



Tweed Shire Council

Council Meeting Agenda

12 August 2005

Dear Minute Book

NOTICE IS GIVEN that a Meeting of Council will be held at the Council Chamber, Murwillumbah Civic and Cultural Centre on Wednesday 17 August 2005, commencing at **5.00pm**.

Submitted,

A handwritten signature in black ink, appearing to read 'J Griffin'.

Dr J Griffin
General Manager

AGENDA

1. Prayer
2. Aboriginal Statement
3. Confirmation of Minutes of the Council Meeting held 3 August 2005
4. Apologies
5. Disclosure of Interest
6. Items to be Moved from Ordinary to Confidential - Confidential to Ordinary
7. Schedule of Outstanding Resolutions
8. Administrators' Minute
7. Recommendations of the:
 - a. Operations Committee Meeting held 3 August 2005
 - b. Planning Committee Meeting held 3 August 2005
8. Reports through General Manager
 - a. Reports from Director Planning & Development
 - b. Reports from Director Governance & Corporate Services
 - c. Reports from Director Engineering & Operations
 - d. Reports from Director Environment & Community Services
9. Items of Information and Interest
10. Orders of the Day
11. Question Time
12. Confidential Matters - (exclude Press and Public)

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ITEMS FOR CONSIDERATION OF COUNCIL:

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The Meeting commenced at 3.00pm.

ABORIGINAL STATEMENT

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

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

CONFIRMATION OF MINUTES

Minutes of the Ordinary and Confidential Council Meetings held 3 August 2005

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Minutes of the Ordinary Council Meeting held 3 August 2005 (DW 1244464).
 2. Minutes of the Confidential Council Meeting held 3 August 2005 (DW 1244242).
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SCHEDULE OF OUTSTANDING RESOLUTIONS

Schedule of Outstanding Resolutions

FOR COUNCILLOR'S INFORMATION:

4 MAY 2005

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY

14 [EC] Banora Point Caravan Park

344 RESOLUTION:

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

RESOLVED that:-

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

Current Status: Inspection occurred, enforcement being pursued.

1 JUNE 2005

REPORTS FROM THE DIRECTOR ENGINEERING & OPERATIONS

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

417 COUNCIL DECISION:

**Administrator Boyd
Administrator Turnbull**

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

Current Status: Meeting held 29 June 2005, further report to be presented to Council.

6 JULY 2005

ORDERS OF THE DAY

1 [NOM] Tourist Accommodation/Multi Dwelling Housing

473 COUNCIL DECISION:

**Administrator Boyd
Administrator Turnbull**

RESOLVED that:-

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

Current Status: Report being prepared.

20 JULY 2005

ORDERS OF THE DAY

1 [NOM] Tweed Valley Flood Modelling Project/Zoning of Flood Liable Land

1 COUNCIL DECISION:

**Administrator Boyd
Administrator Payne**

RESOLVED that:

1. In view of the impending completion of the Tweed Valley Flood modelling project which will identify the maximum probable flood levels throughout the Tweed Floodplain, the information it contains be placed on public exhibition and;
-

2. In recognition of this latest information on extreme flood events that Council staff bring forward a report which would indicate what impact there would be if Council was to prohibit the zoning of any land proposed to be used for urban or other permanent habitable purposes such as caravan parks on any land below the level of a maximum probable flood.

Current Status: Report being prepared.

3 AUGUST 2005

QUESTION TIME

[QT] Woodlands and Darlington Drives, Banora Point

Administrator Boyd

Asked :

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

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

Current Status: Report to be prepared

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RECOMMENDATIONS OF THE OPERATIONS COMMITTEE

Recommendations of the Operations Committee Meeting held 3 August 2005 for Council Adoption

SUMMARY:

The recommendations from the Operations Committee Meeting held 3 August 2005 are reproduced in the body of this report for formal adoption by Council.

RECOMMENDATION:

That Council adopts the recommendations of the Operations Committee Meeting held on 3 August 2005 as reproduced in the body of this report, with the exception of Recommendation O81, that is to be referred back to the Traffic Committee for recommendation to Council.

REPORT:

REPORTS FROM DIRECTOR GOVERNANCE & CORPORATE SERVICES

1 [GC] 2005 Union Picnic Day

O50 COMMITTEE DECISION:

Administrator Turnbull

Administrator Boyd

RECOMMENDED that:

1. Council endorses the Union Picnic Day to be Friday, 11 November 2005.
2. Council offices remain open and staffed where practical with "non-union" staff members on that day.

FOR VOTE - Unanimous

2 [GC] Tweed & Coolangatta Tourism Inc (TACTIC) Monthly Performance Reports - February to May 2005

O51 COMMITTEE DECISION:

Administrator Boyd

Administrator Turnbull

RECOMMENDED that this report be received and noted.

FOR VOTE - Unanimous

3 [GC] Tweed Economic Development Corporation (TEDC) Quarterly Performance Reports - April to June 2005

O52 COMMITTEE DECISION:

Administrator Boyd

Administrator Turnbull

RECOMMENDED that:-

1. This report be received and noted.
2. Mr Tom Senti, CEO, Tweed Economic Development Corporation (TEDC) and John Giles of John Giles Consulting be invited to provide a briefing to

the Administrators on the Gold Coast Transport Aviation Hub Project, at a suitable time.

3. The General Manager of the Gold Coast Airport be invited to provide a briefing to the Administrators on the Airport expansion.

FOR VOTE - Unanimous

REPORTS FROM DIRECTOR ENGINEERING & OPERATIONS

4 [EO] Road Grants 2005/2006

O53 COMMITTEE DECISION:
Administrator Boyd
Administrator Turnbull

RECOMMENDED that Council:-

1. Accepts the Grants under the usual terms and conditions.
2. Votes the expenditure.

FOR VOTE - Unanimous

5 [EO] Coastline Cycleway

O54 COMMITTEE DECISION:
Administrator Boyd
Administrator Turnbull

RECOMMENDED that Council:

1. Accepts the DIPNR Grant of \$96,486 for the shared cycleway project from River Terrace, Brett Street, Solander Street, Keith Compton Drive foreshore to Bay Street, Tweed Heads.
2. Allocates \$97,000 from the Section 94 Plan - Shirewide Cycleways towards the construction of (1) above.
3. Votes the expenditure in (1) and (2) above.

FOR VOTE - Unanimous

6 [EO] Black Spot Program - Clothiers Creek Road

O55 COMMITTEE DECISION:

**Administrator Boyd
Administrator Turnbull**

RECOMMENDED that Council:-

1. Accepts the Grant under the terms and conditions of the "*Arrangements with Councils for Road Management*".
2. Votes the expenditure.

FOR VOTE - Unanimous

7 [EO] Shallow Bay Drive Extension to Eastlakes Drive, Tweed Heads South

O56 COMMITTEE DECISION:

**Administrator Boyd
Administrator Turnbull**

RECOMMENDED that Council:-

1. Accepts the Roads & Traffic Authority grant of \$120,000 towards the Shallow Bay Drive Extension to Eastlakes Drive, Tweed Heads South.
2. Allocates \$193,060 from Section 94 Contributions Plan No. 4 to fund the remainder of the project in (1) above.
3. Votes the expenditure of the funds in (1) and (2) above for the construction of the Shallow Bay Drive Extension to Eastlakes Drive, Tweed Heads South.

FOR VOTE - Unanimous

8 [EO] Southern Boat Harbour Commercial Operators Wharf - Additional Berths

O57 COMMITTEE DECISION:

**Administrator Boyd
Administrator Turnbull**

RECOMMENDED that:-

1. Two additional pontoons be attached to the existing 18 berth marina, increasing capacity to 22 berths.
2. Council calls for public expressions of interest to allocate berths and enter into license agreements with berth holders.

FOR VOTE - Unanimous

9 [EO] Section 138 Application - Chinderah Bay Marina

O58 COMMITTEE DECISION:
Administrator Boyd
Administrator Turnbull

RECOMMENDED that Council:-

1. Formally exhibits the letter and plans from the Department of Planning, Infrastructure and Natural Resources for further community input.
2. Requests the Department of Planning, Infrastructure and Natural Resources to provide a copy of the Flood Study.

FOR VOTE - Unanimous

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

10 [EC] Non-Complying Structures - Site 125 Hacienda Caravan Park, Chinderah

O59 COMMITTEE DECISION:
Administrator Boyd
Administrator Turnbull

RECOMMENDED that, subject to:

1. A compliance plate being fitted.
2. The removal of any cladding, which partially encloses the carport.
3. Replacement / repair of the draw bar so that it is in working order.
4. Removal of the garden shed which does not achieve separation distances.
5. Removal of the extended eave overhang outside the kitchen, which was extended.

within ninety (90) days of this resolution;

Council provides to the owner at Site 125 Hacienda Caravan Park and the owner of the Hacienda Caravan Park advice that the structures on Site 125 Hacienda Caravan Park are permitted to remain as a condition of the approval of the caravan park in accordance with Clause 110(3) of the Local Government Act (Caravan Parks, camping grounds and moveable Dwellings) Regulation 1995.

FOR VOTE - Unanimous

11 [EC] Petition for Hydrotherapy Pool, Tweed Heads

O60 COMMITTEE DECISION:
Administrator Turnbull
Administrator Boyd

RECOMMENDED that Council notes the request and further considers such in its next seven (7) year project planning.

FOR VOTE - Unanimous

12 [EC] Senior Citizens Week 2005

O61 COMMITTEE DECISION:
Administrator Boyd
Administrator Turnbull

RECOMMENDED that Council:-

1. Notes the report.
2. Continues to provide in kind support to the Seniors Week events in the Tweed.

FOR VOTE - Unanimous

13 [EC] Tweed Seniors Expo 2005

O62 COMMITTEE DECISION:

**Administrator Boyd
Administrator Turnbull**

RECOMMENDED that Council:-

1. Notes the report.
2. Owing to the high population of people over 65 in Tweed Shire, and the need for information on aged services to reach the appropriate sector, that Council continues to provide in kind support to Tweed Shire Senior Citizens Week Committee to provide an annual Seniors Expo.

FOR VOTE - Unanimous

MINUTES OF SUBCOMMITTEES / WORKING GROUPS

1 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 6 May 2005

O63 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that the Minutes of the Aboriginal Advisory Committee Meeting be endorsed with the exception of those items which were considered individually hereunder.

FOR VOTE - Unanimous

[SUB-AAC] 1. Use of Aboriginal Names

O64 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that this item be noted as it is has been further dealt with by the Committee.

FOR VOTE - Unanimous

[SUB-AAC] 2. Street Name Signs

O65 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that the resolution:

"That the Committee recommends that Council requests the Developers to include the meaning of the street names in English on the street signs."

be referred to the Director Engineering and Operations.

FOR VOTE - Unanimous

[SUB-AAC] BA1. Council Development on Crown Land

O66 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that the resolution:

"That as a matter of protocol that TSC be requested to advise the local Aboriginal Land Council and the Aboriginal Advisory Committee of any projects being considered by Council on Crown Land and that full and adequate consultation be undertaken with the Aboriginal people before any decision is finalised."

be referred to Council's Executive Management Team to review and report to Council.

FOR VOTE - Unanimous

[SUB-AAC] BA2. Leticia Spit Road

O67 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that the resolution:

"That Tweed Shire Council be requested to organise a summit meeting of all interested parties in relation to the problems associated with Leticia Spit Road and

land owned by the Aboriginal people and Sand Bypassing project and that the parties be invited to include the Local Aboriginal Land Council, NSW Police, the Company operating the Sand Bypass, representatives of the fishing fraternity, representatives of the Fingal Progress Association, representatives of the Aboriginal Advisory Committee, Ambulance Service, Volunteer Rescue Association, Gold Coast 4WD Club and appropriate Council Officers and Councillors together with representatives from Fingal Surfboard Riders Association and invitations to be extended to all residents adjacent to Leticia Spit Road North of and including Leticia Primary School."

be referred to the General Manager.

FOR VOTE - Unanimous

[SUB-AAC] BA4. Upgrade of Border Caravan Park

O68 COMMITTEE DECISION:
Administrator Boyd
Administrator Payne

RECOMMENDED that the resolution:

"That Council be requested to seek the support and involvement of the Southern Cross University in the development of an appropriate plan that encompasses the endorsed Aboriginal Cultural Project in the former Border Caravan Park Site."

be referred to Council's Executive Management Team.

FOR VOTE - Unanimous

[SUB-AAC] Inclusion of Traditional Clan Names

O69 COMMITTEE DECISION:
Administrator Boyd
Administrator Payne

RECOMMENDED that the Committee's recommendation:

"That Council amends all place name signs that use Aboriginal words to include the traditional clans of the Tweed."

be referred to the General Manager to organise a discussion with representatives of the Aboriginal Advisory Committee and report to Council on the logistical and financial implications.

FOR VOTE - Unanimous

[SUB-AAC] Entry Points to Tweed Shire

O70 COMMITTEE DECISION:
Administrator Boyd
Administrator Payne

RECOMMENDED that the resolution:

"That Council amends all signage that identifies the entry points to the Tweed Shire to include the Aboriginal welcoming of the Bunjalung dialects."

be referred to the General Manager to investigate the impacts and report back to Council.

FOR VOTE - Unanimous

2 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 10 June 2005

O71 COMMITTEE DECISION:
Administrator Boyd
Administrator Payne

RECOMMENDED that the Minutes of the Aboriginal Advisory Committee Meeting be endorsed with the exception of those items which were considered individually hereunder.

FOR VOTE - Unanimous

[SUB-AAC] BA1. List of Aboriginal Names

O72 COMMITTEE DECISION:
Administrator Boyd
Administrator Payne

RECOMMENDED that the resolution:

"That the names "Burrugah" (which means Ocean) or "Gabay" (which means Honey Bee) be referred to Council's Planning & Development Division for use for future street names in the Bogangar area."

be referred to Council's Director Planning and Development to use for future street names in the Bogangar area.

FOR VOTE - Unanimous

3 [SUB-TDA] Minutes of the Tweed Shire Council Disability Access Committee Meeting held Thursday 16 June 2005

O73 COMMITTEE DECISION:
Administrator Boyd
Administrator Turnbull

RECOMMENDED that the Minutes of the Tweed Shire Council Disability Access Committee be endorsed with the exception of those items which were considered individually hereunder.

FOR VOTE - Unanimous

[SUB-TDA] BA9. Mobility Map

O74 COMMITTEE DECISION:
Administrator Boyd
Administrator Turnbull

RECOMMENDED that Council endorses the roll over of the remaining funds in the Disability Access Committee budget to the 2005/2006 budget to cover costs of upgrading the mobility map.

FOR VOTE - Unanimous

4 [SUB-PTW] Minutes of the Public Transport Working Group Meeting held Friday 24 June 2005

O75 COMMITTEE DECISION:
Administrator Turnbull
Administrator Boyd

RECOMMENDED that the Minutes of the Public Transport Working Group Meeting be endorsed with the exception of those items which were considered individually hereunder.

FOR VOTE - Unanimous

[SUB-PTW] BA1. Policy Document Review

(b) Mobility Management Project

O76 COMMITTEE DECISION:

Administrator Turnbull

Administrator Boyd

RECOMMENDED that Council subscribes the allocated \$3,000 to Going Places website enhancement.

FOR VOTE - Unanimous

[SUB-PTW] BA4. Bus Stop Requests

(b) Scenic Drive

O77 COMMITTEE DECISION:

Administrator Turnbull

Administrator Boyd

RECOMMENDED that Council considers adding a Scenic Drive footpath to the Works Program, as a less expensive and needed solution to a dangerous situation than providing a bus lay-by.

FOR VOTE - Unanimous

5 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 4 July 2005

O78 COMMITTEE DECISION:

Administrator Boyd

Administrator Payne

RECOMMENDED that the Minutes of the Local Traffic Committee Meeting be endorsed with the exception of those items which were considered individually hereunder.

FOR VOTE - Unanimous

[SUB-LTC] SOR9. Barrett Street, Tweed Heads West

**R0440 Pt1; DW1156097; Traffic - Safety; Local Area Traffic Management;
DW1166740; DW1221095**

O79 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that:-

1. Council undertakes a traffic analysis of the intersection at Kennedy Drive and Barrett Street to determine if traffic signals are a suitable solution and if suitable:-
2. A Federal and State "Black Spot" funding application be made to the Roads & Traffic Authority.
3. The previously resolved items be deferred until the traffic analysis is completed. The previously resolved item was:-
 - "1. *A trial closure of the right hand turn into Barrett Street from Kennedy Drive be advertised prior to implementation.*
 2. *The trial period be for 6 months."*

FOR VOTE - Unanimous

[SUB-LTC] 1. Buchanan Street, Murwillumbah

R0850 Pt1; DW1210324; Traffic- Parking Zones; LN1678

O80 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that the applicant be advised that:-

1. The request to install 'No Parking' signage on the approaches to driveways in Buchanan Street is not supported.
2. It is the owner's responsibility to provide a driveway in a location and to a standard that is functional for its intended use.
3. The owners can apply to have the driveway widened at their own cost to facilitate the types of vehicles entering the premises.

FOR VOTE - Unanimous

[SUB-LTC] 4. Stuart Street, Tweed Heads (Twin Towns Services Development)

DW1220935; R5270 Pt1; PF3668/5 Pt4; Bus Zones; LN: 40043; Transport - Bus Services - Stops; DW1233726

**O81 COMMITTEE DECISION:
Administrator Boyd
Administrator Payne**

RECOMMENDED that:-

1. The matter be referred to the Tweed Heads CBD Project Management Team to determine the suitability of the proposed bus zone in Stuart Street adjacent to Twin Towns Resort in relation to the overall Tweed Heads Masterplan and the potential need for a similar facility at the Ultima Development.
2. Subject to endorsement from the Tweed Heads CBD Project Management Team in (1) the Committee supports the Stuart Street bus zone.

FOR VOTE - Unanimous

NOTE: This item is to be referred back to the Traffic Committee for recommendation to Council.

[SUB-LTC] 5. Stuart Street, Tweed Heads (Tweed Heads Public School)

DW1221242; R5270 Pt1; Traffic - School Zones; Traffic - Parking Zones

**O82 COMMITTEE DECISION:
Administrator Boyd
Administrator Payne**

RECOMMENDED that the current 2 hour on-street parking at Stuart Street (west side) between Stuart Lane and the existing "No Stopping" signs towards the School, be designated as "5 Minute Parking on School Days between 2:30pm and 3:30pm". Outside these hours from Monday to Friday 9:00am - 2:30pm and 3:30pm - 5:30pm and Saturdays 9:00am to 12 noon it will remain as 2 hour parking.

FOR VOTE - Unanimous

[SUB-LTC] 6. Doyle Drive, Banora Point

DW1221165; R1673 Pt1; School Zones; Parking Zones

O83 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that the following signage be installed on the school site at St James Primary and St Joseph' High School as follows:-

1. "Bus Zone 8:00am - 9:00am and 2:30pm - 4:00pm"
2. "No Parking 8:00am - 9:30am and 2:30pm - 4:00pm in the parent drop off and pick up area".
3. "No Stopping signage be installed opposite the bus bay outside the 'teacher parking' area".

FOR VOTE - Unanimous

[SUB-LTC] 9. Kennedy Drive, Tweed Heads West (Endless Summer Shopping Centre)

DW1228622; DA03/1731 Pt2; LN: 24140 Pt4; R2830 Pt7; Traffic - Local Area Traffic Management

O84 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that the installation of an advisory sign for motorists heading west along Kennedy Drive be approved stating that "there is a further entrance at the western end of the site" at the owner's expense.

FOR VOTE - Unanimous

[SUB-LTC] 10. Riverside Drive, Tumbulgum

R4740 Pt2; DW1215706; Traffic - Parking Zones

O85 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that the Tumbulgum Progress Association be requested to consider banning trailer parking on the eastside of Riverside Drive between Fawcett Street and Government Road.

FOR VOTE - Unanimous

[SUB-LTC] 11. 1 Banner Street, Murwillumbah

DW1221643; LN: 14357; Traffic - Parking Zones; R0380 Pt1

O86 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that:-

1. "No Parking" signage adjacent to the entrance to the Masonic Centre at 1 Banner Street, Murwillumbah be erected.
2. A Disabled parking zone be made available adjacent to the 'No Parking' zone in (1) above at the Masonic Centre at 1 Banner Street, Murwillumbah.

FOR VOTE - Unanimous

RECOMMENDATIONS OF THE PLANNING COMMITTEE

Recommendations of the Planning Committee Meeting held on 3 August 2005 for Council Adoption

SUMMARY:

The recommendations from the Planning Committee Meeting held 3 August 2005 are reproduced in the body of this report for formal adoption by Council.

RECOMMENDATION:

That Council adopts the recommendations of the Planning Committee Meeting held on 3 August 2005 as reproduced in the body of this report.

REPORT:

3 [PD] Tweed Local Environmental Plan 2000, Amendment No 3 - Seaside City - Environmental Study and Draft Local Environmental Plan

The following persons addressed the meeting of the Planning/Operations Committee on this matter.

Messrs Frank Wilson and Peter McGregor
Mr Brian Ring

P 36 COMMITTEE DECISION:

**Administrator Turnbull
Administrator Payne**

RECOMMENDED that Council notes the report and environmental statement and indicates that the Planning Committee will consider a proposed rezoning application from 2(f) Tourist Zone to the 2(e) Residential Tourist Zone at Seaside City only after the following has been provided.

1. A master plan/proposed development control plan setting out
 - a) the proposed urban form addressing traffic plans, car parking and road layout;
 - b) proposed densities of development;
 - c) site coverage;
 - d) building heights;
 - e) landscape plans for private and public domain including appropriate environmental buffers and access points to the beach;
 - f) best practice for stormwater retention and recycling within the subdivision; and
 - g) best practice for promoting a sustainable built form within the subdivision.
2. Council looks forward to a resolution of this long outstanding issue.

FOR VOTE - Unanimous

1 [PD] Development Application DA04/1528 for a 76 lot Residential Subdivision (DIPNR DA 243-10-2004) at Lot 242 DP 1082837 No. 159 Overall Drive, Lot 243 DP 1082837 Overall Drive and Lot 183 DP 1034824, Overall Drive Pottsville

P 37 COMMITTEE DECISION:

**Administrator Turnbull
Administrator Payne**

RECOMMENDED that a copy of this report and draft conditions be sent to the Director General of the Department of Infrastructure, Planning and Natural Resources for consideration as part of their report to the Minister, with the inclusion of the following :

1. An additional condition addressing a landscaping plan for the subdivision.
2. A change to Condition 79(b) that *"no dog be kept on the premises"* without the construction of a dog proof compound which must be approved by Council and the relevant fee paid by the applicant.
3. An addition to Condition 81 to read:
 - c) *The applicant is encouraged to use names for streets that are either of local aboriginal origin or relate to the Tweed's special biodiversity.*

FOR VOTE - Unanimous

2 [PD] Draft Tweed Local Environmental Plan 2000, Amendment No 65 - Restoration of Lost Dwelling Entitlements - Lot 1, DP 129075, Tyalgum Road, Eungella

P 38 COMMITTEE DECISION:

**Administrator Boyd
Administrator Payne**

RECOMMENDED that Council:

1. Amends draft Tweed LEP 2000, Amendment No 65 as shown in this report. Those items to be omitted are marked by ~~strike through~~ whilst those items to be inserted are marked by *italics*.
2. Forwards the amended draft Tweed Local Environmental Plan 2000, Amendment No. 65, to the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) and requests the Minister to make the

Plan in accordance with section 70 of the Environmental Planning and Assessment Act 1979.

3. Prepares, pursuant to section 54 of the Environmental Planning and Assessment Act 1979, an amendment to Tweed Local Environmental Plan 2000 to generally re-instate dwelling entitlements lost as a result of a subdivision of land that enabled a public benefit to be recognised by the Community.
4. Requests the Director-General of the Department of Infrastructure, Planning and Natural Resources to waive the requirement for an Environmental Study given the minor nature of the proposed Local Environmental Plan Amendment.

FOR VOTE - Unanimous

4 [PD] Amendment to Section 94 Contributions Plan No 19 - Kings Beach/Kings Forest

P 39 COMMITTEE DECISION:

**Administrator Turnbull
Administrator Payne**

RECOMMENDED that Council:-

1. Endorses draft Amendment of Section 94 Contribution Plan No 19 – Kings Beach/Kings Forest be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.
2. The Section 94 Contributions Plan No 19 - Kings Beach/Kings Forest be renamed Section 94 Contributions Plan No 19 - Casuarina Beach/Kings Forest.

FOR VOTE - Unanimous

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING & DEVELOPMENT

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

The following are the matters Council is required to take into consideration under Section 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 **[PD] Class 1 Appeal: Deemed Refusal - Development Application DA04/1591 for a 65 lot subdivision at Lot 4 DP 1074167, No. 137 Old Lismore Road, Murwillumbah**

ORIGIN:

Development Assessment

FILE NO: DA04/1591 Pt1

SUMMARY OF REPORT:

In relation to DA04/1591 Council has been served notice of a Class 1 Deemed Refusal Appeal filed in the NSW Land & Environment Court. The date of the first telephone call over is Monday 19 September 2005.

The application seeks consent for a 65 lot residential subdivision in two stages, with lot sizes ranging from 624m² to 1898m². Several areas of concern have been identified in the application, including lot configuration, location of parkland, road design & impact on a natural wetland. A copy of the letter detailing these issues is provided as an addendum report. The issues with this subdivision are such that refusal of the application is warranted unless the proposal is amended.

This report seeks from Council a resolution on the direction to be undertaken in relation to the Class 1 Appeal.

RECOMMENDATION:

That:

1. **Council engages its Solicitors to defend the Appeal.**
2. **A report be prepared on the current proposal for Council's determination.**

REPORT:

Applicant: Mr RB Turner and Mrs LJ Turner
Owner: Mr RB Turner and Mrs LJ Turner
Location: Lot 4 DP 1074167, No. 137 Old Lismore Road Murwillumbah
Zoning: 2(c) Urban Expansion & 6(b) Recreation
Cost: \$1,700,000

BACKGROUND:

Council received an application for a staged 65 lot residential subdivision on 8 December 2004. During the course of assessment several areas of issue have arisen. The issues have been raised with the applicant but remain unresolved and as such the application cannot be properly determined. A letter was forwarded to the applicant detailing all the issues with the proposal. A copy of this letter is provided as an attachment.

The Council resolution of 6 July 2005 appears to encompass the proposed development by virtue of the land's topography, natural features and land-use zoning. However, this matter remains unresolved and consequently it is not clear why the applicant is seeking a determination through the Class 1 Appeal.

OPTIONS:

1. Direct Council's solicitors to defend the appeal.
2. Request the Applicant to enter into further negotiations with Council so as to resolve on an acceptable subdivision design.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has already lodged an appeal in the NSW Land & Environment Court.

There are significant legal costs with Court arbitration.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Having regard to the issues raised in the assessment of the application to date it is recommended that Council defend the Class 1 Appeal.

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Copy of letter sent to the applicant dated 19 July 2005 (DW 1236329)
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2 [PD] Class 1 Appeal - Deemed Refusal of DA04/1058 for a 45 Lot Subdivision Comprising of 36 Urban Residential Lots and 9 Rural Residential Lots at Lot 1 DP302949, Lot 1 DP725165, Lot 5 DP574986, Lot 2 DP30714, No. 142 McAllisters Road, Bilambil Heights

ORIGIN:

Development Assessment

FILE NO: DA04/1058

SUMMARY OF REPORT:

In relation to DA04/1058 Council has been served notice of a Class 1 Deemed Refusal Appeal filed in the Land & Environment Court on 29 July 2005. The first telephone call over is scheduled to take place on 12 September 2005.

The application sought consent for a 45 lot subdivision comprising 36 urban residential lots ranging in size from 561m² to 2939m², nine (9) rural residential lots ranging in size from 4155m² to 5.37ha, and a residue lot (proposed lot 6 with 5.37ha).

The application was recommended for approval subject to conditions of consent to ensure the development was undertaken having regard to the site constraints and to comply with Council's current subdivision guidelines. At the Council meeting on 6 July 2005 the application was deferred pending the outcome from the Design Review Committee.

A resolution from Council is now sought in relation to the Appeal.

RECOMMENDATION:

That Council determines its direction in relation to this Appeal.

REPORT:

BACKGROUND:

DA04/1058 was originally reported to the Planning Committee Meeting held on 15 June 2005. The report detailed the proposed 45 lot subdivision and recommended conditional consent be granted to the application.

The Committee recommended:-

RECOMMENDED that this item be deferred, without recommendation, for consideration at the Council Meeting of 6 July 2005.

At the Council Meeting of the 6 July 2005 the Committee recommended

RECOMMENDED that this application be deferred pending an outcome from the Design Review committee.

This recommendation followed an Administrators minute from the 6 July 2005 which reads as follows:

"RESOLVED that:-

1. A Design Review Committee be established to develop a list of options and recommendations to ensure best practice and best design is a feature of all subdivisions in the Tweed Shire Council area which will form the basis for a policy/Development Control Plan and or Local Environmental Plan amendment which will ensure high quality subdivision on rural land zoned for urban expansion. The Design Review Committee to consist of -

- i. Administrator Turnbull; Director of Planning and Development or his nominee, a representative of the local community
- ii. Consultants with expertise in urban design
- iii. Representative from the Government Architect's Office
- iv. Representative from Department of Infrastructure Planning and Natural Resources

whose task it will be

- (a) to achieve the objectives set out above,
- (b) to achieve any other objectives referred to it from the Council from time to time which are directed to achieving design excellence in the TSC and retention of the natural beauty of the local environment and high quality urban design and development generally

- (c) *Provide Council with a report by 31 October with options and recommendations to ensure high quality, sustainable urban design on sites zoned for urban expansion and other reports from time to time as requested by Council.*
2. *Any applications for major residential rezoning and any development applications for subdivisions on hilly rural/residential or natural landscape land which is zoned for urban expansion be deferred until the Council has received and considered the report referred to in 1(c) above.*

OPTIONS:

1. Direct our solicitors to defend the appeal with the assistance of external professionals.
2. Council could agree to have the merits of this application established by a town planning expert appointed by the Court to minimise legal costs.
3. Reconsider the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has already lodged an appeal in the NSW Land & Environment Court. There are significant costs from the legal and professional costs associated with arbitration in the Land and Environment Court. There is also the potential for Council to be levied with the applicant's Court costs if the merits of Council's case are not well founded.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The Court decision will be based on the compliance or otherwise of the proposed development with Council's current subdivision policies. Separate legal advice is being obtained for Council's consideration in relation to this Appeal.

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. Original report to the Planning Committee meeting of 15 June 2005 recommending approval. (DW 1214284)
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CONFIDENTIAL MATTERS

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

1 [EO] EC2005-132 Manufacture, Supply, Delivery and Unloading of DN 150mm & 300mm Diameter Pressure Pipe

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 [EO] Selection of Consultant for the Detailed Design of Murwillumbah Pool and Car Park

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 - (iii) reveal a trade secret
-

REPORTS FROM THE DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

- 3 [EC] 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

