of remaining markers dependent on acceptance, usefulness					
3. Display Boards at Council offices and libraries including photos and general flood information.	Display for month of November		Display for month of February			
4. Preparation of TSC specific flood pamphlets.	Modifications to Flood Pamphlet	Publish Pamphlets in Tweed Link				
5. Preparation of Flood Awareness Web Site.	Commence enhancement of Web Page			Complete Web Page and Publish		
6. Community Contact through community groups, schools and festivals. This operation would be carried out by SES.	Display at Tweed River Festival	As required	As required	As Required	As required	

2007	Nov-07	Jan-07	Feb-07	Mar-07	Apr-07	May-07
1. Media Campaign through Council newsletter (Tweed Link) which is distributed to every household weekly.	1st article plus press release	Shire Wide flood Pamphlet included in Tweed Link	2nd article plus press release		3rd article plus press release	4th article plus press release
2. Installation of Floodmarkers throughout the Shire (Aprox 34) indicating flood heights.	Additional Markers and or information on markers following evaluation campaign to date					
3. Display Boards at Council offices and libraries including photos and general flood information.	Display for month of November			Display for month of March		
4. Preparation of TSC specific flood pamphlets.	Prepare Pamphlets	Publish Pamphlets in Tweed Link				
5. Preparation of Flood Awareness Web Site.	Commence enhancement of Web Page			Complete Web Page and Publish	Complete Web Page and Publish	
6. Community Contact through community groups, schools and festivals. This operation would be carried out by SES.	Display at Tweed River Festival	As required	As required	As required	As Required	As required

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funds are available in the 2004/2005 budget under Flood Mitigation Maintenance. For subsequent years it is proposed to allocate a separate budget amount.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

17 [EO] Naming of Lane - Chinderah

ORIGIN:

Design

FILE NO: GS5/1 Pt 3 & R0190

SUMMARY OF REPORT:

Council has received correspondence from Mrs Sue Proudfoot seeking the naming of an unnamed lane at Chinderah.

The lane, where it is partially formed, provides access to 2 Anne Street, Chinderah which has been owned by the Chadburn family for over seventy years.

The lane is generally only used to access 2 Anne Street.

The application seeks to honour the Chadburn family who have been active members of the community in the area of sports for several generations by naming the lane "**Chadburn Lane**".

Council's Policy on Naming Roads provides at 2.1:

"Preferred sources for road names include:-

- *Aboriginal names*
- *Local history*
- *Early explorers, pioneers, settlers and other eminent persons*
- *War/casualty lists*
- *Thematic names such as flora, fauna or ships"*

RECOMMENDATION:

1. Council publicises its intention to name the lane located between Anne Lane and Chinderah Road at Chinderah as: "**Chadburn Lane**" allowing one month for objections to the proposal:
2. Council notifies the relevant authorities under the provisions of the Roads (General) Regulation 1994.

REPORT:

Council has received correspondence from a Mrs Sue Proudfoot seeking the naming of an unnamed lane at Chinderah. A copy of her letter follows this report.

The lane, where it is partially formed, provides access to 2 Anne Street, Chinderah which has been owned by the Chadburn family for over seventy years.

The lane is generally only used to access 2 Anne Street. Below is a plan showing the location of the unnamed lane:



The application seeks to honour the Chadburn family who have been active members of the community in the area of sports for several generations by naming the lane “**Chadburn Lane**”.

Council’s Policy on Naming Roads provides at 2.1:-

“Preferred sources for road names include:

- *Aboriginal names*
- *Local history*
- *Early explorers, pioneers, settlers and other eminent persons*
- *War/casualty lists*
- *Thematic names such as flora, fauna or ships*

It is considered that the application complies with the Policy and on this basis, it is recommended that the name be advertised seeking submissions.

14 Ebony Court
Casuarina 2487

19th January, 2005

Dear Sir / Madam,

Re: Proposed Lane Naming at Anne St Chinderah

On behalf of the Chadburn family of Anne St Chinderah I wish to propose that the lane located in Anne St Chinderah to the north of Lot 1 and Lot 6 be named CHADBURN LANE.

This lane has been the access lane to the Chadburn family residence for over seventy years when the land (Lot 1 and Lot 6) was bought by my father.

The Chadburn family still own and reside at this residence (No. 2 Anne St Chinderah).

Mr. Stephen Chadburn who originally bought the land has been deceased since 1974.

His widow Edna May Chadburn now owns the land and residence.

My father was a labourer who worked and share farmed with local families that included the Tierney, Stafford, Soorley and Hayward families. He was also a fisherman and in his early years on the Tweed a cane cutter. In the 1960's he worked with Dillingham Mining Company on the mineral sand mining at Kingscliff. He was also a competent sports person and played rugby league with the renown All Blacks team. He was an exceptional tennis player and played regularly on week ends at venues all over the Tweed and Gold Coast. His eldest son Stephen was a former Gold Coast Tennis Champion. My fathers grandchildren have carried on the sporting spirit and many have reached local, state, Australian and international status in their chosen fields.

My father was a disciplined and hard working man who brought up eleven children at Anne St Chinderah and I think it justified that the lane he so often travelled and which we, his grandchildren and great grandchildren still travel to this day be named after him.

Yours sincerely,

Sue Proudfoot
Mrs. Sue Proudfoot
(Daughter)

P.S.

My grandmother (Edna May Chadburn's mother) is a member of the Watego family who have resided on the Tweed and Byron areas since the early 1900's. Her name was Laurie Loyalty Watego.

ANNE ST CHINDERAH

TWEED SHIRE COUNCIL
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LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

18 [EO] Proposed Walk of Fame

ORIGIN:

Works

FILE NO:

SUMMARY OF REPORT:

The proposed Walk of Fame was submitted to Council on 1 December 2004 (copy follows at the end of this report) and it was resolved that it be referred to the Kingscliff community for consideration and consultation to be completed by the end of January 2005. This period has now ended but in the interim the proponent has written to Council suggesting that the proposal now be moved to either of two locations in the Tweed CBD area.

In view of the previous resolution from Council this revised location should also be advertised for consideration by the Tweed Heads community.

RECOMMENDATION:

That the proposed Walk of Fame in the Tweed Heads CBD be referred to the Tweed Heads community for consideration and that consultation be completed by the end of March 2005.

REPORT:

The proposed Walk of Fame was submitted to Council on 1 December 2004 and it was resolved that it be referred to the Kingscliff community for consideration and consultation to be completed by the end of January 2005. This period has now ended but in the interim the proponent has written to Council suggesting that the proposal now be moved to either of two locations in the Tweed CBD area.

The proposal was advertised in the Tweed Link as well as the Weekly and also in the Kingscliff Bowls Club. The last two areas being arranged by the proponent. Now that the proponent has asked that the Walk of Fame be relocated to Tweed Heads the results of the consultation are not relevant. However while there were a considerable number of people who registered support for the project through either the Weekly or the Bowls Club a majority were not from Kingscliff and as per the resolution could not be considered. Of those residents from Kingscliff who did respond a majority were not in favour of this type of development.

The two locations now suggested by Mr Black are either outside Twin Towns Club in Wharf Street as first priority and adjacent to the Johnny O'Keefe statue as second preference. Council has received a copy of an e-mail from the Tweed Heads Chamber of Commerce Board of support for the project to be relocated to Tweed Heads.

To be consistent with Council's previous resolution on this matter it should be advertised for the Tweed Heads community to comment.

The report from 1 December 2004 is as follows:-

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

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

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

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

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**19 [EO] Deed of Agreement - NSW Sugar Milling Co-Operative Ltd -
Condong Sugar Mill - Relocation of Drainage Easement**

ORIGIN:

Design

FILE NO: DA02/1915

SUMMARY OF REPORT:

During the course of design of the overland conveyor for the co-generation works at Condong Sugar Mill, it was noted that the relocation of an existing drainage easement was required.

The financiers for the mill require a Deed of Agreement to be signed by Council, the Mill, Delta Electricity Australia Pty Ltd and Sunshine Renewable Energy Pty Ltd whereby the existing drainage easement is to be released and a new drainage easement is to be created.

The terms of the Deed with regard to the proposed easement for drainage are acceptable to Council and it is recommended that Council proceed to executing the Deed under the Common Seal.

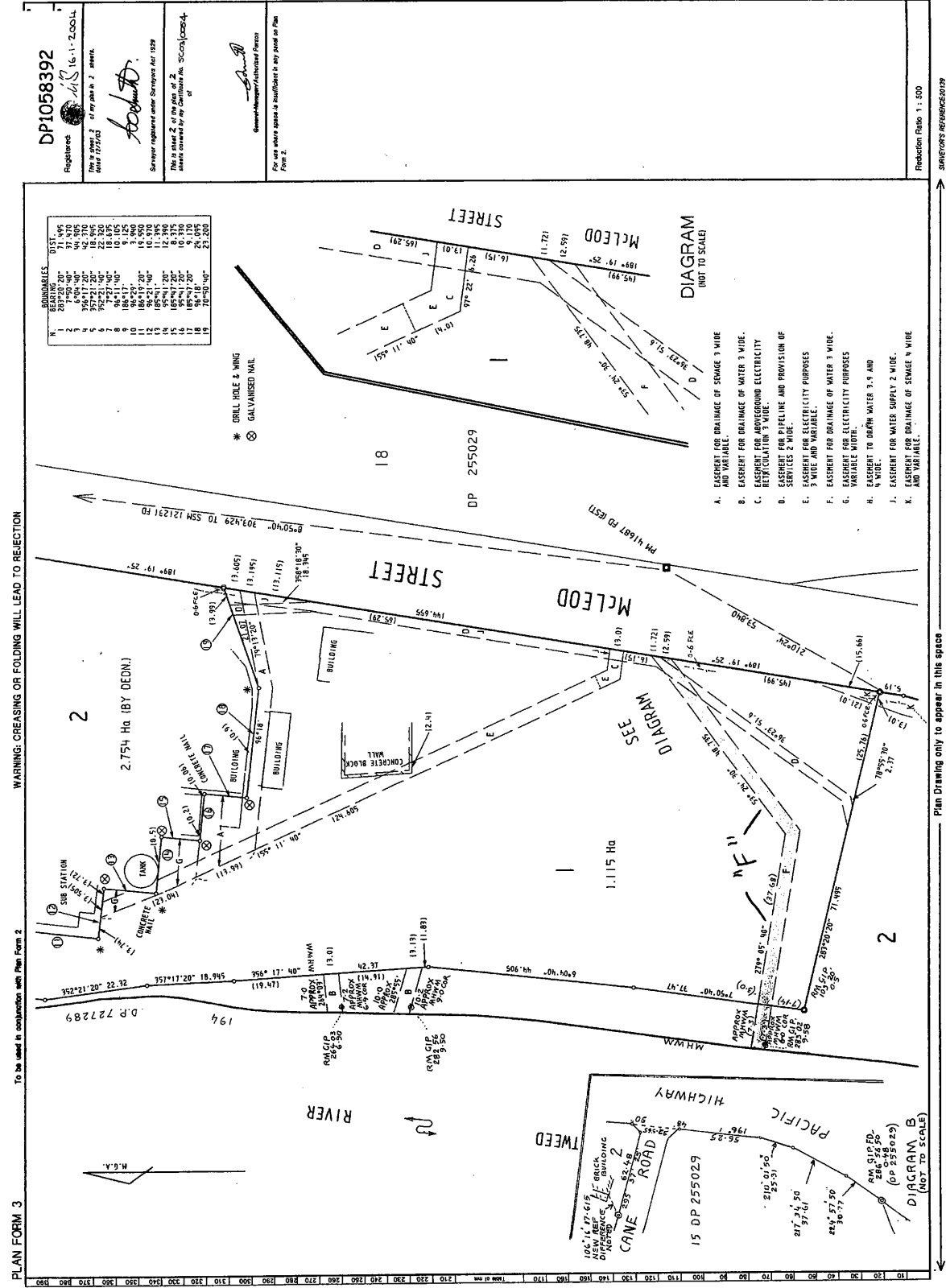
RECOMMENDATION:

That:

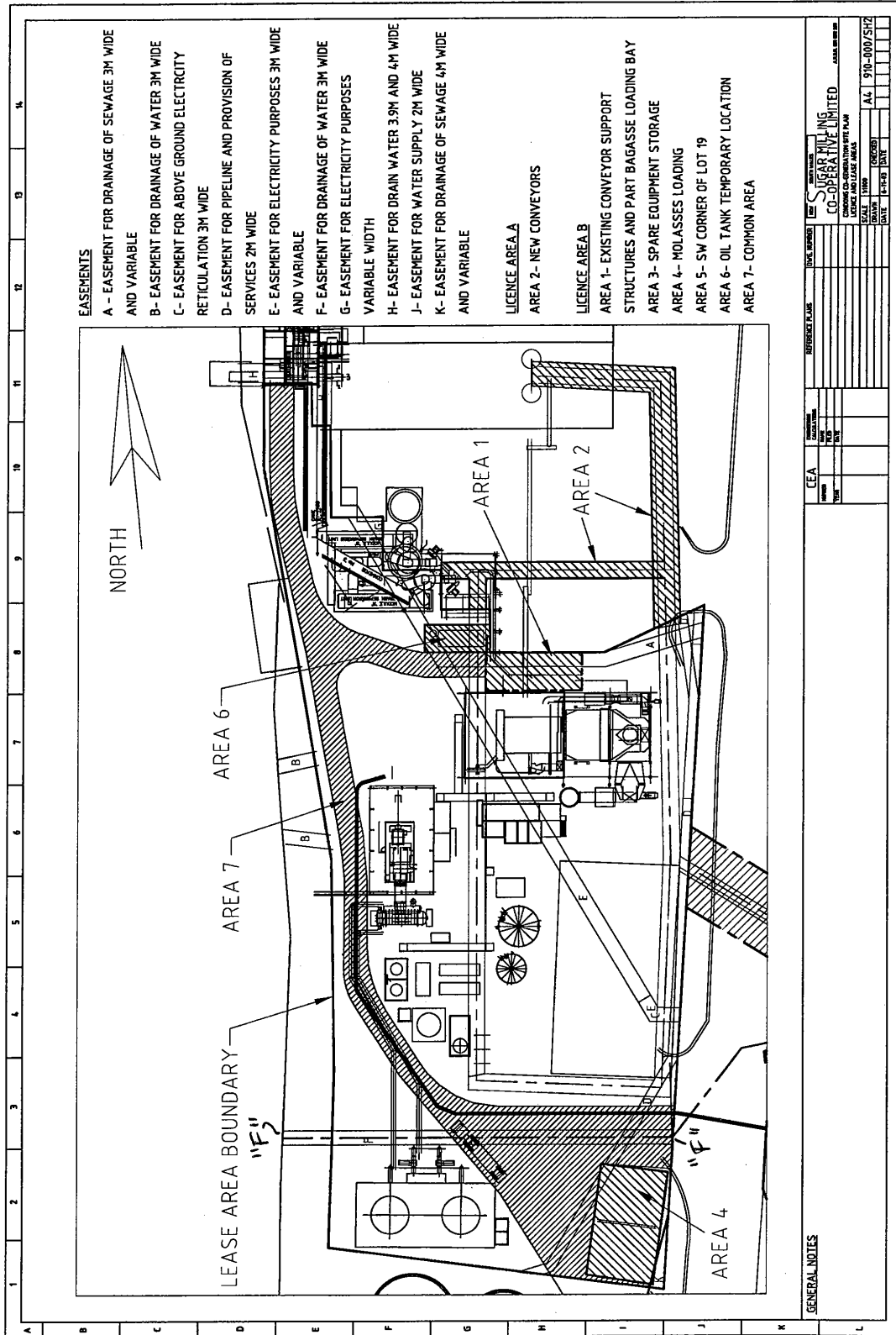
1. Council approves entering into a Deed of Agreement to release existing Easement for Drainage 3 metres wide within Lot 1 in DP 1058392 and to create a proposed Easement for Drainage of Water 3 metres wide in favour of Tweed Shire Council and Lots 1 and 2 in DP 1058392;
2. All necessary documentation be executed under the Common Seal of Council.

REPORT:

As per Summary of Report. A copy of DP 1058392 follows this report, showing the location of the existing Easement for Drainage 3 wide marked "F". Also following is a plan showing the location of the proposed Easement for Drainage, also marked "F".



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LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

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20 [EO] Request for Waiving of Fee: Plant Display Tweed Civic Centre

ORIGIN:

Recreation Services

SUMMARY OF REPORT:

Council has received a request from the co-ordinator of the International Women's day function to waive the fee for a plant display at the Tweed Civic Centre.

RECOMMENDATION:

That the request from the International Women's day function to waive the fee for a plant display at the Tweed Heads Civic Centre be denied because of the precedent that would be established.

REPORT:

Background:

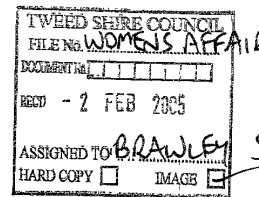
In 2001, Council considered a report regarding the provision of plant displays for various organisations utilising the Council Civic Centres.

Council resolved "that Council provide the service at a charge and the minimum charge would be \$80 per display, increasing with the scale of display required".

Council has received a request from the co-ordinator of the International Women's day function to waive the fee for a plant display at the Tweed Civic Centre as reproduced below:-

29th January 2005.

Mr Stewart Brawley
The Manager / Recreation Services
Tweed Shire Council
P.O. Box 816
Murwillumbah 2484.



Dear Stewart,

As co-ordinator of the International Women's Day Function being held in the Tweed Civic Centre on the 8th March 2005. I am writing to request that you waive the hiring fee for plants from your department. We wanted a few to decorate the stage area so that our speakers, (one of whom will be the Mayoress and several other well known identities), would not look so isolated and the impression to the audience would be in keeping with the general lush Tweed outlook that we all enjoy.

I spoke to Graham Williams who informed me that for special occasions you do sometimes provide plants free of charge.

The day is being hosted by VIEW Clubs of Australia a women's organization that supports The Smith Family Charity.

March 8th is recognised world wide as the day when all nations recognise the achievements and contributions that women make in our world. We plan that on this day the Women of Tweed will be saluted and applauded for their achievements.

I look forward to a positive response from you soon.
Yours Faithfully

Patricia Rogers
Co-ordinator IWD
563 Terranora Road
Terranora 2486
Ph: 07 55905752

Prior to 2001, Council only provided displays to a limited number of functions/organisation (Northern Rivers Orchestra, Tweed Theatre Company, Banana Festival and Council functions) and no fee structure was in place. Due to concerns raised regarding the costs and equity in supplying this service, Council resolved to offer the service to all users and introduce a standard fee.

As many users of the Civic Centres are community based, it is reasonable to assume that further similar requests will be received should Council resolve to waive the fee (or part thereof). Therefore, should Council resolve to waive the fee, it may be prudent to consider what will be the response to further requests. If this request was to be approved by Council then funding should be taken from the Donations fund.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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21 [EO] Road Crashes in the Tweed Shire

ORIGIN:

Works

SUMMARY OF REPORT:

The most current preliminary road crash data has been sourced by Council and is able to give an indication of the major contributing factors and locations of the crashes. Comparison with other local government areas in the Northern Region of NSW also highlights areas for further consideration.

Local drivers are involved in nearly two thirds of all casualty crashes. Speeding is involved in 46% of fatal crashes.

Over half of all casualty crashes are occurring on roads designated 60km/h and lower. The impact on crash reduction on the Pacific Highway due to the construction of the Yelgun to Chinderah Freeway has been considerable.

Crash reductions on Sextons Hill at Banora Point have also been considerable since the installation of the fixed speed camera for southbound traffic.

RECOMMENDATION:

That this report be received and noted.

REPORT:

Preliminary road crash casualty and fatality data has been sourced from the Roads and Traffic Authority for the 2004 calendar year. This data, whilst not yet finalised, is able to indicate trends in relation to contributing crash factors.

The data examined was for the period January 2001 to December 2004 and refers to casualties (i.e. includes killed and injured road users) occurring in the Tweed Shire, as well as other North Coast LGAs for the purposes of comparison.

In the Tweed LGA, the total number of fatalities for the four-year period was 26 and total casualties were 1114. The population size for fatalities is relatively small (representing 11% of the North Coast LGA road toll for the same period and one percent of the State total) and therefore it is only indicative for some issues. For example, while seven pedestrians were killed this represented 27% of all fatalities in the Tweed LGA. This figure would appear very high but further investigation of the crashes does indicate that some of the situations were peculiar to each event. However, on other issues such as non-use of a seatbelt/helmet comprised 12% of the Tweed's fatalities but only 5% of casualties.

Road crash casualties in the Tweed (where one or more persons are injured or killed) involve local residents on 63% of occasions and 58% of casualties occur on local roads. An additional 24% of casualties occur on the regional roads, that is, roads maintained by Council through grants from the State Government.

Speeding, both over the limit and too fast for the conditions, is clearly the major contributor to crashes in the Tweed. Forty six percent of fatalities and 32% of casualties occur in a speed related crash.

While the Pacific Highway accounted for 46% of the Shire's fatalities during this study period, the number has reduced since the opening of the Yelgun to Chinderah Freeway at the end of 2002. This is examined in further detail further in the report.

When speed zones are analysed, a majority of (42%) of fatalities occurred on roads designated at 100km/h, and 23% of casualty crashes, but the majority of casualties occurred on 50km/h and 60km/h roads (56%).

A high percentage (40%) of casualty crashes occurred on roads designated at 60km/h. Many of these roads are now 50km/h since the introduction of State legislation designating all roads in a built up area as 50km/h unless otherwise signposted.

Drivers under the influence of alcohol were involved in 12% of the Tweed's road crash casualties and 8% of fatalities. This could indicate that alcohol is a factor in lower speed crashes on local roads.

Fatigue related crashes are often determined by the type of crash, for example, ran off a straight road. Fatigue related fatalities were indicated in 23% of the Tweed road toll.

Other significant crash factors appearing in the data for the Tweed LGA were casualties occurring on weekends (35%), after dark (28%), and involvement of a single vehicle (41%).

Table 1- Road Casualties and Fatalities in the Tweed Shire 2001 to 2004

	Fatalities	Casualties	Other Northern Region Coastal LGAs (Casualties)
Key controller from same LGA	39%	63%	57%
Key controller from interstate	23%	18%	9%
Key controller from Sydney	31%	15%	12%
Key controller male	65%	62%	64%
Local road	42%	58%	42%
Regional road	12%	24%	20%
State road	46%	18%	38%
Weekend	35%	32%	28%
Posted speed			
<40km/h	4%	1%	1%
50km/h	15%	16%	17%
60km/h	15%	40%	27%
70km/h	4%	2%	2%
80km/h	12%	14%	11%
90km/h	0%	.1%	1%
100km/h	42%	23%	41%
110km/h	8%	5%	1%
Speeding involved	46%	32%	30%
Wet road	19%	25%	24%
Alcohol involved	8%	12%	11%
Fatigue involved	23%	10%	11%
No seatbelt/helmet	12%	5%	4%
Key controller unlicensed	8%	4%	9%
Age key controller			
0-4	4%	1%	2%
5-11	0%	4%	2%
12-16	4%	6%	4%
17-20	12%	14%	15%
21-25	12%	11%	10%
26-39	23%	24%	23%
40-59	27%	21%	23%
60+	19%	12%	18%
Road User			
Heavy vehicle involved	23%	4%	6%

Pedal cyclist	0%	6%	5%
Light truck driver	0%	6%	8%
Car driver	39%	50%	48%
Car passenger	12%	22%	24%
Pedestrian	27%	8%	6%

Additional crash data was also examined on the Tweed's roads to assess the influence of major interventions such as the opening of the Yelgun to Chinderah freeway (Y2C) in August 2002 and the installation of a fixed speed camera on Sextons Hill for southbound traffic in January 2003. The comparison periods chosen, each of two-year duration, were July 2000 to June 2002 and July 2002 to June 2004.

This data includes all crashes including tow-aways where no injuries were incurred. Whilst there has been an increase in total reported crashes there has been a reduction in crashes where one or more persons were injured. Fatal crashes have also reduced for the two-year periods from 19 crashes to 9 crashes.

Reported crashes on unsealed roads accounted for a small (2-3%) number and include a number of crashes on otherwise sealed roads that were subject to roadworks where the sealed surface was removed temporarily.

Table 2

	July '00 to June '02 Period A	July '02 to June '04 Period B
Total crashes	1040	1107
Injury crashes	473 (45%)	442 (40%)
Fatal crashes	19	9
Wet roads	319 (30.67%)	311 (28%)
Unsealed roads	24 (2%)	33 (3%)

The Pacific Highway prior to the Y2C freeway accounted for 26% of all reported crashes in the Tweed Shire. Current data is that it now accounts for 15% of all crashes. The section of the Old Pacific Highway, now Tweed Valley Way, has seen a reduction in reported crashes from 129 to 63 for the comparative two-year periods.

The section of the Pacific Highway at Sextons Hill, Banora Point has had a significant (54%) reduction in all reported crashes in spite of traffic volumes most likely increasing. The fixed speed camera was installed for southbound traffic in January 2003.

Table 3

	July '00 to June '02 Period A	July '02 to June '04 Period B
Pacific Hwy	270 (26%)	169 (15%)
Pacific Hwy (Oaks Ave to Yelgun)	129	
Tweed Valley Way		63
Total		232
Pacific Hwy (Sextons Hill)	79	36

The Tweed Coast, measured from Wooyung to Chinderah for this exercise, has had a total reduction in crashes of 31, or 36%. The main contributor to this reduction has been the Wooyung Road where traffic volumes are only one-tenth of pre Y2C volumes.

Table 4

	July '00 to June '02 Period A	July '02 to June '04 Period B
Coast Rd	43	7
Chinderah Rd	10	6
Old Bogangar Rd	6	2
Tweed Coast Rd	8	35
Wooyung Rd	20	6
Total	87	56

Crash data for local urban and rural roads have a clear correlation with traffic volume. The severity of the crashes is also linked to the prevailing speed limit on that section of road.

Urban roads with significant increases in reported crashes include Kennedy Drive, Terranora Road, Darlington Drive, Fraser Drive, Dry Dock Road, Bay Street, Cominan Avenue, Bay Street and Ducat Street.

Rural roads with significant increases in reported crashes include Bilambil Road, Cudgen Road and Cudgera Creek Road.

Considerable reductions have been made on Boyd Street with the introduction of a roundabout at the intersection of Brett Street.

Table 5

	July '00 to June '02 Period A	July '02 to June '04 Period B
Minjungbal Dr/Wharf St/Terranora Tce	60	68
Kennedy Dr	46	59
Kyogle Rd/Uki Rd	54	58
Terranora Rd	26	40
Clothiers Ck Rd	34	39
Darlington Dr	7	22
Fraser Dr	13	20

	July '00 to June '02 Period A	July '02 to June '04 Period B
Scenic Dr	15	18
Numinbah Rd	16	17
Bilambil Rd	7	16
Greenway Dr/Machinery Dr	11	16
Cudgen Rd	9	15
Dry Dock Rd	5	15
Chinderah Bay Dr	8	12
Bay St	4	11
Byangum Rd	9	11
Kingscliff St/Sutherland St/Pearl St	12	11
Ducat St	4	9
Piggabeen Rd	7	9
Tyalgum Rd	11	9
Boyd St	20	8
Wollumbin St	8	8
Pottsville/Mooball Rd	9	7
Wommin Bay Rd	12	7
Cominan Ave	1	7
Cudgera Ck Rd	0	6
Florence St	7	6
Gollan Dr	6	6
Leisure Dr	10	6
Barrett St	4	5

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

22 [EO] Tugun Bypass, Deletion of Boyd Street Interchange

ORIGIN:

Planning & Infrastructure

SUMMARY OF REPORT:

In 1999, Council supported the Tugun Bypass C4 route proposed by the Queensland Department of Main Roads which included a full interchange at Boyd Street Tugun.

This interchange is an essential part of the Tweed Arterial network and provides a connection to the SE Queensland area for the future Cobaki Lakes and Bilambil Heights urban areas. Without prior consultation with or concurrence from Council, the EIS for the Tugun Bypass C4 route has now been publicly exhibited with the Boyd Street interchange deleted.

As well as seriously restricting access to the future development areas of West Tweed, the absence of the interchange will increase traffic congestion on Piggabeen Road and Kennedy Drive and will have extreme impacts on the amenity of residents of parts of Tugun. This report recommends that in its present form without the Boyd Street Interchange, the Tugun Bypass C4 proposal should be opposed. A further comprehensive report in regard to other issues arising from the EIS will be presented to Council prior to expiry of the exhibition period.

RECOMMENDATION:

That:-

1. The Queensland Department of Main Roads be advised that:-
 - (a) Council officially supported the Tugun Bypass C4 Route in October 1999, however this support was for the C4 route presented by them that included a full interchange at Boyd Street. The Boyd Street interchange is considered a critical element of the Tweed Shire arterial road network and its inclusion is essential for the traffic movement in the Tweed/Tugun area and for the amenity of residents of Tugun in Gold Coast City.
 - (b) Council opposes the Tugun Bypass C4 proposal as exhibited in the Environmental Impact Statement which has now deleted the Boyd Street Interchange.
 - (c) Council will reconsider its opposition to the proposal if the Queensland Department of Main Roads issues a supplement to the currently exhibited EIS which includes a full interchange at Boyd Street and that this interchange becomes an integral part of the Tugun Bypass proposal in terms of the environmental approval process.

2. The local Federal and State Members of Parliament and the NSW Roads and Traffic Authority (RTA) be advised of Council's position in this matter and that they be requested to assist Council in securing the inclusion of the Boyd Street Interchange into the Tugun Bypass project.
3. A meeting be convened with representatives of the Gold Coast City Council to advocate inclusion of the Boyd Street interchange in the Tugun Bypass proposal.

REPORT:

1. Background

1.1 History of Council's endorsement of the Tugun Bypass C4 option

The Queensland Dept of Main Roads (QMR) has conducted a stakeholder and community consultation process on the Tugun Bypass since 1997.

Key elements of this process are:-

When	Event	Comments
1997	Southern Gold Coast – Tweed Corridor Study	
1999	Value Management Workshop (Route Selection)	Attended by Tweed Shire Council representatives. the Workshop recommended C4 option containing Boyd Street Interchange.
1999	Pacific Highway at Tugun – Route Selection Report	Recommended C4 option with Boyd Street interchange. The report included detailed drawings of the interchange
2000	Options Review Workshop	The plans reviewed of the C options all included the Boyd Street interchange
2001	Draft Environmental Impact Assessment, Technical Engineering Design Paper No.2	Included and described the Boyd Street Interchange in detail in section 5.3.2 and Figures 5.4.0 and 5.4.4. Incorporation of that interchange as a fundamental component of the selected C4 route.
2002 March	EIS for C4 route rejected by NSW government	Environmental grounds given for rejection
2002 August	Stage 1 Environmental Impact Assessment	For Tugun Bypass section from Stewarts Road to Boyd Street. Was then to follow Boyd Street back to the Gold Coast Highway. This Queensland proposal was a response to the NSW Government's rejection of the C4 route.
2004 February	Queensland Election	Queensland Government proposed a route B4 that would continue the Stage 1 Stewarts Road to Boyd Street section by extending it east across the north side of the airport, then south along the east side of the airport to merge with the existing Gold Coast Highway south of the airport access road.
2004 May	NSW Government gives go ahead to C4 option	NSW now considered that key environmental issues had been resolved

When	Event	Comments
2004 December	EIS issued on exhibition until March 2005	EIS excludes Boyd Street Interchange. Says that Boyd Street overpass would be the subject of separate approval process, if initiated by others.

The draft route selection report was prepared by Connell Wagner in late 1999. That report was the subject of a Value Management Workshop (Route Selection Workshop) conducted by Strategic Thinking Pty Ltd on the 11 and 12 August 1999. Tweed Shire Council was represented at that workshop by the then Deputy Mayor, Councillor Bruce Graham, Cr Henry James and the Director of Development Services. The Value Management Workshop selected the C4 route as the preferred option and that advice was confirmed in Queensland Main Roads letter to Council dated 20 August 1999. The C4 option as described in the Route Selection Report clearly included a full interchange at Boyd Street.

Council at its meeting of the 20 October 1999 accepted the C4 option as the preferred route. The Engineering Services Division commented in the accompanying report on the impact of the C4 option on the Cobaki Parkway. QMR subsequently engaged PPK to prepare an Environmental Impact Statement on the C4 option.

1.2 C4 Route Temporarily Abandoned

The C4 route ran into trouble in March 2002 when the NSW Government advised it opposed the route on environmental grounds.

The Queensland Government responded by proposing Construction of Stage 1 of the bypass from Stewarts Road to Boyd Street with an interim connection to the Gold Coast Highway via Boyd Street.

At this time, when C4 was abandoned, QMR advised Council, in response to a Cobaki Lakes DA issue, that an interchange was not a component of the modified project (that only included an extension to Boyd Street).

In the run up to the Queensland election in early 2004, the Queensland Government proposed a route B4 that would continue the Stage 1 Stewarts Road to Boyd Street section by extending it east across the north side of the airport, then south along the east side of the airport to merge with the existing Gold Coast Highway south of the airport access road.

1.3 Restoration of the C4 Route, but without the Boyd Street Interchange

The NSW Government had a change of heart in May 2004 and decided to support the C4 option. Accordingly QMR have prepared a complete Environmental Impact Statement which is now on exhibition.

In the second half of 2004, preliminary plans of the resurrected C4 route were viewed by Council officers and it was observed that the Boyd Street interchange was missing. A letter was sent to the QMR in October 2004 expressing concern, advising that Council's support for the project was conditional on the inclusion of the interchange and requesting a workshop to urgently resolve this matter.

QMR replied in December 2004 that “...neither an interchange or overpass is proposed in the works proposed in the EIS..”. the QMR letter did not advise why the interchange had been deleted, nor did they offer any mechanism for Council to seek to redress of the issue.

The issue was also raised at a meeting in Ballina attended by QMR, NSW RTA and Tweed Shire Council Staff. When questioned the QMR could not elaborate on why the interchange was being deleted and refused to assist seeking any resolution of the issue, beyond saying (to Tweed Shire representatives) “...you can make a submission to the EIS...”

The EIS documents provide no explanation of the why or how a decision was made to delete the interchange. At no time was Tweed Shire Council consulted on the proposed change, nor was Council given any opportunity to argue for its retention.

The EIS for the Tugun Bypass is on exhibition from 13 December 2004 until 14 March 2005.

In Chapter 5 of the EIS it explains why the C4 route is preferred.

Section 17.3.6 below is one of several places in the EIS that clearly state that the Boyd Street Interchange has been intentionally removed from the C4 project:-

“17.3.6 Boyd Street overpass

The Cobaki Lakes Development would be serviced by two main arterials, Piggabeen Road in NSW and the Cobaki Parkway. The Cobaki Parkway would be a western extension of the existing Boyd Street access track. This would require an overpass over the bypass capable of carrying four lanes of traffic. The overpass is not part of the Tugun Bypass proposal, and if it proceeds, would be developed by others. It would also require separate approvals.”

2. The Boyd Street Interchange in Tweed Shire Council Arterial Road Planning

The Boyd Street interchange is included in the Section 94, Tweed Roads Contribution Plan (TRCP) adopted by Council in 1997.

The TRCP was prepared on the basis of plans of the “Western Bypass” (a previous version of the Tugun Bypass) that had the Boyd Street overbridge and interchange wholly located in NSW. In the current C4 route, the alignment has shifted to the east and the interchange would now be just in Queensland. There has been some legal concern that if the interchange is in Queensland, it may not be eligible for Section 94 contribution funding collected in NSW.

The QMR have been involved in many meetings with Council, Gold Coast City and the Cobaki Lakes developers regarding the Boyd Street interchange and overpass over many years. They are well aware of the inclusion of the Boyd Street Interchange in Council’s planned arterial road network and the TRCP and this has been reflected in their inclusion of the interchange in the C4 options adopted by them in 1999. Despite this, there is no discussion/explanation/rationalisation for its exclusion in section 12.3,

12.5 and 17.3 of the EIS which examine implications on Tweed Shire planning strategies, traffic, transport and future urban development proposals.

3. Impact of Deletion of Boyd Street Interchange

3.1 Tweed and Southern Gold Coast Arterial Road Networks

Veitch Lister have modelled predicted traffic volumes (ultimate development) for the road network with and without the Boyd Street interchange. Figure 1 shows predicted volumes with the Boyd Street interchange shows them without the interchange.

Table 1 summarises the differences. See also attached plan of Daily 2 way volumes.

Table 1

Road	Location	Traffic Volume		Affect of deletion of interchange
		With Interchange	Without Interchange	
Cobaki Parkway	West of Tugun Bypass	29,199	26,190	-3,009
Boyd St	East of Gold Coast Hwy	9,598	31,616	+22,018
Gold Coast Hwy	North Boyd St	45,527	56,774	+11,257
Kennedy Drive	West TH Bypass	24,339	25,987	+1,648
	East Gollon Dr Bridge	20,061	21,909	+1,848
Piggabeen Rd	West of Gollon Dr	4,507	6,224	+1,717
Tugun Bypass	North of Boyd St	71,317	58,745	-12,572

These traffic numbers indicate:-

- Access to/from Cobaki Parkway (for residents and visitors to Cobaki Lakes, Bilambil Heights and West Tweed) to the Tugun Bypass and thence to Gold Coast, Brisbane etc will be significantly impaired. Access instead of being directly onto the freeway, will now wind its way through Boyd Street to a major intersection with the Gold Coast Highway, and then through the familiar Tugun centre bottlenecks to Stewarts road and the interchange onto the Pacific Motorway. The vehicle trips required will be unnecessarily longer, slower and more costly.
- The traffic volume on Boyd Street will increase to 31,616 vpd (instead of 9,598 vpd) causing extreme loss of amenity to residents in this locality.
- Kennedy Drive will have traffic numbers increased, adding to existing congestion on this road.
- Piggabeen Road will have increased traffic resulting in loss of amenity for local residents

- The Tugun Bypass between Stewarts Road and Boyd Street needs to be 6 lanes with or without the additional traffic numbers that result from inclusion of the Boyd Street Interchange.
- If impacts of additional traffic on Kennedy Drive are considered unacceptable, the (now abandoned) Lakes Drive Bridge Proposal may need to be re-examined.

3.2 Impact on Running Costs

Veitch Lister have modelled impacts on vehicle running costs arising from deletion of the Boyd Street Interchange. They estimate that the disbenefits of removing the ramps (or benefits of adding the ramps) is about \$30,500 per day (in the ultimate development scenario). This would equate to about \$9m annually, at this time horizon.

3.3 Impact on Future Approvals

The EIS clearly states (in many parts of the documentation) that the Boyd Street overpass is not part of the Tugun Bypass project. The full Interchange is not mentioned at all. However The EIS does say that separate approvals will be required for the Boyd Street overpass (and by extension the interchange).

If the Boyd Street Interchange was included as part of the EIS proposal, it would be able to be approved as part of this process.

However as a separate project it would need to run the full gamut of Queensland, NSW and possible federal approvals on its own. This could be a daunting task for Tweed Shire Council.

3.4 Impact on Capital Costs

The Boyd Street Interchange over the "Western Bypass" is part of the Section 94 TRCP. Opportunities may exist to revisit this plan if funds allocated are now insufficient. Council could also explore the availability of other funding sources and possible grants from the NSW and federal governments. It is acknowledged that QMR should not be solely responsible for the cost of the Boyd Street Interchange and that the apportionment of costs will be a matter for negotiation between all stakeholders.

However Council's prime concern at this stage is ensuring that the Boyd Street Interchange obtains concurrent approval with the Tugun Bypass and that Council is not forced through a later protracted environmental approvals process. Finalisation of cost apportionment issues should not be allowed to derail the approval process for the Boyd Street Interchange.

4. Conclusion

For whatever reason the QMR's consultation process for the Tugun Bypass project has broken down.

Tweed Shire Council is a major stakeholder in this project and more than half the length of this project is located in the Tweed Shire area. This is one of the most costly and important projects to be considered for the Tweed area and has major implications to Tweed residents, the Tweed arterial road network, vehicular movement in the

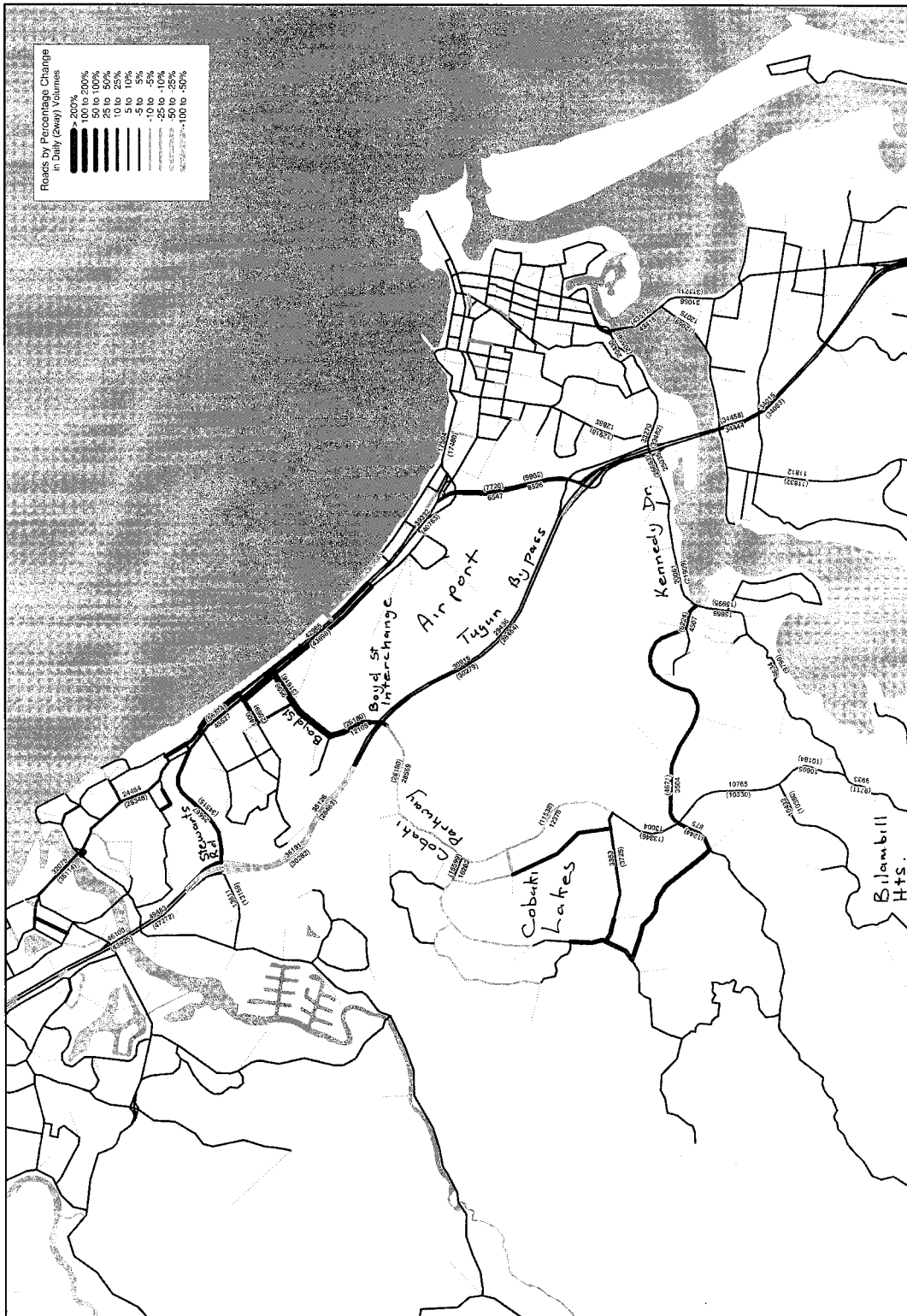
Tweed/Gold Coast border areas, Pacific Highway through traffic, and future urban development in West Tweed.

As a major stakeholder, and one of the responsible local government authorities, Tweed Shire Council participated in the route selection process in good faith and endorsed (along with other authorities) the C4 route with inclusion of the Boyd Street Interchange in 1999.

The exclusion of the Boyd Street Interchange by QMR without consultation or concurrence from Tweed Shire Council is considered to be unacceptable.

This report recommends that in its present form without the Boyd Street Interchange, the Tugun Bypass C4 proposal should be opposed.

Daily 2way Volumes - With and (without) Cobaki Interchange - on Ultimate Development



Daily 2way Volumes - With and (without) Cobaki Interchange - on Ultimate Development

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Critical impact on Arterial road network policy.

UNDER SEPARATE COVER:

1. Daily 2 Way Volumes - With and (without) Cobaki Interchange - on Ultimate Development (as pictured above) - A3 copy
-

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY

23 [EC] Policy Amendment: Beach Vehicle Access

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

Due to the increasing density of coastal populations accredited to new coastal subdivisions Council resolved 2 June 2004 to review the current Beach Vehicle Policy in eight months from this date as the impact of these subdivisions result in increased beach usage.

RECOMMENDATION:

That Council commences the review of the Beach Vehicle Policy with consultation from the community and interested parties.

REPORT:

The coastal areas of the Tweed Shire are becoming more populated which is accredited to the establishment of coastal subdivisions. This factor is likely to dramatically impact on the number of permits issued and the beach areas within the Shire to which vehicles may be able to gain access.

The current beach vehicle access area on the south side of Kingscliff to Cabarita is impacted by both the Casuarina Beach and Salt subdivisions. The increasing population in these areas has resulted in increased beach usage. Similarly, the beach access area to the south of Pottsville may be impacted by the Black Rocks subdivision in the future.

These subdivisions will also provide improved access and more secure parking adjacent to the beach in these areas resulting in a reduced need for beach vehicle access.

A review of Council's Beach Vehicle Policy was conducted in November 2000 and since this date all permit holders are notified annually of future change factors that may alter the areas available for 4WD use. The latest review in June 2004 resolved to alter the policy by excluding to offer permits to replace those that have not been renewed by current licence holders, therefore reducing the number of permits issued annually.

It should be noted the policy makes specific provision for permits under the following categories - amateur fisherman, professional net fisherman, special permits and paraplegic permits.

In the 2004/2005 permit season there were 226 amateur fishing permits issued, 27 permits issued to persons who hold a professional fishing license with NSW Fisheries and 33 'special permits' that have been issued to persons holding a disabled parking permit with the Roads and Traffic Authority.

There is not currently any policy specific to commercial beach vehicle access, and each application has historically been considered in isolation, and on its individual merits, however, there are no current commercial permits and Council resolution of 3 May 2000 was to issue no additional commercial (tour) beach vehicle permits.

CONCLUSION

Council has an ongoing duty to consider the use of the Shires beaches and as coastal populations increase so does the potential for conflict over beach usage, therefore a review of the current Beach Vehicle Policy is warranted to establish a clear direction of management for Beach Vehicle access through consultation with the community and interested parties.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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24 [EC] Schedule of Fees, Opening Event, Additional Equipment, Hiring Conditions - Banora Point Multi-Purpose Centre

ORIGIN:

Environment & Health Services

FILE NO: DA1393/320

SUMMARY OF REPORT:

The Council will recall that a Management Committee has been appointed for the Banora Point Multi-Purpose Centre. The Committee have commenced weekly meetings and are now planning an Opening Event on 12 March 2005. It is envisaged that they will need to cater for approximately 300 people and requests Council to approve a budget for this event.

The Management Committee is endeavouring to make the rooms available for hire as soon as possible and a Schedule of Fees and hiring conditions have been developed for this purpose. The Committee recommends that the fees be advertised as required by the Local Government Act 1993 for public comment.

The initial furnishings for the centre include 16 tables and 150 chairs, 2 desks and office chairs. For the Centre to be fully functioning with rooms ready to hire additional equipment will need to be purchased in order for this to happen. It is now recommended that some audio/visual equipment and coffee/tea crockery be purchased as essential to the centres functionality.

The Committee recommends that the room hire is not restricted to community groups of the Tweed and encompasses the needs of the Northern Rivers and South- East Qld if eligible.

RECOMMENDATION:

That:-

1. Council:-
 - a. Approves the expenditure of \$3,548.00 for the opening of the Banora Point Centre
 - b. Advertises the proposed fees for public comment as per the Local Government Act 1993 requirements.

- c. Advises any party wishing to use the facility from the final fixing of the fee that they can volunteer to pay the appropriate amount or the facility is unavailable.
 - d. Approves the expenditure of \$4,429.00 being for additional equipment to commence hire of the rooms in the Centre.
2. Includes as part of the hiring conditions that *"any not-for-profit organisation outside of the Tweed Shire will need to submit to Council a Notice of Intention and request for consideration of 'Not for profit status' fees"*.
3. The budget variation be considered in the end of March 2005 Quarterly Budget Review.

REPORT:

Background:

On 19th January 2005 Council approved the nomination of six applicants to form a management committee for the Banora Point Centre. The management has conducted several meetings to date and have drafted a schedule of fees and draft hiring policy they would like to recommend for Council approval. The schedule would be reviewed at a 6 month interval to make certain that they reflect the appropriate costing level .

The committee would also like to set in place an opening event to mark the occasion of the opening of the centre and give the community an opportunity to input further through an information session on the day.

Prior to the centre opening there needs to be some essential equipment based at the centre which will be used during the hiring. These items are listed further in the report .

1. THE OPENING OF THE CENTRE

As the committee would like to have the centre opened as soon as possible The date for the opening of the centre has been set as 9am Saturday 12th March.

The Committee would like the Council to allow a budget of \$3500 for this event with any unspent monies being retained by Council.

2. AS PER SCHEDULE ON COVER. ATTACHED IS DRAFT HIRING CONDITIONS

Room	Community use (not for profit) defined as having no employees		Private use	Commercial	Meeting s Max 2hrs
Large meeting room 100 capacity	Hourly rate	\$15	\$40	\$40	\$15
	Half Day	\$40	\$75	\$75	
	Full Day	\$70	\$150	\$150	
2 x Small meeting 20 -30 Capacity	Hourly rate	\$8	\$20	\$20	\$15
	Half day	\$20	\$40	\$40	
	Full Day	\$40	\$75	\$75	
Interview rooms \$10 min 2 hrs	Full Day	\$30	½ \$30 full \$60		N/A
Full centre (for Conference use)	\$150		N/A	\$300	

Room	Community use (not for profit) defined as having no employees	Private use	Commercial	Meeting s Max 2hrs
Full Centre-Private (not including Interview Rooms)	N/A	\$300	N/A	
Deposit required		\$350	\$350	
Evening rates (5pm- 10pm) Additional	\$70	\$150	\$150	

3. ADDITIONAL EQUIPMENT FOR THE CENTRE:

The Committee would like to purchase additional equipment, which will be necessary to consider the centre as a full functioning centre. This equipment will be needed for tea and coffee facilities and for equipment needs at meetings.

The proposed set of equipment costing totals \$4,429.00

4. COUNCIL'S WEB PAGE

The Current Tweed Shire Website does not state to the consumer that there is a variation of fees for people outside of the Tweed. It is the intention that the rooms be made available to organisations from Queensland who can demonstrate they have clients and or members who come from Northern NSW. The Tweed Shire application process for hiring of rooms in Council buildings will apply to this centre. The committee would like an inclusion under the hire fees to read that

' any not- for profit organisation outside of the Tweed Shire will need to submit to Council a notice of intention and a request for consideration of not-for profit fees'

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

1. Draft Application for Hire of Banora Point Multi-Purpose Centre.
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25 [EC] Acceptance of Grant Funding for Tweed Regional Museum Co-ordinator

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

Council has resolved to enter into a Memorandum of Understanding (MOU) with the three (3) Tweed Historical Societies to form the Tweed Regional Museum. One of the undertakings in the MOU is the employment of a full-time position of Museum Administrator/Curator. To assist in this appointment the NSW Ministry of the Arts has offered Council a grant of \$35,000. This will fund the position for the remainder of this current financial year and the ongoing funding will need to be provided in the 2005/2006 Budget.

As well the NSW Ministry has provided a \$25,000 grant for the exhibition of the Tweed Shire Heritage Collection.

It is therefore recommended that Council accepts both these grants.

RECOMMENDATION:

That Council:-

1. Accepts the grant offers from the NSW Ministry of the Arts of:-
 - a. \$35,000 to part fund the position of full-time Museum Administrator/Curator; and
 - b. \$25,000 for the exhibition of the Tweed Shire Heritage Collection.
2. Votes the expenditure.

REPORT:

Council has resolved to enter into a Memorandum of Understanding (MOU) with the three (3) Tweed Historical Societies to form the Tweed Regional Museum. One of the undertakings in the MOU is the employment of a full-time position of Museum Administrator/Curator. To assist in this appointment the NSW Ministry of the Arts has offered Council a grant of \$35,000.

As well the NSW Ministry has provide a \$25,000 grant for the exhibition of the Tweed Shire Heritage Collection.

It is therefore recommended that Council accepts both these grants.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The Grant offer of \$35,000 will fund the position of a full-time Museum Administrator/Curator for the remainder of this current financial year and ongoing funding will need to be provided in the 2005/2006 Budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

Council has received a request from the combined VIEW Clubs of the Tweed asking that Council provides in-kind support/waives the fees for room hire. Details of this request are reproduced in the body of this report.

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

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

RECOMMENDATION:

That Council agrees to allow the View Clubs use of the Tweed Heads Auditorium free of charge.

REPORT:

Council has received a request from the combined VIEW Clubs of the Tweed asking that Council provides in-kind support/waives the fees for room hire. Details of the requests are reproduced as follows:-

Organisation	Request	Est \$ Amount	Application Summary	Meet Guidelines?
VIEW Clubs of Australia (Tweed Region)	The request is to have the hire fee for the Tweed Heads Auditorium waived.	\$175.00	The VIEW Clubs event is to stage a special morning to celebrate International Women's Day on 8 March 2005. There will be no admission charged and refreshments are free of charge.	Yes

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

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

POLICY IMPLICATIONS:

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

Festivals Policy.

Donations Policy.

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

UNDER SEPARATE COVER:

1. Correspondence dated 15 January 2005 from VIEW Clubs of Australia (DW1147128).
-

27 [EC] Entomological Control Report for Period November 2004 to January 2005

ORIGIN:

Environment & Health Services

FILE NO: GN 1/3 Pt5

SUMMARY OF REPORT:

The following report outlines nuisance insect and vermin control carried out during November 2004 to January 2005.

RECOMMENDATION:

That this report be received and noted.

REPORT:

BITING MIDGE

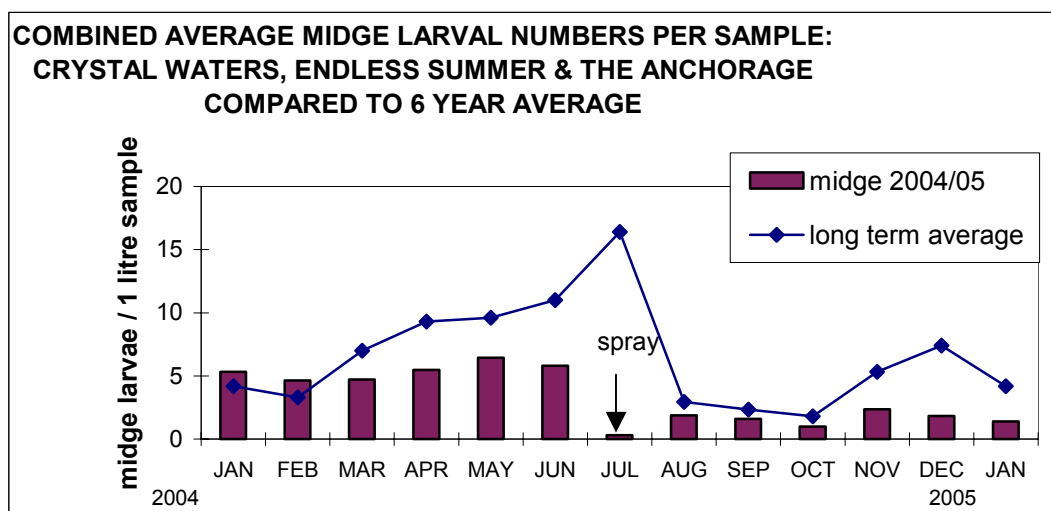
Seasonal activity

Biting midge activity has been generally quiet over summer with 8 biting midge related enquiries over the report period.

Routine biting midge larval monitoring of canal beaches over the quarter has indicated well below average *Culicoides molestus* numbers in the major canals.

Proposed December canal sprays have been postponed due to the apparent low larval densities in all major canals.

The following graph shows monthly average biting midge larval numbers in major canals compared to long-term averages.



MOSQUITOES

Seasonal activity

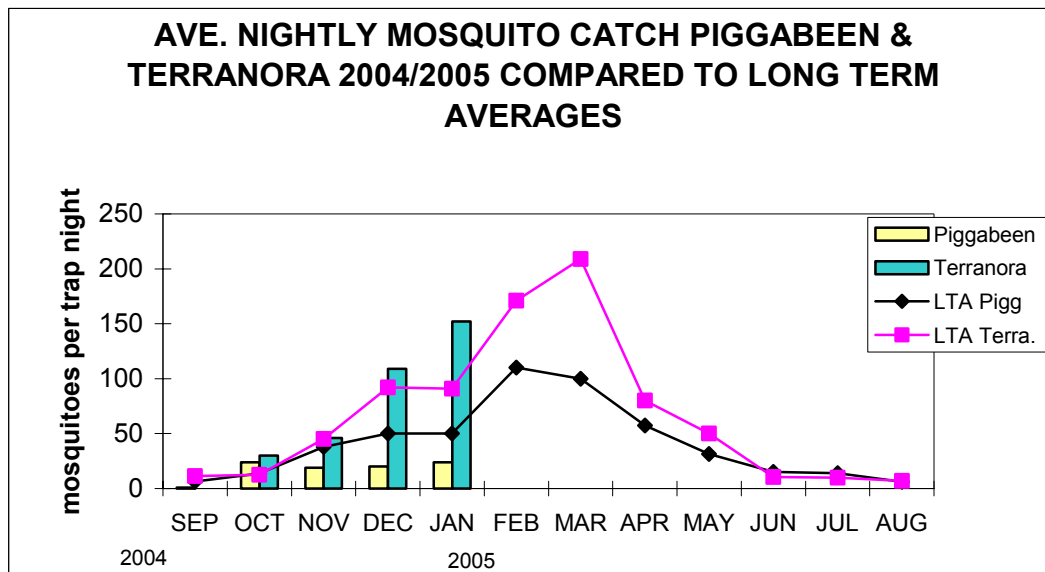
Following major rain events, mosquito nuisance activity was high in some coastal areas of the Shire. The worst affected areas were Fingal Head, Chinderah, Pottsville and parts of Tweed Heads South and Kingscliff.

There were 45 mosquito related enquiries over the report period peaking in late November and December.

Rainfall initiated most of the mosquito breeding over the report period with one tidally initiated saltmarsh mosquito hatch adjacent to Terranora Broadwater in mid January.

Carbon dioxide baited traps recorded moderate to high numbers of mosquitoes over the report period. *Culex sitiens* was by far the most commonly trapped mosquito, followed by *Ochlerotatus vigilax* and *Oc. notoscriptus*. In coastal areas, small, black aggressive day biting *Verrallina funerea* and the large "Scotch Grey" *Oc. alternans* were also common.

The following graph shows average nightly adult mosquito numbers caught in carbon dioxide baited traps this season compared with long term averages (LTA).



Control

There were 2 aerial mosquito larvicide treatments carried out over the report period.

AERIAL MOSQUITO SPRAYING - TAPPS AVIATION

2004/05

Date	Site	Time	Chemical & rate	Hectares & amt. used	Weather	Target species	Pre spray dip ave.	Post spray dip ave
11-Dec-04	Mahers Lane	915	Abate 0.8kg/ha	12ha 10kg	Fine 5k NW	Oc. vigilax	22	8
11-Dec-04	Charles Bay	940	Abate 0.8kg/ha	22ha 20kg	Fine 5k NW	Oc. vigilax	18	3
13-Jan-05	Mahers Lane	715	Vectobac 1L/ha	10ha 12L	Fine 8k SE	Oc. vigilax	36	2

Control with Abate was poor following the December treatment due to granule flow problems from the aircraft hopper.

The January aerial treatment was carried out with the bacteria *Bacillus thuringiensis* (Vectobac 12 AS) at 1litre/ha of product in 9 litres of water/ha, applied through CP nozzles with a targeted droplet size of 300um. This treatment achieved very good results on 3-4th instar saltmarsh mosquitoes (*Oc. vigilax*) under mature mangrove forest. However, results were patchy under a narrow strip of heavy peripheral vegetation. The bacterial sprays will be used by preference for aerial spraying when weather conditions allow.

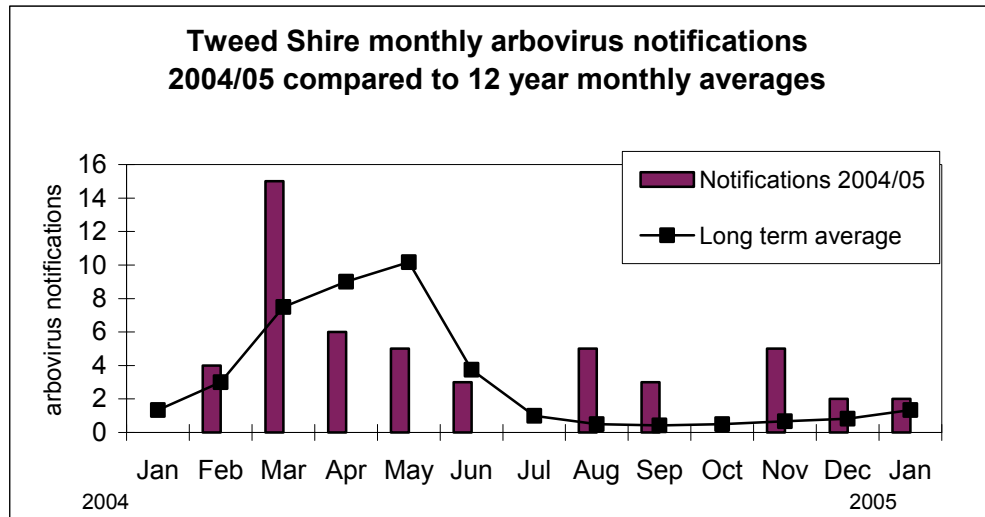
Ground based mosquito control utilising biological larvicide was carried out over the report period to pockets of *Oc. vigilax* and *V. funerea* breeding around Tweed Heads, Cobaki, Terranora, Banora Point, Bilambil, Chinderah, Pottsville, Kingscliff and Fingal Head. Pre-treatment with sustained release methoprene pellets, to usual chronic vigilax and funerea breeding areas, was carried out over the report period.

Arbovirus

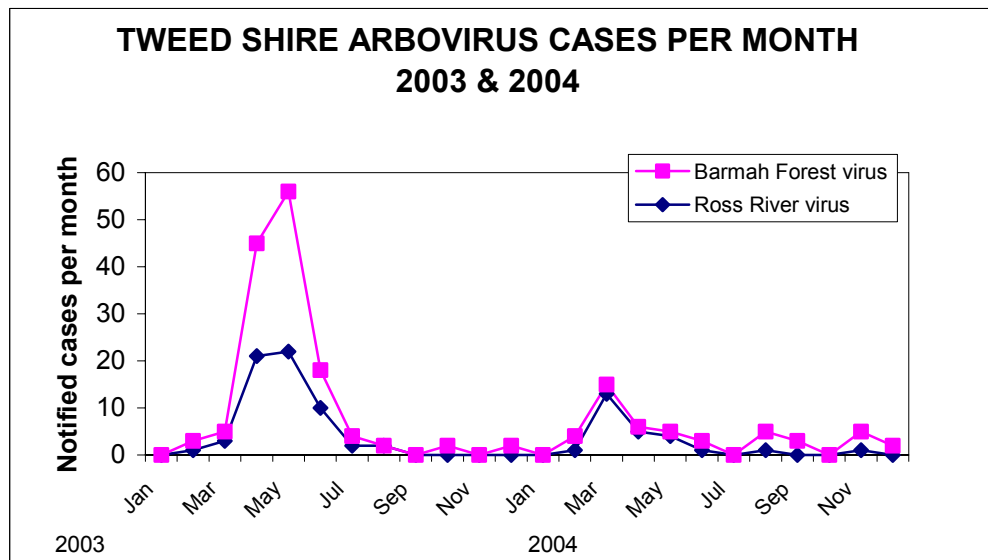
There was 1 notified Ross River virus case reported in the shire over the period Nov 04– Jan 05 and 8 Barmah Forest virus cases.

Barmah Forest virus has been the dominant arbovirus in the Tweed Shire over the last few years.

The following graph depicts combined arbovirus cases notified Jan 2004-Jan 05 compared with long-term monthly averages.



The following graph compares Ross River virus & Barmah Forest virus cases in Tweed Shire over the last 2 years



MISCELLANEOUS PESTS

There were 58 miscellaneous requests for information and services over the report period. The most common requests dealt with ants and rodents.

Rodent baiting was carried out around coastal van parks and infested Tweed River retaining walls over the report period.

Pandanus plant hoppers

Pandanus tree injection to trees in buffer zones around previously identified plant hopper infestations resumed following the good summer rains. Recent surveys of previously infested areas at Kingscliff, Casuarina and Bogangar, treated last year, have not found any live hoppers. To ensure the Tweed plant hopper population has been controlled, plant hopper monitoring will continue.

Council's Entomologist has been working with neighbouring coastal councils, National Parks and other State Government Authorities to prepare a Pandanus plant hopper identification and information brochure for residents, landscapers, nurseries and others. This brochure is close to printing.

Pandanus plant hopper infestations have recently been found at Ballina and Byron Bay.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

[SUB] Minutes Circulated to Councillors with this Agenda Not Requiring a Council Decision

FOR THE CONSIDERATION OF COUNCIL:

UNDER SEPARATE COVER:

Minutes of the Public Transport Working Group Committee Meeting held Friday 28 January 2005.

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ORDERS OF THE DAY

[NOM] Abandoned Shopping Trolleys

NOTICE OF MOTION:

Councillor J F Murray moves:

That the Tweed Shire Council forwards notices to all shopping centres on the Tweed seeking input on how best to address the abandoned shopping trolley menace throughout the Shire. The maximum response period for submissions will be (6) months from when notices are sent out at which time the Council will debate various options to remedy the situation.

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CONFIDENTIAL MATTERS

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT IN COMMITTEE

- 1 [PE] Draft Tweed Local Environmental Plan 2000, Amendment No 30 - 1533 Kyogle Road, Uki - Engagement of Consultants

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
-

- 2 [PE] Draft Tweed Local Environmental Plan 2000, Amendment No 61 - Lot 21, Section 15, DP 28390, Marie Street, Tweed Heads South

REASON FOR CONFIDENTIALITY:

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 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret
-

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

Nil.

REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

**3 [EO] EC2004-129 Pump Station Construction and Pump Installation at
Bray Park Water Treatment Plant**

REASON FOR CONFIDENTIALITY:

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 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret
-

**4 [EO] EC2004-163 Construction of Concrete Footpaths, Cycleways and
Pedestrian Accesses Contract**

REASON FOR CONFIDENTIALITY:

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 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret
-

5 [EO] EC2004-189 Manufacture, Supply and Delivery of 500mm Diameter Pressure Pipe

REASON FOR CONFIDENTIALITY:

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6 [EO] EC2004-141 Horizontal Directionally Drilled Services Crossing of Cudgera Creek, Hastings Point - Construction Contract

REASON FOR CONFIDENTIALITY:

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REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY IN COMMITTEE

7 [EC] Appointment of an Interim Caretaker - Banora Point Multi-Purpose Centre

REASON FOR CONFIDENTIALITY:

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