



Tweed Shire Council

# BUSINESS PAPER AGENDA

Date

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 4 May 2005, commencing at **4.00pm**.

Submitted,

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

**Dr J Griffin**  
General Manager

## AGENDA

1. Prayer
2. Confirmation of Minutes
3. Apologies
4. Disclosure of Interest
5. Items to be Moved from Ordinary to Confidential - Confidential to Ordinary
6. Schedule of Outstanding Resolutions
7. Mayoral Minute
8. Items Deferred
9. Reports through General Manager
  - Reports from Director Planning & Environment
  - Reports from Executive Manager-Office of the General Manager
  - Reports from Director Engineering and Operations
  - Reports from Director Environment & Community
10. Reports from Sub-Committees/Working Groups
11. Delegates Reports
12. Outstanding Inspections
13. Items of Information and Interest
14. Orders of the Day
15. Workshops
16. Question Time
17. Confidential Matters - (exclude Press and Public)

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## ITEMS FOR CONSIDERATION OF COUNCIL:

ITEM	PRECIS	PAGE
	<b>CONFIRMATION OF MINUTES</b>	<b>7</b>
	Minutes of the Ordinary Council Meeting held on Wednesday, 20 April 2005	7
	Minutes of the Extraordinary Council Meeting held Wednesday 27 April 2005	7
	<b>SCHEDULE OF OUTSTANDING RESOLUTIONS</b>	<b>9</b>
	Schedule of Outstanding Resolutions	9
	<b>MAYORAL MINUTE</b>	<b>13</b>
	Mayoral Minute	13
	<b>REPORTS THROUGH THE ACTING GENERAL MANAGER</b>	<b>15</b>
	<b>REPORTS FROM DIRECTOR PLANNING &amp; ENVIRONMENT</b>	<b>15</b>
1	[PE] Development Application DA04/1535 for a Nine (9) Storey Multi Dwelling Residential Development Comprising of 15 Units at Lot 5 DP 9173, Lot 1 DP 865944, No. 24 & 28 Thomson Street, Tweed Heads	17
2	[PE] DA05/0296 for a General Store (Post Office, Sale of Newspapers & Sale of Fruit & Vegetables) in Addition to the Existing Approval of the Site for a Craft Gallery & Coffee Bar at Lot 16 Sec 1 DP 1223, No. 140 Riverside Drive, Tumbulgum	57
3	[PE] Section 96 Application DA04/0723.01 for an Amendment to Development Consent DA04/0723 for a Pylon Sign at Lot 2 DP 1045941, Minjungbal Drive, Tweed Heads South	71
4	[PE] Development Application DA04/1396 for a 3 Storey Dwelling and Swimming Pool with Fence and Fence Height Variation at Lot 98 DP 31539, No. 44 McPhail Avenue, Kingscliff	77
5	[PE] Amendment to Tweed Local Environmental Plan 2000	99
	<b>REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER</b>	<b>103</b>
6	[OGM] Quarterly Budget Review - 31 March 2005	103
7	[OGM] Transaction Banking Services	111
8	[OGM] Corporate Quarterly Report - January to March 2005	113

<b>REPORTS FROM ACTING DIRECTOR ENGINEERING AND OPERATIONS</b>		<b>129</b>
9	[EO] Sexton Hill Upgrade and Pacific Highway Masterplan	129
10	[EO] Acquisition of Road for Public Purposes	133
11	[EO] Skate Park - Tweed Heads	141
<b>REPORTS FROM DIRECTOR ENVIRONMENT &amp; COMMUNITY</b>		<b>145</b>
12	[EC] Membership of Council's Community Cultural Development Advisory Committee	145
13	[EC] Lease from Corporate Property Developments Pty Ltd - Tweed Shire Community Options Project	149
14	[EC] Banora Point Caravan Park	151
<b>REPORTS FROM SUB-COMMITTEES/WORKING GROUPS</b>		<b>155</b>
1	[SUB-CC] Minutes of the Communications Committee Meeting held Tuesday 15 March 2005	155
2	[SUB-TRC] Minutes of the Tweed River Committee Meeting held Wednesday 13 April 2005	159
3	[SUB-TCC] Minutes of the Tweed Coastal Committee Meeting held Wednesday 13 April 2005	169
4	[SUB-SAC] Minutes of the Sports Advisory Committee Meeting held Tuesday 19 April 2005	177
5	[SUB-TDC] Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 21 April 2005	181
6	[SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 21 April 2005	187
7	[SUB] Sub-Committee Minutes Circulated to Councillors Not Requiring a Council Decision	199
<b>ORDERS OF THE DAY</b>		<b>201</b>
1	[NOM] Public Opposition to the Sale of Council Land in Pandanus Parade, Cabarita	201

<b>CONFIDENTIAL MATTERS</b>	<b>203</b>
<b>CONFIRMATION OF MINUTES</b>	<b>203</b>
<b>Minutes of the Confidential Council Meeting held Wednesday, 20 April 2005</b>	<b>203</b>
<b>Minutes of the Confidential Extraordinary Meeting held 27 April 2005</b>	<b>203</b>
<b>[ID] [EC] Lease or Licence or Agreement for Community Health to Use Areas Within the Banora Point Multi-Purpose Centre</b>	<b>205</b>
<b>REPORTS THROUGH ACTING GENERAL MANAGER IN COMMITTEE</b>	<b>207</b>
<b>REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER IN COMMITTEE</b>	<b>207</b>
<b>1 [OGM] Lease or Licence or Agreement for Community Health to Use Areas Within the Banora Point Multi-Purpose Centre</b>	<b>207</b>

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**CONFIRMATION OF MINUTES**

**Minutes of the Ordinary Council Meeting held on Wednesday, 20 April 2005**

**UNDER SEPARATE COVER:**

Minutes of the Ordinary Council Meeting held on Wednesday, 20 April 2005  
(DW1192057)

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**Minutes of the Extraordinary Council Meeting held Wednesday 27 April 2005**

**UNDER SEPARATE COVER:**

Minutes of the Extraordinary Council Meeting held Wednesday 27 April 2005  
(DW1194446)

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## SCHEDULE OF OUTSTANDING RESOLUTIONS

### Schedule of Outstanding Resolutions

#### FOR COUNCILLOR'S INFORMATION:

17 March 2004

#### REPORT FROM DIRECTOR ENGINEERING SERVICES

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

202

Councillor H James

Councillor B M Luff

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

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

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4 August 2004

#### 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.

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**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.

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**16 February 2005**

**ORDERS OF THE DAY**

**1 [NOM] Abandoned Shopping Trolleys**

Cr J F Murray

Cr M R Boyd

**RESOLVED** 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.

**Current Status:** Notice being prepared.

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**6 April 2005**

**REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS**

**26 [EO] Seaside City Road Network**

**Cr H James  
Cr D M Holdom**

**RESOLVED** that Council defers consideration of the Seaside City road network until it has received the Consultant's Local Environmental Study / Draft Local Environmental Plan Report.

**Current Status:** Awaiting report.

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**QUESTION TIME**

**Animal Management**

**Cr G J Lawrie**

Asked if Council was intending to relocate the Off Leash area, south of Cudgen Creek.

The Director Environment and Community Services advised that this question would be taken on notice with a response to be provided in the near future.

**Current Status:** Matter being researched.

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**20 APRIL 2005**

**REPORTS FROM DIRECTOR PLANNING AND ENVIRONMENT**

**4 [PE] Development Application DA04/1300 for an Integrated Housing Development Incorporating 6 Dwellings Being Part Two (2) and Part Three (3) Storey at Lot 15 DP 21680, Lot 14 Sec 6 DP 17606, No. 17 and 19 Moss Street, Kingscliff**

**Cr J F Murray  
Cr G J Lawrie**

**RESOLVED** that this item be deferred for a further report to be submitted to Council.

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## **MAYORAL MINUTE**

### **Mayoral Minute**

Councillors,

#### **1. Casino/Murwillumbah Rail Line**

21 April – discussions with Jenny Gardner & Andrew Stoner

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#### **2. Anzac Day**

25 April – attended Anzac Day ceremonies at Uki, Murwillumbah, Pottsville and Tweed Heads

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#### **3. Banora Point Multi Purpose Centre**

26 April – Public Workshop at Banora Centre

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#### **4. TEDC**

28 April – TEDC Board Meeting at Murwillumbah

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#### **5. Centaur School**

28 April – Anzac Day Service

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#### **6. RANSW Annual Congress and AGM**

29/30 April – RANSW Annual Congress and AGM Sydney

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#### **7. Local Government GM's Meeting**

2 May – GM's meeting at Lismore

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## 8. Lindisfarne Anglican School

3 May – Lindisfarne Yr 11 Students Business Lunch at Banora

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## 9. 2005-2008 Management Plan

3 May – Management Plan public meeting at Tweed

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### INVITATIONS ACCEPTED:

- 5 May – Local Government Working Party Meeting Sydney
- 6 May – NOROC Highway Summit at Ballina
- 6/7 May – Local Government Cultural Awards Sydney
- 10 May – Management Plan Public meeting at Murwillumbah
- 12 May – NRACC Meeting
- 12 May – Presentation Black Douglas Ladies Singles – Sth Tweed
- 13 May – Mt St Patricks Debutante Ball Murwillumbah
- 14 May – Thanksgiving Day Service Murwillumbah
- 14 May – Cudgen SLSC Presentation Night
- 16 May – Twin Towns Volunteer Awards
- 17 May – Guide Dogs NSW/ACT Information Day Sth Tweed

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

- NSW Department of State & Regional Development Northern Regions CED Forum **25/26 May 2005** Armidale
  - Local Govt Learning Solutions Councillor Weekend **8/9 July 2005** Coffs Harbour
  - Waste Avoidance & Resource Recovery Conference **28-31 March 2006** Coffs Harbour
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## REPORTS THROUGH THE ACTING 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 DA04/1535 for a Nine (9) Storey Multi Dwelling Residential Development Comprising of 15 Units at Lot 5 DP 9173, Lot 1 DP 865944, No. 24 & 28 Thomson Street, Tweed Heads**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/1535 Pt1**

**SUMMARY OF REPORT:**

Council is in receipt of an application for a multi unit development at 24– 26 Thomson Street, Tweed Heads. The development comprises the demolition of the 2 existing dwellings and the construction of a 9-storey residential flat building comprising of 15 units with two basement car parking levels providing on site parking for 25 vehicles.

The land is zoned 2(b) Medium density residential under Tweed Local Environmental Plan 2000 and is identified under Development Control Plan No.18 Tweed Heads as a high-density residential precinct.

The application incorporates minor encroachments into the building envelope, presents overshadowing to adjoining properties to the east and south, restricts views and raises privacy concerns for some adjoining residences. However, despite these issues the application is considered to warrant a recommendation for approval on the architectural merits of the building and having regard to the high-density land-use controls in this area.

The application attracted 5 public submissions. This application follows an approval for a 12-storey development that is architecturally similar on the neighbouring property at 20-22 Thomson Street.

**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 of \$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.

**REPORT:**

**Applicant:** Mr K Driesen  
**Owner:** Mr KA Driesen & Mrs EM Chapman  
**Location:** Lot 5 DP 9173 No. 24 Thomson Street & Lot 1 DP 865944 No. 24 Thomson Street, Tweed Heads  
**Zoning:** 2(b) Medium Density Residential  
**Cost:** \$3,000,000.00

**BACKGROUND:**

Council is in receipt of a development application that seeks to construct a multi-dwelling housing development comprising 15 units over 7 residential floors and 2 basement levels of car park. Level 1 to 3 comprise 3 units per level, Level 4 & 5 comprise 2 units per level and Level 6 & 7 contain 1 unit per level. The height of the development is FL 38.8m AHD at the upper roof extremity. From podium level the building is 22.8metres in height. Access to the basement level car park is off Thompson Street. The car park accommodates 25 spaces, including 6 visitor, and 1 carwash bay.

The site is described as Lot 1 DP 865944 and Lot 5 in DP9173 Nos. 24 & 26 Thomson Street, Tweed Heads. The combined site area is 1096m<sup>2</sup>. The development site has a northern boundary of 59.m an eastern boundary of 29m a southern boundary of 74m and a western frontage to Thomson Street of 35m. Existing site improvements comprise 2 high-set single dwelling houses, which are proposed to be demolished. Vegetation on the site is currently primarily limited to domestic gardens and lawn, however a mature frangipani, a large jacaranda and an African Tulip are located on the site. The proximity of the building in relation to these features may result in the frangipani and jacaranda remaining to form part of the final landscaping of the site. There is no other significant vegetation on-site.

The neighbouring property at No.20-22 Thomson Street has an approval (DA04/0583) for an architecturally similar 12-storey 27 unit development. The proposed development compliments the approved development.

**The Proposal**

The following provides a general overview of the components of the proposed development:

Lower Basement

Car parking for 15 vehicles, meter room and elevator / stair entry to the units.

Upper Basement

Car parking for 10 vehicles, 1 carwash bay, refuse area, bicycle parking and elevator / stair entry to the units.

### Levels 1, 2 & 3

Each level supports 3 residential units comprising 1 x 1 bedroom and 2 x 2 bedroom units, with a combined floor area of 262.5m<sup>2</sup> per level. Level 1 includes 202m<sup>2</sup> of podium and deck area whereas level 2 and 3 include 45.1m<sup>2</sup> of deck area each.

### Levels 4 & 5

Each level supports 2 x 2 bedroom units having a combined floor area of 189.14m<sup>2</sup> per level. Level 4 provides 83m<sup>2</sup> of balcony area and Level 5 provides 45.1m<sup>2</sup>.

### Levels 6 & 7

Each level consists of a single penthouse styled 2 x bedroom unit having a floor area of 117.7m<sup>2</sup> each. Level 6 provides 86.6m<sup>2</sup> of balcony area and Level 7 provides 19m<sup>2</sup> and an additional 117.7m<sup>2</sup> in the form of roof top terrace, which is accessible to Unit No.15 only.

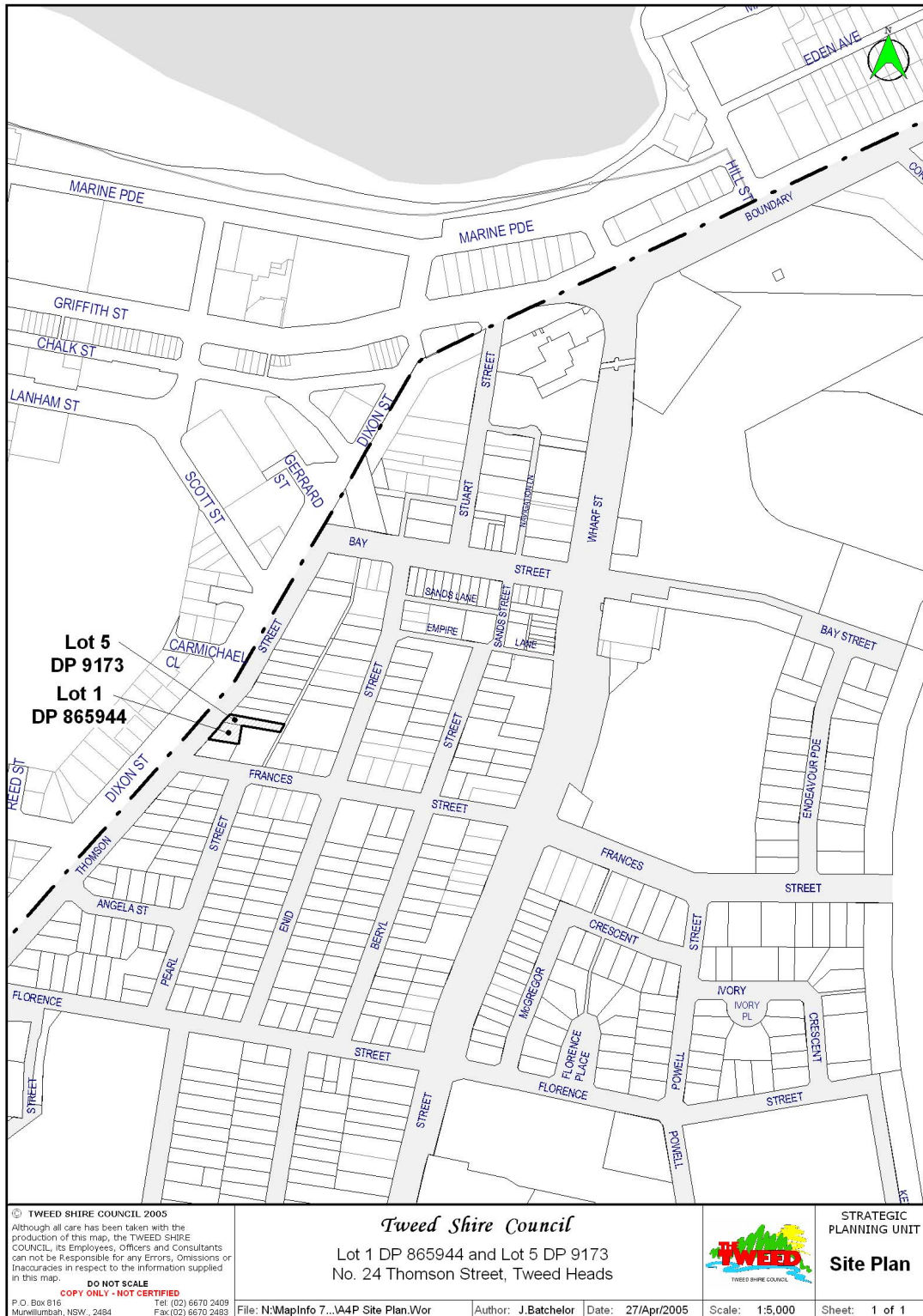
Access between all levels within the building is available by both a fire isolated staircase and elevator. Resident access is available through the site to the adjacent public Jack Chard Park.

The proposed development is an attractive and contemporary design with strong articulation and effective utilisation of a combination of materials and the inclusion of cantilevered balconies, shaded verandah space, variation in cladding materials and an attractive small projected roof form at the uppermost level.

The building has responded to the slope of the land by incorporating units and an open space terrace and garden area at the exposed eastern side of the site. These areas will provide a pleasant outlook over the adjacent park and will assist in breaking-up the physical scale of the development when viewed from the park.

Building setbacks are designed to be compliant, increasing from a nominal 3 metres (from the outer walls of the building) at first floor level to approximately 7 metres at level 6 & 7. Various sized balconies have been provided to the units. The balconies on levels 1 to 3, those to the southern units on Levels 4 & 5 and the roof terrace for Unit No.15 are capable of providing a reasonable level of functionality, with the remainder of balcony areas providing for a more passive and design element role. The basement, particularly on the southern and eastern elevations, will be exposed to height of approximately 5.5metres. Visual treatment measures are limited and due to the proximity to the site boundary additional measures would be largely unobtainable.

**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 site is located within the 2(b) Medium Density Residential zone pursuant to the provisions of TLEP 2000.

The primary objective of the 2(b) zone is:

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

One of the secondary objectives of the zone is to discourage the under-utilisation of land for residential purposes, particularly close to the Tweed Heads sub – regional centre.

The proposal to construct a 9-storey residential flat building on two parcels of land (with a total area of 1096m<sup>2</sup>) is considered to be high-density development as permitted by the zone.

The site is within walking distance to the Tweed Heads sub regional centre, and the development is of a scale that utilises the land appropriately for residential purposes. Whilst the design of the development is not considered to detract from the built environment it does provide for some external impacts upon neighbouring properties. The impacts are addressed further in this report.

It is considered that the development is consistent with Clause 8, the primary objective of the zone, and the applicable secondary objective relating to residential development.

Clause 15 – Essential Services

Clause 15 of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. The subject land has the benefit of services and is considered able to support the proposed development. Appropriate conditions of consent are recommended for the collection and treatment of stormwater prior to disposal to Councils stormwater network.

### Clause 16 – Height Of Buildings

Clause 16 of the TLEP requires development to be carried out in accordance with the height limitation plan. The subject land is identified as having a 50m AHD height limitation with an objective to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land.

It is considered that the proposed building complies with the 50m AHD height limit by providing a building, which contains 9 levels (including a two tier basement), reaching a maximum height of approximately 38.8m AHD. The proposal complies with the numerical height requirements. The building provides for good urban design, has visually appealing articulation and is of an interesting contemporary 'coastal' form.

### Clause 17 - Social Impact Assessment

Clause 17 of the TLEP requires a social impact assessment (SIA) to be submitted for residential development comprising 50 units or more. As the development is for only 15 units it is considered that the proposal in terms of these guidelines will not have a significant social or economic impact upon the area, and an SIA is not required.

### Clause 33 – Obstacles to Aircrafts

Clause 33 of the TLEP requires Council to consider any current obstacle limitation surface plan or procedures for aircraft navigation services. Council has received advice on the application from Ian Rigby Consulting who act for the Gold Coast Airport Limited (GCAL) for the purposes of assessing matters of relevance under the legislative requirements administered by the Department of Transport and Regional Services. The advice includes a condition of any approval, as stated below:

*"Any use of a crane or other equipment that may exceed a top RL of 49.5 metres AHD would intrude into the prescribed airspace of Gold Coast Airport, and therefore represent a "controlled activity" under the Airports (Protection of Airspace) Regulations. The proponent must obtain the approval of the Secretary, Department of Transport and Regional Services. An application for the Secretary's approval must be given to the airport lessee company (ie Gold Coast Airport Limited) at least 28 days before the intended commencement of the controlled activity."*

The recommended condition has been incorporated into the conditions of consent.

Clause 35 – Acid Sulfate Soils

Clause 35 of the TLEP requires that an acid sulfate soils management plan be assessed where the proposed development is likely to interfere with acid sulfate soils. The subject site is identified as possessing Class 5 Acid Sulphate Soil levels. Council's Environment & Community Services Division, has reviewed the application, in light of the proposed depth of excavations, and advised that there is no need for an Acid Sulphate Soils Management Plan. However, appropriate conditions of consent have been recommended to cater for any unforeseen event, i.e the exposure of A.S.S during excavation and construction works.

North Coast Regional Environmental Plan 1988

In accordance with Clause 32B of the REP the proposal is considered to be generally consistent with the relevant provisions of the NSW Government Coastal Policy 1997 and the Coastline Management Manual.

The proposal does not incorporate any physical restriction of access to a foreshore area or detrimental impacts upon the coastal character and amenity of the site. Nor does the development overshadow any area of beach or waterfront open space. Accordingly the proposal fully complies with this clause of the REP.

Clause 43 of NCREP 1988 provides guidelines for Council when considering residential development. These controls discuss density, the environmental constraints of the land and road widths.

The proposed density is considered to be a reasonable response to the proposed land use character of the area and will not result in the creation of any adverse physical impacts upon the locality. This is demonstrated through general consistency with the numerical requirements of Council's Local Environmental Plan and Council's relevant Development Control Plans. Further, the existing road widths are adequate for the function of the proposal with a detailed sedimentation and erosion control plan to be enforced in relation to the construction.

Clause 51 of NCREP 1988 relates to buildings greater than 14m in height and requires such buildings to obtain concurrence from the Director General of the Department of Infrastructure, Planning and Natural Resources. Council has been given authority to assume the Directors Concurrence.

Clause 51 states that in deciding whether to grant concurrence to an application the Director (or Council where assumed concurrence exists) 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.

It is considered the proposal will not have an adverse social, economic or visual impact regionally, and in local terms, the proposal will not have an adverse impact upon the amenity of the neighbourhood in general. Localised impacts on specific neighbouring properties does occur, primarily in relation to overshadowing, privacy, loss of view and increased traffic.

Notwithstanding the localised impacts, which are discussed further in this report, the proposed development is considered to be fundamentally consistent with the provisions of the North Coast Regional Environmental Plan 1988.

It is recommended that Council assume the concurrence of the Director General of the Department of Infrastructure, Planning and Natural Resources in this instance.

#### State Environmental Planning Policies

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.

The applicant has submitted a Design Verification and statement addressing the 10 design principles under the SEPP, prepared by Glen Peterson Architect. The following comments are provided on these design principles.

#### **Context and Built Form**

The development is considered to be consistent with the desired future character of the area as stated under DCP 18, Tweed Strategy 2000+, and the Tweed Heads Town Centre Master Plan. The context can be defined as the key natural and built features of an area. Responding to context involves the identification of desirable elements of the current as well as the future character, as defined in present planning and design codes. The local precinct, in this instance, is characterised by numerous medium and high density developments, with a mix of remaining undeveloped parcels or older buildings. Market pressure and availability of lightweight and alternative forms of construction are forcing and shaping the re-development of many existing properties. The proposal is contemporary in design and generally complies with the planning codes applying to this site, in particular DCP 18, which provides, as far as possible, the basis for achieving the desired future character of the Tweed Heads area. In this regard the proposed development is considered to be in context with the future desired character / and to varying degrees the existing character of the area.



### **Scale and Density**

It is recognised that the proposed building is inconsistent with the scale and form of some of the neighbouring developments, in particular No.19 Frances Street, which is a lower density 'townhouse' styled development to the east and a smaller 4-storey residential flat building to the south at No.30 Thomson Street. Notwithstanding that some impacts will occur as a result of the development, the proposed building having regard to the size of the land and the 50m AHD height limit is suitable in terms of bulk and scale. The development is well within the height limit and incorporates a design emphasis on articulation to assist in minimising actual scale. Density is maximised at 15 units, which is achieved through the provision of smaller units that vary in their number of bedrooms (density). General compliance with the building height plane results in a design that is consistent with the high density planning controls applicable to the site and a building that is appropriate in terms of scale and density.

### **Resource Energy and Water**

The applicant has submitted an ABSA (formerly NatHERS) certificates demonstrating that the development achieves a minimum 3.5 Star energy rating in accordance with DCP 39 - Energy Smart Homes. Due to the limited number of units and a relatively narrow building width all of the units will have a good level of solar access and breezes.

### **Landscaping**

Submitted landscaping plans indicate that the development will be suitably landscaped at ground level and on the podium with native trees and shrubs, to satisfy the provisions of DCP 18. Additionally, the irregular 'L' shape of the land has resulted in the provision of a common garden recreational area, which also provides a link to the adjacent public park. Appropriate conditions of consent have been imposed to ensure that landscaping will be completed prior to occupation of the development.

### **Amenity**

Neighbouring residences have raised concern that the proposal will adversely overshadow adjoining properties to the south and east and will result in privacy and amenity impacts, particularly on 30 Thomson Street, which supports a 4-storey flat building and 19 Francis Street, which contains 7 single and double storey units in a partially attached format.

This issue was raised with the applicant who supplied revised shadow diagrams depicting the proposed shadow over an aerial photograph to demonstrate the extent of the shadow. The following table summarises the approximate expected shadow on the properties to the south at the designated times of the year:

Table 1: Approximate Shadow

Address	22 December (Summer) Approx % of property in shade			22 June (Winter) Approx % of property in shade		
	9am	12 Noon	3pm	9am	12 Noon	3pm
30 Thomson Street	Nil	Nil	Nil	70%	45%	15%
19 Francis Street	Nil	Nil	20%	Nil%	15%	75%
Jack Chard Park	Nil	Nil	Nil	Nil	Nil	Nil

From the above table it is evident that overshadowing from the proposed building will not impact on the Jack Chard Park. No.30 Thomson Street will be significantly impacted during the winter days between an estimated 8.00am to 1.30pm during which period not all units will have unobstructed solar access. A similar situation will occur to a slightly lesser extent on No.19 Frances Street, where solar access will be impeded from 12.30pm, with the worst affected times during 1pm to 3pm. The sun will set at 4.50pm on the shortest day based on Tweed Heads Longitude of 153.54043 (32mins 26.0929secs and Latitude -28.1877 (11mins 15.90925secs). Whilst this may appear very significant it must be noted that due to suns low elevation in the sky during winter months that the angle of cast shadow will be longer. For example at a building height of 22.8metres the shadow cast at 4pm is 126.9 metres and thirty minutes later at 4.30pm it will increase to 291.9, and prior to the sun set it will reach 1181.3m at 4.50pm. In these terms it should be recognised that reducing the building height by one or two storey would have little impact on shadow cast. To reduce the level of shadow significantly the building would also need to be significantly reduced. To reach a level of overshadowing that may be considered acceptable would almost certainly result in a development that under utilises the site and one that would not achieve the planning objectives for this and surrounding sites. On a cumulative basis this would undermine the purpose of the Tweed LEP, adopted DCP's and the Tweed Heads Master Plan. It should be noted that reduced levels of solar access is a generally accepted consequence of high density development.

The development at 19 Francis Street is also impacted upon, however, it should be acknowledged that this property also overshadows itself given the design of the complex. The complex involves seven units. Four units are two storeys in height on the northern side of the property with a common driveway separating the two-storey component from three single storey dwellings on the southern side of the property. In addition to the two storey component overshadowing the single storey component of this property the northern property boundary itself is partially a retaining wall measuring some 3-4m in height at the western end. This retaining wall creates a shadow over the subject property and currently impacts upon the amenity of the existing tenants.

In determining whether the subject application unreasonably impacts upon the amenity of the adjoining properties Council must consider the intended character of the area. The area is a nominated high density area with a 50m AHD height limitation. The amenity of one or two properties, that are themselves multi-dwelling housing development, must be weighed up against the future development objectives and potential of the subject property and impact on future development in the locality.

Having regard to the applicable planning controls and the desired future urban form of the area it is considered the proposal does not unreasonably detract from the amenity of this identified high-density residential area. In terms of privacy the architect has provided that the proposed building offers a number of design elements to ensure appropriate amenity for residents and neighbours through orientation and siting. A key element of the design is the orientation focus of the private open space functional areas, which have been oriented toward the Thomson Street frontage where possible.

The amenity of privacy sensitive rooms has been addressed by the provision of appropriate sized window openings away from active frontages and the inclusion of narrow balconies to some bedrooms to assist in breaking sightlines from levels below and provide physical separations from adjacent properties.

These measures are considered acceptable to satisfy the amenity objectives of SEPP 65.

### **Safety and Security**

The Proposed development includes the following measures for safety and security.

- Units fronting Thomson Street provide adequate means for casual surveillance of the street from units;
- Orientation and siting of units on the eastern elevation allow for casual surveillance of the private recreation areas and of the adjacent public park.

- Access into the building will be by way of an intercom device to screen visitors;
- Security Access into the car park;
- An easily recognisable and visible direct pedestrian access; and
- Open space areas will be fenced and appropriately lit.

### **Social Dimension**

Socially the development represents good utilisation of land zoned for medium density development within walking distance to shops, beaches, clubs and other recreational opportunities in the Tweed - Coolangatta Central Business District's.

### **Aesthetics**

The proposal does not detract from the streetscape or the aesthetics of the locality and makes a positive contribution to the area. The building incorporates roof forms with vertical and horizontal articulation on the four elevations. Appropriate conditions of consent are recommended to ensure the proposed building materials are non – reflective.

The overall aesthetics of the building provide a desirable modern development, which is in keeping with the future character of the surrounding area. It is considered that the proposed building will be prominent, however the height and scale of the building will be offset by good urban design and articulation that has been incorporated. The proposed building will complement the approved building located on the northern property at No.20-22 Thomson Street.

### State Environmental Planning Policy No. 71 – Coastal Protection

Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically, the proposed development is considered compatible with the intent for the development of the locality.

### Tweed Heads Town Centre Master Plan

The Master Plan establishes a vision for the Town Centre of Tweed Heads which describes the desired future character for Tweed Heads and provides urban guidelines for each precinct together with indicative plans and sections to illustrate the principal planning objectives and design intent. Public exhibition of the Draft commenced on 11 May 2004 and continued for a month before refinement and referral of the document to the Minister of The Department of Infrastructure Planning and Natural Resources who has endorsed the Plan. It is important to note that the proposed application is consistent with the objectives and numerical requirements as detailed in the Plan.

The subject site is located in the Ridgeline High Density Residential precinct and is restricted to a 12-storey height limit in accordance with the Plan. The Plan specifically nominates Thomson Street as the ridgeline with development encouraged to accentuate and respond to the topography of the land. The architecture is encouraged to be distinctive contemporary forms reflective of the sub tropical environment and coastal location.

The proposed design of the subject development clearly complies with all aspects of the Master Plan. The building has a distinctive base, middle and top with all elevations having strong vertical and horizontal articulation. The small roof design is considered a feature of the building that adds to the overall aesthetics of the design.

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

The proposed development is not inconsistent with any draft EPI.

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

The principle development control plans governing the proposed development is DCP 2 & 18. The level of compliance with the design parameter provisions of the DCP's is identified below.

Development Control Plan No.2 – Access and Car Parking

Off street car parking needs to be supplied in accordance with DCP2. The following table assesses the proposed development in relation to the requirements of the DCP.

Table 2 - Car parking analysis

<b>Standard</b>	<b>Requirement</b>	<b>Complies/variation</b>
On site car parking	1.5 per dwelling = 22.5 Council has also consistently applied a merit-based assessment for the provision of 25% of this parking to be allocated to visitor parking.	The lower basement contains fifteen (15) spaces, eight (8) of which are in a stacked arrangement. The upper basement contains ten (10), of which six (6) are specifically nominated for visitor parking. One (1) car wash down bay is provided on the upper basement level. This complies with the requirements of DCP No. 2.

The proposed development is considered to comply with the provisions of the DCP. Resident and visitor car parks are satisfactory. A condition of consent is recommended to ensure the on-going provision and maintenance of visitor parks and carwash bay.

Development Control Plan No.18 – Tweed heads

**DCP No. 18 – Tweed Heads**

**Part 6 – High Density Residential Precinct**

The land is identified under the DCP as a high-density residential precinct and is within walking distance to the Tweed Heads/ Coolangatta CBD, clubs, sporting facilities and other recreational opportunities. The proposal being the consolidation of two properties and the construction of a 9-storey residential flat building containing 15 units is consistent with the precinct objectives and the vision for Tweed Heads.

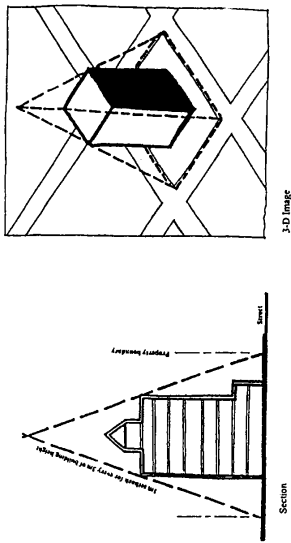
**Part 9 - Building Height Plane**

The proposal seeks a variation to the building height plane as stipulated under Part 9.3 of the Policy, which requires the development to be setback 1 metre from the boundary for every 3 metres of building height. Reference to the building plane plan illustrates the minimal impact into the building plane (BP). It is considered that full compliance with the BP would not yield any tangible or perceptible benefit.

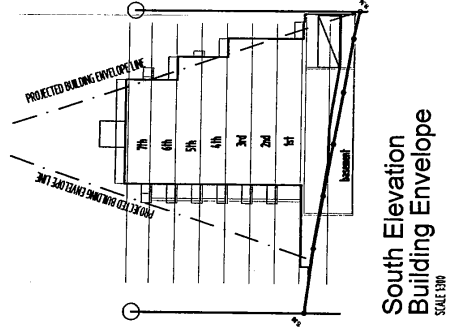
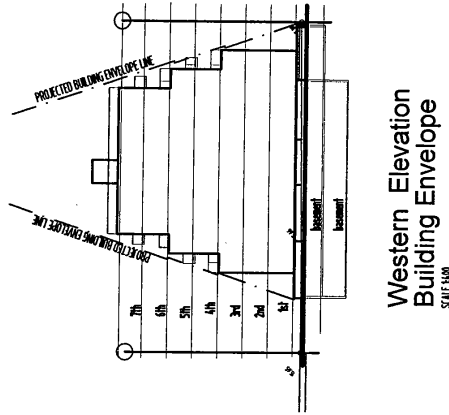
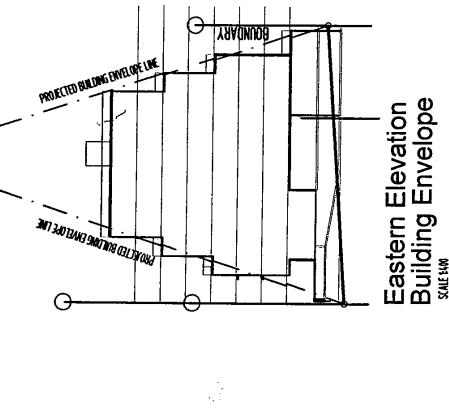
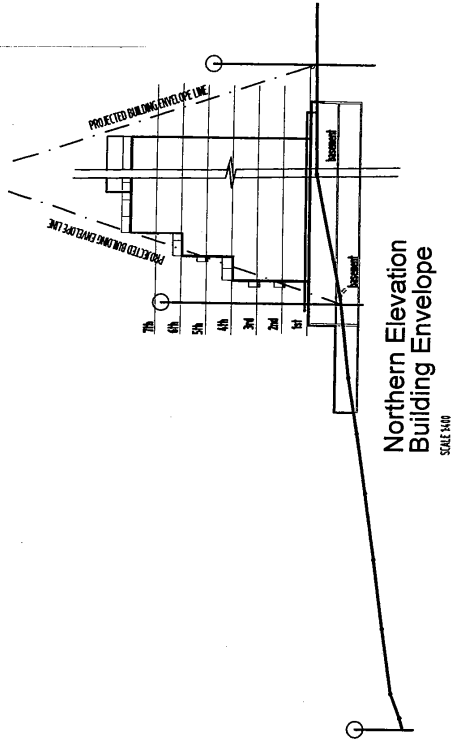
It is submitted that the encroachments are minor and result from achieving a 'reasonable' density of development without impacting on the overall building design. In addition, the shadow difference between the proposal and a fully complying building would not result in any significant change to shadow impact.

Having regard to the difficulties presented by the slope and shape of the site and the maintenance of required setbacks, which start at 3m to all boundaries at ground level and progressively increase with height, it is considered that the proposal represents a sensible and well-balanced approach to the building envelope control. Furthermore, the development complies with the intent of the planning controls with the bulk of the building falling within the building height plane. Considering the minor nature of the encroachments a variation to the Building Height Plane is supported in this particular instance.

Tweed Shire Council Planning Services  
**DEVELOPMENT CONTROL PLAN NO 18 - TWEED HEADS**



3.3 - Building Envelope for Residential Zones



DATE	BY	REVISION	DESCRIPTION

APPROVED FOR THE COUNCIL BY: [Signature] DATE: [Date]

**R.H. FRANKLAND & ASSOCIATES**  
 ARCHITECTS AND DESIGNERS  
 10/11-13/15 THOMSON STREET  
 TWEED HEADS NSW 2486  
 PHONE: 0755211111 FAX: 0755211112  
 EMAIL: r.h.frankland@frankland.com.au

NO	DESCRIPTION	DATE

**PROPOSED HOME UNIT DEVELOPMENT**  
 ADDRESS: 10/11-13 THOMSON STREET  
 TWEED HEADS - N.S.W.  
 OFF: KETHILDRESEN  
 ARCH: Building envelope

DATE	S.A. 03
BY	C
SCALE	04.104

## **Part 11 – Residential Design**

The following matters apply to residential buildings comprising 4 storeys or more:

### **Building Mass**

The proposal utilises various building elements to break up the bulk and mass of the building. All elevations are well articulated providing visual variation and the proposed colour scheme will further reduce visual massing.

### **Energy efficiency**

The applicant has submitted an ABSA Certificate demonstrating the proposed units achieve the required energy efficiency requirement.

### **Wind Mitigation and Overshadowing**

Due to the design of the building and the incorporation of adequate setbacks from all boundaries the development is not likely not generate adverse wind conditions, which would otherwise affect the public domain or neighbouring properties.

Overshadowing has been discussed previously in this report. It was noted that there will be shadow impacts primarily on two adjoining properties. In real terms the only method to mitigate overshadow is to not permit a residential flat building on the subject site however, this would be an unrealistic proposition in light of the planning controls adopted for this site. In this instance it must be accepted that the impact on the neighbouring properties is for the greater future benefit of the locality in general.

### **Roof Lines**

The roof of the building like the walls incorporates different elements to add visual interest to the design of the proposal.

### **Privacy**

The units on each floor have been orientated in such a way that balconies and living areas maximise the achievable level of privacy. In terms of neighbouring properties concern was raised in relation to the loss of privacy and views. Having regard to the scale of the development and its proximity to neighbouring developments it is highly likely that views and privacy will to varying degrees be impacted. Such impacts are inevitable with high density living and to a large extent unavoidable. It is generally accepted that amenity and privacy levels in such development areas is lower than that found in traditional housing forms. Having consideration to the planning controls governing development in this locality the proposed development is considered acceptable.



### **Security**

The development provides good surveillance opportunities of the street with living areas and balconies on all levels overlooking the street and park. Other security measures include security access to the basement car park and an intercom device at the entrance lobby.

### **Materials and Colours**

The proposal will incorporate rendered and painted surfaces. Appropriate conditions of consent have been recommended to ensure materials and colours are earth tone and non-reflective.

### **Access and Parking**

Car parking complies with the requirements of the policy with adequate car wash bays incorporated.

### **Open Space and Balconies**

DCP 18 stipulates the requirements for both ground level landscaping and private open space in the form of balconies. The application incorporates a structured recreational area including BBQ facilities and a passive garden area. The development satisfies this criteria and is considered appropriate having regard to useable open space areas.

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

The applicant has submitted an ABSA certificate for the proposed development that outlines compliance with the requirements DCP 39 as follows:

Table 3 - Energy performance ratings

<b>Standard</b>	<b>Requirement</b>	<b>Unit Nos.</b>	<b>Proposal</b>	<b>Complies</b>
Unit Energy rating	3.5 stars minimum	3,6,8,9,14,15	3.5	YES
		2,5,7,10,12,13	4	YES
		1,4,11	4.5	YES

Development Control Plan No. 47 – Cut & Fill

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

The proposed development involves excavation for the basement and will clearly extend beyond 1 metre, however this is considered consistent with recently approved developments. The applicant has substantiated the request with 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 and Council's Building Surveyor have all reviewed these plans, with no objections raised subject to the recommended conditions of consent.

In all other regards the applicant provides that appropriate measures will be in place to ensure that the proposal is consistent with the objectives of the plan. However, appropriate conditions of consent have been imposed to ensure adequate geotechnical reports are submitted and approved prior to the commencement of construction.

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

**NSW Coastal Policy**

The land is identified under the Coastal Policy. However, the site is significantly landward from the Coastal Erosion Zones, and is unlikely to be affected by the coastal processes, overshadowing of the foreshore reserves or restricting public access to the coast. Therefore, the proposed development is not considered to be in conflict with the policies and strategies contained in the coastal policy.

**Demolition**

The proposal requires the demolition of two existing dwellings. The applicant has submitted a demolition plan, which has been assessed as adequate, and appropriate conditions of consent have been recommended to control demolition activities.

**(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**

It is considered the proposed development will not have an adverse impact upon the natural environment as the site is currently developed for residential purposes. In terms of the built environment the proposed residential flat building will replace two dwellings, and as such the development will have an impact upon the built environment. The following matters have been considered:

### **Character of the area**

The area is made up of a mix of medium density development comprising mainly residential flat buildings some that have only recently been constructed and older dwelling houses. The area is currently undergoing a transition phase as these older dwellings come under market pressures to be demolished and the land redeveloped for higher density residential development as encouraged under the applicable planning controls. The proposal is considered not to be out of character with the area and is consistent with the future built form as per Tweed LEP 2000, DCP No. 18 – Tweed Heads, and the Tweed Heads Town Centre Master Plan.

### **Views**

DCP 18 acknowledges that views provide a sense of place and identity, and that key view corridors should be retained. The Senior Commissioner in the Land & Environment Court in *Tenacity Consulting Pty Ltd v Warringah Council* adopted the following four-stage test to assess the reasonableness of view sharing:

1. The first step is the assessment of views to be affected;
2. The second step is to consider from what part of the of the property are the views obtained (an expectation to retain side views and sitting views would be unreasonable);
3. The third step is to assess the extent of the impact (the extent of the impact should be assessed for the whole of the property not just for the view that is affected. This could be done by ranking the affect from negligible to devastating); and
4. The fourth step is to assess the reasonableness of the proposal that is causing the impact (it may be unreasonable if it comes about as a result of non compliance with planning standards).

The proposed development will affect the views from 30 Thomson Street to the north towards Coolangatta. This development obtains views from external balconies, bedrooms, living and dining areas when standing up. The impact on 30 Thomson Street is considered acceptable given that the property has broader panoramic views. The view to the north is only one aspect of their view and could therefore allow for a reasonable level of view sharing.

In assessing the reasonableness of the proposed application it has been determined that the building satisfies the intent for the character of the area, while complying with the height and satisfying Council that the application has had as far as is practical adequate regard for the amenity of adjoining property in terms of shadow, privacy and general amenity.

Therefore, it is concluded that the loss of view that will result from the construction of the proposed building is not unreasonable despite the impact it will have on adjoining properties.

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

The subject site is within close proximity to the commercial business districts of Tweed Heads and Coolangatta, which provide for a variety of shopping, dining, and recreational opportunities. The area is also serviced by medical facilities including the Tweed Heads Hospital and various professional consulting rooms in Boyd Street.

The subject site has been nominated as a designated high-density residential area to utilise the areas facilities as detailed above. Additionally the site has the benefit of a 50m AHD height limitation, which further encourages high-density development for the area. The existing public infrastructure is adequate to service the proposed residential flat building, as the area is not subject to any known hazard such as slip, flood or bushfire. The site of the proposed development is considered suitable for this type of development and encouraged through our strategic plan for the area.

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

The proposal was advertised and notified for a period of 14 days from 15 December 2004 to 5 January 2005. During this period Council received 5 objections and one objection in the form of a petition with 5 signatures on it.

The issues raised in public submission are addressed below:

Table 4 - Public submission issues

<b>OBJECTION</b>	<b>IMPACT ASSESSMENT</b>
<i>The precinct objectives for DCP 18 require new high-density developments to respect existing residential amenity.</i>	The new development will change the built form of this section of Thomson Street, however, through careful design the proposal has adequately considered the relevant statutory controls including the buildings impact on the existing residential amenity. These issues namely overshadowing, privacy and view loss have been addressed in this report. Following the necessary merit assessment this objection does not warrant further amendment or refusal of the application.
<i>Scale</i>	This issue has been addressed in the report.
<i>Overshadowing</i>	This issue has been addressed in the report.
<i>The basement structure protrudes from the ground by 8 metres and will impact on the</i>	The development plans illustrate that there is an existing retaining wall on the eastern elevation. It extends approximately 3 metres in height. The proposed basement wall is illustrated as being located behind the existing wall. The basement is 5.5 in height. This will

OBJECTION	IMPACT ASSESSMENT
<i>neighbouring property.</i>	result in an additional height of 2.5metres not 5.5metres. In any event the wall is high and does not add to the visual amenity of the neighbouring property. It is not possible to articulate this wall without impacting on the car park configuration and ultimately on the provision of car parks and units. As discussed in this report the development, albeit one with external impacts, represents the desired built form for this high density precinct.
<i>Basement ventilation impact</i>	A basement ventilation is located at the eastern podium area. Council's Environment and Health Services Unit has assessed the proposal and raises no health based issues or objection. In addition it is noted the development is for 15 units only. It is unlikely that vehicle usage and hence pollution is likely to be excessive from this scale of development.
<i>The height of the development is considered excessive.</i>	The proposed development comprises a 9-storey building totalling a maximum height of 38.8m AHD. This is consistent with the nominated height controls and the objectives for the area. All associated issues pertaining to bulk and scale have been adequately considered in the above report. This objection does not warrant further amendment or refusal of the application.
<i>This development will affect view corridors</i>	View loss has been addressed in the above report. Having regard to the way in which the Court deals with issues of view loss, this application is considered appropriate and warrants a recommendation for conditional consent. This objection does not warrant further amendment or refusal of the application.
<i>The townhouse complex at 19 Francis Street will receive less natural light and be overshadowed extensively.</i>	This issue has been addressed in the above report. This objection does not warrant further amendment or refusal of the application.
<i>Properties to the south will lose privacy.</i>	Some degree of privacy loss will be experienced for residents to both the north and south. However, some loss of privacy must be expected in any high-density area. The architect has taken this account as far as is practical. Subsequently, this objection does not warrant further amendment or refusal of the application.
<i>The development will result in a loss of sunlight to adjoining properties.</i>	The proposed development will overshadow adjoining properties to the south and east. This issue has been addressed in the above report. All other adjoining development should still experience a similar amount of sunlight to that currently enjoyed. This objection does not warrant further amendment or refusal of the application.
<i>The shadow cast will impact on amenity.</i>	This issue has been addressed in the above report. This objection does not warrant further amendment or refusal of the application.

OBJECTION	IMPACT ASSESSMENT
<i>The development will increase traffic congestion and make parking difficult.</i>	The proposed development proposed 15 units and 25 on-site car parking spaces. This level of on site car parking is consistent with the requirements of Council's Development Control Plan No. 2, which caters for both residents and visitors. The increase in traffic is not considered excessive and the existing road network has capacity for potential increase. This objection does not warrant further amendment or refusal of the application.
<i>The existing quiet residential street will change.</i>	Council's nominated plans (including the Tweed Heads Town Centre Master Plan) identify the site as a high-density residential area with the capacity to support a twelve-storey building. The area is currently undergoing a change to accommodate this desired future outcome and with this comes a change in character. This objection does not warrant further amendment or refusal of the application.
<i>Increased stormwater</i>	The proposed development is required to be engineered to accommodate stormwater generated on-site. An appropriate approval is required from Council in addition to this application and this will provide Council a further opportunity to ensure that the proposed system is appropriate.

**(e) Public interest**

Despite the objections received to this application the proposal is not considered to be in conflict with the general public interest in the locality. The proposed development adequately reflects the provisions of the controls and the intended development for the locality

**RECOMMENDED CONDITIONS OF APPROVAL**

**GENERAL**

1. The development shall be completed in accordance with the Statement of Environmental Effects (and all of its attachments) prepared by Darryl Anderson Consulting Pty Ltd dated November 2004 and the addendum of 24 January 2005 and 9 March 2005 and Plan Nos 03198 Sheets TP01 Rev D & TP02 Rev E dated 8 March 2005, TP03 Rev D dated 13 January 2005, TP04 Rev C & TP05 Rev C dated 21 December 2004, TP06 Rev C, TP07 Rev D, TP08 Rev A, SA04 Rev B & SA05 Rev B dated 14 January 2005 prepared by R,H Frankland & Associates, Landscape 'intent' Plan prepared by Deep Rainforest Co (Australia) dated October 2004, Erosion & Sediment Control Plan and Stormwater Management Plan prepared by Cozens Regan Williams Prove dated November 2004, except where varied by these conditions.

[GEN0010]

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

[GEN0030]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0120]
4. The erection of a building in accordance with a development consent must not be commenced until:
  - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (b1) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]
5. All externally mounted artificial lighting is to be shielded to the satisfaction of Council's Director of Environment & Community Services where necessary or required so as to prevent the spill of light creating a nuisance to adjoining residential premises.

[GENNS01]

6. The site shall not be dewatered. In the event that dewatering of the site is required all works impacted on or by the dewatering shall cease and the necessary statutory approvals obtained from each authority, documentary evidence of such is to be submitted to Council's Environment and Health Services Department prior to the commencement / re-commencement of work.  
[GENNS02]
7. The use of EXTERNAL ground anchors, sheet piling or any other like method that extends beyond the property boundary is not permitted or approved by this consent, except where the written permission to carryout such works and the details of works have been submitted and approved with the Construction Certificate. Any such works proposed in Council's road reserve shall require the submission and approval of a separate s.138 application, which is to be accompanied with all necessary engineering detail to the satisfaction of Council Director Engineering and Operations.
8. Appropriate signage is to be erected that nominates the use / allocation of car parking / visitor and wash down space(s).  
[GENNS03]
9. The building is to be painted in earth tones and not of a reflective material. The colour scheme shall be similar to that depicted on the colour photomontage submitted with the application.  
[GENNS04]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

10. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.  
[PCC0040]

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

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



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

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

- a. Tweed Road Contribution Plan: \$9,016  
S94 Plan No. 4 (Version 4.0)  
**Sector1\_4**

**Heavy Haulage Component**

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

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

where:

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

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes  
Dist. average haulage distance of product on Shire roads  
(trip one way)

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

Admin. Administration component - 5% - see Section 6.5

- b. Open Space (Structured): \$6,089  
S94 Plan No. 5
- c. Open Space (Casual): \$1,301  
S94 Plan No. 5

d.	Shirewide Library Facilities: S94 Plan No. 11	\$5,374
e.	Bus Shelters: S94 Plan No. 12	\$178
f.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$1,062
g.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$1,832
h.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$3,233.97
i.	Cycleways S94 Plan No. 22	\$1,255
j.	Regional Open Space (Structured) S94 Plan No. 26	\$9,182
k.	Regional Open Space (Casual) S94 Plan No. 26	\$1,718

[PCC0050/PSC0005]

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

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

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

Water: 9.25 ET @ \$4325 \$40,006  
 Sewer: 9.25 ET @ \$3490 \$32,283

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

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

[PCC0070/PSC0004]

13. The basement car parking is to be protected against the inflow of water from Thomson Street from storm events up to the ARI 100 year storm.

[PCC0110]

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

[PCC0190]

15. Permanent Stormwater Quality Treatment

- (a) Permanent stormwater quality treatment shall comply with "*Tweed Urban Stormwater Quality Management Plan*" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development" . New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of *Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality* is deemed to comply with the objectives in 5.5.3.
- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.
- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
- (d) Specific Requirements;

- (i) The proposed basement oil/grit separator shall have a minimum retained volume of 750L (0.75m<sup>3</sup>), in order to satisfy the "deemed to comply" sizing requirements of Council's Development Design Specification D7 - Stormwater Quality.
- (ii) Runoff from basement car wash bays shall not be directly discharged to public drainage systems. Car wash bays must be bunded to prevent contamination of basement stormwater, and collected runoff treated to remove oil and sediment pollutants prior to discharge to sewer as trade waste, requiring a Tweed Shire Council Trade Waste Application. Alternately, car wash bay runoff may be discharged to pervious filter areas and infiltration devices incorporated into site landscaping, provided a minimum 9 minute average residence time can be achieved.

[PCC0230]

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

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

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

[PCC0240]

17. An on site detention (OSD) system shall be installed in the permanent stormwater system for the site to limit post-development discharges to the public realm to pre-development levels. OSD devices, including discharge control pits, are to comply with standards in the Upper Parramatta River Catchment Trust on-site Detention Handbook, Third Edition Revision 2 June 2004, except that permissible site discharge and site storage requirements in the handbook do not apply to Tweed Shire. All these works and connection to Council's drainage system shall be constructed in accordance with design calculations, plans and specifications to be submitted with the construction certificate application and approved by the Director of Engineering Services. The construction certificate application shall also include a detailed justification of the nominated peak site discharge limit and storage tank capacity, including all relevant engineering calculations.

[PCC0260]

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

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

[PCC0320]

19. The access ramp is to have a 1 in 6 maximum grade to comply with the relevant provisions of AS2890.1 - Car Parking Facilities.

[PCCNS01]

20. Prior to the issue of a Construction Certificate, a Hydraulic Consultant's report shall be produced including flow and pressure testing results for the existing water service. Should hydraulic analysis of the internal system not meet minimum fire fighting requirements, pumps shall be installed to adequately service the upper levels of the development.

[PCCNS01]

21. The existing sewer manhole must be brought up to the finished surface level of the basement driveway, and fitted with a heavy duty (traffic loading) sealed manhole cover. The branch service to Lot 11 Section 3 SP4043 must not be comprised by the development.

[PCCNS01]

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

[PCCNS01]

23. A detailed plan of landscaping is to be submitted and approved by Council's Director, Planning and Environment prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[PCC0010]

**PRIOR TO COMMENCEMENT OF WORK**

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

[PCW0010]

25. 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]

26. **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]

27. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:
- i. The person must, at the person's own expense:
    - a. preserve and protect the building from damage; and
    - b. if necessary, underpin and support the building in an approved manner.

- ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.

[PCW0080]

28. 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]

29. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority.

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

[PCW0190]

30. 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]

31. Prior to commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.

[PCW0230]

32. 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]

33. Prior to the commencement of any demolition works all house drainage connections are to be suitably capped off by a licenced plumber and an inspection of the work obtained from Council.

[PCW0300]

### **DURING CONSTRUCTION**

34. 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]

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

[DUR0030]

36. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR0040]

37. The provision of 25 off street car parking spaces, 6 of which are to be designated specifically for Visitor Spaces in accordance with the approved plan and 1 car wash down bay.

[DUR0050]

38. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.

[DUR0060]

39. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:

- a. A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
- b. The chute shall be located in a position approved by the Principal Certifying Authority.
- c. A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0070]

40. 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]



41. A garbage storage area shall be provided in accordance with Council's **"Code for Storage and Disposal of Garbage and Other Solid Waste"**.  
[DUR0090]
42. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.  
[DUR0100]
43. 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]
44. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate.  
[DUR0150]
45. 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]
46. 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]
47. 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]
48. a. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.  
b. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.  
[DUR0210]
49. 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]

50. Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0240]

51. All fire service connections are to be compatible with those of the NSW Fire Brigade.

[DUR0250]

52. No filling is to be placed hydraulically within twenty metres (20m) of any boundary that abuts private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0560]

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

[DUR0620]

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

[DUR0850]

55. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.

[DUR0860]

56. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.  
[DUR0870]
57. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.  
[DUR0880]
58. The burning off of trees and associated vegetation felled by clearing operations is not permitted unless such burning is carried out in a specially constructed pit provided with an air curtain over the top. Separate approval is required prior to any burning.  
[DUR0890]
59. 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]
60. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.  
[DUR0910]
61. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.  
[DUR0920]
62. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director, Engineering & Operations.  
[DUR0930]
63. The burning of builders waste on site by open fire is prohibited.  
[DUR0940]

64. Any proposed cooling tower installation must also include details on the proposed means of back flow prevention to the water supply prior to installation. [DUR0970]
65. 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]
66. 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]
67. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR1040]
68. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises. [DUR1070]
69. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard. [DUR1110]
70. 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]
71. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and

- \* 50°C in all other classes of buildings.

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

[DUR1160]

- 72. 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, Engineering & Operations prior to the issue of an Occupation Certificate.

[DUR1210]

- 73. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services.

[DUR1230]

- 74. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up within one hour of occurrence.

[DURNS01]

- 75. Any use of a crane or other equipment that may exceed a top RL of 49.5 metres AHD would intrude into the prescribed airspace of Gold Coast Airport, and therefore represent a "controlled activity" under the Airports (Protection of Airspace) Regulations. The proponent must obtain the approval of the Secretary, Department of Transport and Regional Services. An application for the Secretary's approval must be given to the airport lessee company (ie Gold Coast Airport Limited) at least 28 days before the intended commencement of the controlled activity."

[DURNS01]

- 76. The site shall not be dewatered. In the event that dewatering of the site is required all works impacted on or by the dewatering shall cease and the necessary statutory approvals obtained from each authority, documentary evidence of such is to be submitted to Council's Environment and Health Services Department prior to the commencement / re-commencement of work

- 77. Acid Sulfate Soils shall not be exposed.

[DURNS02]

**PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

78. 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]
79. 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]
80. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.  
[POC0050]
81. 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]
82. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of the construction certificate.  
[POCNS02]

**USE**

83. The use being restricted to the floor area designated on the approved plan.  
[USE0010]
84. The premises shall be suitably identified by Unit No. (where appropriate) and Street Number displayed in a prominent position on the facade of the building facing the primary street frontage, and is to be of sufficient size to be clearly identifiable from the street.  
[USE0040]
85. All trade materials, product and plant to be kept within confines of the building at all times.  
[USE0120]
86. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.  
[USE0160]

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

[USE0240]

**OPTIONS:**

1. Approve the application in accordance with the recommended conditions.
2. Refuse the application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicant has a right of appeal to the Land and Environment Court.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

The proposed development has provided high density residential development in an area nominated for such a use given its close proximity to the commercial business districts of Tweed Heads and Coolangatta, which provide for a variety of shopping, dining, and recreational opportunities.

The existing public infrastructure is adequate to service the proposed residential flat building, as the area is not subject to any known hazard such as slip, flood or bushfire. Furthermore, the local road network surrounding the site is suitable for such a development especially when basement car parking is provided.

The merit assessment of the applicable issues relating specifically to the building envelope, open space landscaping, privacy and loss of views are not considered to be unsustainable or result in an over development of the site.

The site of the proposed development is considered suitable for this type of development and encouraged through Council's strategic planning documents for the area. Having had regard for the proposed development and controls provided for the site it is considered that conditional consent is warranted.

**UNDER SEPARATE COVER:**

Nil.

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**2 [PE] DA05/0296 for a General Store (Post Office, Sale of Newspapers & Sale of Fruit & Vegetables) in Addition to the Existing Approval of the Site for a Craft Gallery & Coffee Bar at Lot 16 Sec 1 DP 1223, No. 140 Riverside Drive, Tumbulgum**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA05/0296 Pt1**

**SUMMARY OF REPORT:**

Council is in receipt of a Development Application seeking consent for a general store (post office, sale of newspapers and sale of fruit and vegetables) in addition to the existing approval of the site for a craft gallery and coffee bar at 140 Riverside Drive, Tumbulgum.

The notification period attracted seventeen objections to the proposal based on inadequate parking, traffic congestion, noise and the inappropriateness of the site for the proposed use. These objections are concurred with and subsequently the application is recommended for refusal.

**RECOMMENDATION:**

That : -

A. Development Application DA05/0296 for a general store (post office, sale of newspapers and sale of fruit and vegetables) in addition to the existing approval of the site for a craft gallery and coffee bar at Lot 16 Sec 1 DP 1223, No. 140 Riverside Drive Tumbulgum be refused for the following reasons: -

1. The application does not comply with the aims of the Tweed Local Environmental Plan 2000 specifically but no limited to the following:

*"To encourage sustainable economic development of the area of Tweed compatible with the areas environmental and residential amenity qualities."*

2. The application does not comply with the primary objective of the Tweed Local Environmental Plan 2000 which reads as follows:

*"To provide for residential development and a full range of services and facilities traditionally associated with a rural village which is of a design and scale that makes a positive contribution to the character of the village."*

3. The subject site does not have adequate onsite car parking or on site loading facilities as required by Development Control Plan No. 2 – Site Access & Parking Code.
  4. The locality does not have an adequate pedestrian network to ensure pedestrian safety.
  5. The proposed use would create unacceptable noise levels for adjoining residential properties.
  6. The application was not supported by sufficient information to enable a complete assessment to be undertaken specifically in relation to (but not limited to) the total gross floor area, the operation of the various uses, delivery details, traffic and parking implications, and signage.
  7. The application is not in the public interest. The proposal is an overdevelopment of the site that would result in a reduction in the amenity of adjoining residents.
- B. That Council notify the applicant that they have seven days to cease utilising the premises as a post office and general store and remove any associated unauthorised signage.
- C. That Council investigate the illegal granny flat at the ground level having regard to its permissibility and its compliance with Development Control Plan No. 5 – Flood Liable Land.
- D. That Council investigate 140 Riverside Drive, Tumbulgum having regard to its compliance with consent number K98/0420 for a Craft Gallery & Coffee Bar.

**REPORT:**

**Applicant:** Mr SH Schieb and Mrs KL Schieb  
**Owner:** Mr SH Schieb and Mrs KL Schieb  
**Location:** Lot 16 Sec 1 DP 1223, No. 140 Riverside Drive Tumbulgum  
**Zoning:** 2(d) Village  
**Cost:** Nil

**BACKGROUND:**

Council received a Development Application on the 22 March 2005, which seeks consent for a general store and post office at 140 Riverside Drive, Tumbulgum.

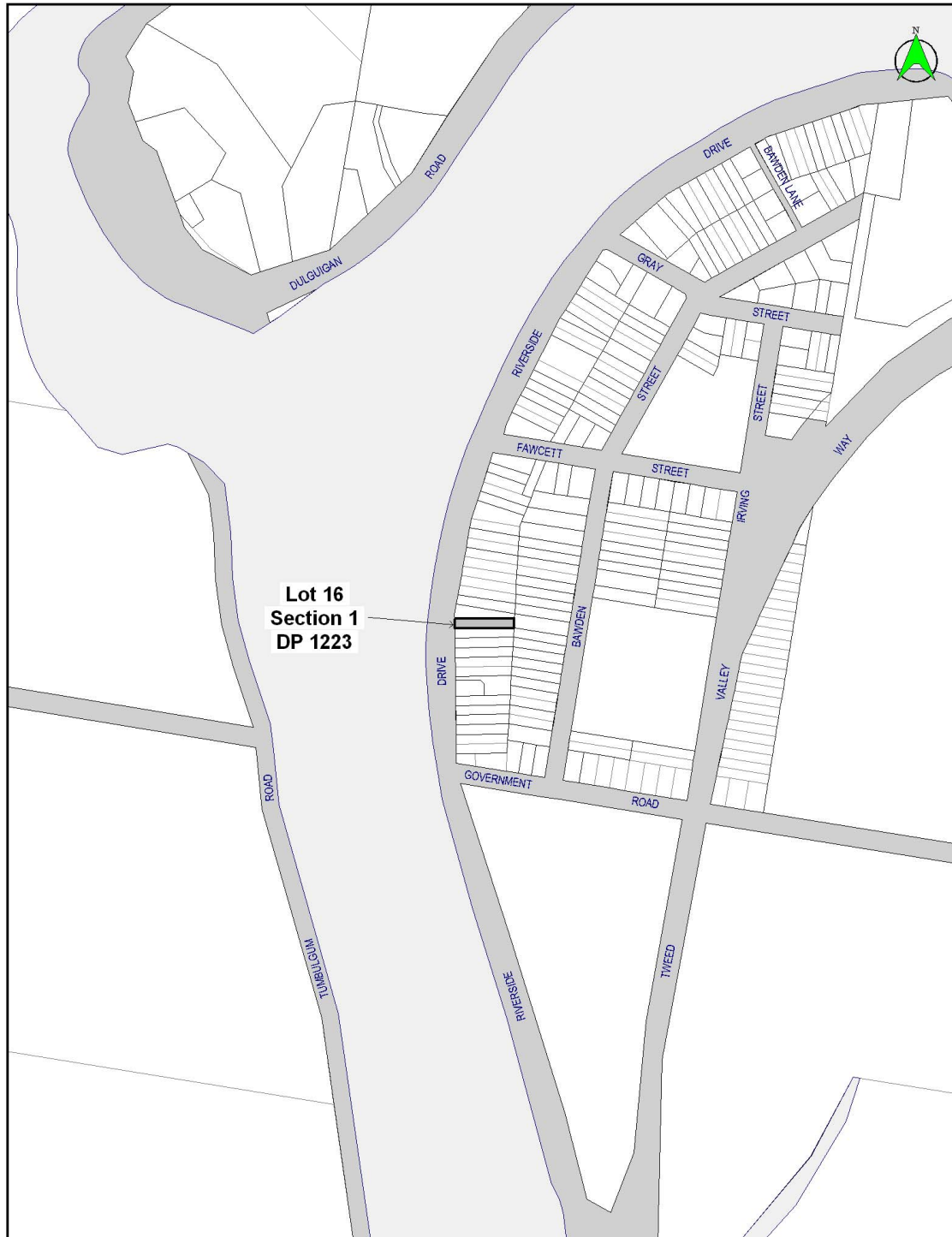
The Tumbulgum Post Office has traditionally been located at the Ferry Side Store, which is on the corner of Fawcett Street and Riverside Drive. However, on the 29 March 2005 the applicants re-located the post office from Ferry Side Store to the subject site at 140 Riverside Drive, despite being advised by Council that Development Approval was required prior to relocating.


On the 30 March 2005 Council's Director of Planning & Environment advised the applicants to cease any uses pertaining to a general store on the premises and that failure to do may result in legal proceedings being undertaken for illegal uses on the site. However, the Director was prepared to allow the continued use of the post office pending a decision on the current application, as the post office is an essential service for the Tumbulgum Village.

The subject site is located on the eastern side of Riverside Drive and comprises a two-storey dwelling with an approved craft gallery and coffee bar at the ground level in accordance with consent number K98/0420. This consent was issued subject to several strict conditions with regard to the number of seats to be used for the coffee bar, noise, hours of operation, parking and access.

Following the exhibition period it is evident that the proposed intensification of the site is and will continue to cause problems for adjoining residents. Subsequently, the proposed site is considered unsuitable for such an intensive commercial use given the residential surroundings and the lack of on site parking.

**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.  <b>DO NOT SCALE</b>                  COPY ONLY - NOT CERTIFIED                  P.O. Box 816 Murwillumbah, NSW., 2484 Tel: (02) 6670 2499 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i>                  Lot 16 Section 1 DP 1223                  No. 140 Riverside Drive, Tumbulgum</p>		<p>STRATEGIC PLANNING UNIT  <b>Site Plan</b>                  Scale: 1:5,000                  Sheet: 1 of 1</p>
<p>File: N:\MapInfo 7...\A4P Site Plan.Wor</p>		<p>Author: J.Batchelor</p>	<p>Date: 27/Apr/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 subject site is zoned 2(d) Residential Village in accordance with the Tweed Local Environmental Plan 2000. The primary objective of the zone is:

*"To provide for residential development and a full range of services and facilities traditionally associated with a rural village which is of a design and scale that makes a positive contribution to the character of the village."*

The proposed use is best described as a general store, which is:

*A shop used for the sale by retail of general merchandise and which may include the facilities of a post office.*

Whilst the proposed use is permissible in the zone it is not considered that the proposed location is the most suitable site.

Tumbulgum residents do not have a mail delivery service and therefore residents pick up their mail on a daily basis from the post office during business hours or collect mail from their private mailboxes after hours. This can result in the premises attracting approximately 150 people on a daily basis.

As the business has been operating in the last few weeks local residents have been able to view the impact this business will have on the amenity of the neighbourhood. Council has received numerous objections on the basis of noise from delivery vehicles (at all hours of the day and night) and general traffic congestion from both customers and delivery vehicles.

These impacts are as a result of the lack of on site parking, the lack of an onsite loading dock, the narrow street, and the sites proximity to other residential properties.

Subsequently the proposed location is not considered to be a suitable site for a premise that by its nature requires all local residents to visit it daily.

The proposed use of the premises as a general store is not considered to make a positive contribution to the character of the village, but rather detracts from it, due to the negative implications from traffic and noise.

The above justifications have been adopted to form reasons for refusal of this application.

In accordance with Clause 15 the subject site has adequate essential services to cater for the development should Council want to approve the development.

The proposed development is not considered to require a social impact assessment under Clause 17 of the Tweed LEP 2000. However, the social and economic impacts of the proposed development have been assessed and it is considered that the application warrants refusal due to the unacceptable social implications of this application.

In accordance with Clause 34 of the Tweed LEP 2000 the subject site is susceptible to flood damage and as such provision is to be made for flood free storage of goods and equipment. The application has not provided any detail on flood mitigation measures. Concern has also been expressed that a habitable room has been created in the lower section of the structure, which has been converted without consent. The recommendation has several components one of which is that Council resolves to investigate any unauthorised habitable space at the subject site.

In accordance with Clause 35 of the Tweed LEP 2000 the subject site is affected by Class 3 Acid Sulphate Soils. No site works are proposed to accommodate the proposed use and subsequently no management plan is required.

Clauses 40, 41, 42 and 45 relate to the conservation of heritage areas. The Tumbulgum Village is a nominated conservation area and therefore Council must consider the heritage status of the area prior to determining any application. The proposed use of the premises as a post office and general store is considered to disrupt the amenity of the village and is subsequently recommended for refusal.

#### North Coast Regional Environmental Plan 1988

Having regard to all the Development Control Matters contained in the REP there is no controlling provisions that are specifically relevant to this application or that would form grounds for refusal of the application.

State Environmental Planning Policies

SEPP 71 – Coastal Protection applies to the site and nominates matters for consideration under Clause 8. Having regard to these matters of consideration the proposed development will not impact on public access to the foreshore and will not have any foreseeable negative impact on the natural or scenic qualities of the area. However, Clause 8 (d) does require Council to consider the suitability of a development given its type, location, and design and its relationship with the surrounding area. As detailed in this report the proposed use of the premises as a post office and general store is unsuitable as a result of the noise and traffic implications and the ultimate land use conflict between the commercial operations and the adjoining neighbouring residents. Appropriate reasons for refusal are included in the recommendation.

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

There are no Draft Environmental Planning Instruments applicable to this application.

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

Development Control Plan No. 2 – Site Access & Parking Code

The site has consent under K98/0420 for a craft gallery and associated coffee bar (defined as an educational establishment at the time of assessment). In accordance with this consent these uses generated the need for four off street parking spaces. As the proposed art gallery and coffee shop were to be undertaken in the garage the applicant could only accommodate one (1) onsite parking space and was allowed to make a contribution of \$3522.75 for the three unsupplied spaces.

Table 1 – Car Parking Rates for the Sites Uses In Accordance with DCP 2

<u>Use</u>	<u>GFA</u>	<u>DCP 2 Classification</u>	<u>Staff Requirement</u>	<u>Customer /Resident Requirement</u>
Single Dwelling	Unknown	Item A17 Single Dwelling	NA	1 space per dwelling plus provision for driveway parking for another vehicle.
Refreshment Room	Unknown (K98/0420 conditioned 6 seats)	Item D15 Dining	0.5 per staff  = 1	1 spaces per 7m <sup>2</sup>  OR  1 space for every three seats  = 2

Art Gallery	40m <sup>2</sup>	Item F2 Art Gallery	0.5 per staff = 1	2 spaces per 100m <sup>2</sup> = 0.8
General Store	Unknown	Item C10 Retail	0.5 spaces per 100m <sup>2</sup> = Unknown	3.5 spaces per 100m <sup>2</sup> = Unknown

The application has not been supported by adequate information to enable Council to establish exactly how many parking spaces would be required by the proposed additional use of the site as a general store. However, what is evident is that the site can only accommodate one on site parking space and this is inadequate to cater for the proposed development.

Council's Traffic & Transport Engineer provided the following comments with regard to traffic & access:

*"I have inspected the site on 7 April and am concerned at the impact the proposal will have on pedestrian and traffic safety. Riverside Drive in the vicinity of the building is narrow with no kerb and gutter or concrete foot paving, but has a parking lane at the western side.*

*This leads to vehicles parking illegally on the verges on the eastern side of Tumbulgum Road blocking pedestrians or parking on the narrow road pavement blocking through traffic. This can be observed on site as the development appears to be operating already, I assume without approval.*

*I note your comments that the applicant cannot provide on site parking as per Planning Standards (DCP2), but my understanding is that contributions for car parking cannot be collected without a relevant S94 Plan so conditioning contributions for such is not permissible.*

*Given the unsuitable standard of Riverside Drive to facilitate on street parking, the applicant should be required to comply with Council's normal on site parking requirements.*

*I do not believe Council has any control over the placement of 'post boxes', but if one were erected on the western side of Riverside Drive opposite the proposed development it would eliminate another on street parking space, further diminishing the capacity to provide parking on Riverside Drive, and is far better left in its current location at the existing store. If Australia Post requested Council approval to the site you mention, we would object to it for these reasons.*

*The need for a zebra crossing must be addressed under RTA Guidelines and it is unlikely one would qualify in this location. (Which is no different from many other 'post boxes' throughout the Shire, eg Tumbulgum Rd and Powell St, both roads that carry more traffic than Riverside Drive) and is therefore outside the scope of the application."*



Council's Development Engineer further reviewed the application and provided the following comments:

*"The applicant has provided no detail in relation to traffic generation. As insufficient detail has been provided to demonstrate the area of use for the post office and other activities it cannot be determined what average daily traffic volumes can be expected. In addition the provision of Post Boxes, and what appears to be other food and commodity sales from the site traffic generation and parking requirements are expected to be much greater than that available.*

*Council's traffic engineer has also raised concern for pedestrian and traffic safety as a result of the impact of the development and existing quality of parking and pedestrian infrastructure.*

*The applicant has not provided detail in relation to parking requirements. Parking demand is also expected to grow. Site inspections reveal one on site parking space is available however due to the provision of an outdoor eating area and provision of patron access no scope to increase this is available.*

*Council's current DCP No. 2 - Site Access and Parking tables the following requirements for various uses;*

- Single dwelling 1 per dwelling plus provision for driveway parking for another vehicle*
- Shop & General Store 3.5 per 100<sup>m</sup>2*
- Refreshment Room 1 per 3 seats or 1 per 7m<sup>2</sup> dining area*
- Art Gallery 2 per 100m<sup>2</sup> display area.*

*In addition, service vehicles delivering and collecting mail in addition to other service vehicles providing milk, bread, fast food products etc. are required to park and unload/load on the road pavement/ road should fronting the premises adding further conflict to traffic flow and parking demand.*

*The applicant does not provide sufficient detail to determine actual parking requirements.*

*The SEE submitted tables that all Post office patrons walk to the store and future kerb and guttering to be undertaken by Council shall address parking concerns. A review of the Tumbulgum Foreshore Master Plan confirms works are currently being considered to improve the section of Riverside Drive from Government Road to Tumbulgum Bridge. These works shall formalise existing parking with no provision for additional parking in the area. It may also be considered that parking shall be reduced as restrictions to accessing the foreshore shall prohibit parking currently utilised by water sports enthusiasts. To further restrict parking availability the shop operators have placed sandwich board advertising within the road reserve along the shop frontage.*

*Any vehicle accessing the site is required to reverse onto the road formation. This practice would not be supported for patrons as insufficient sight distances are available*

*The proposed shop shall provide a service to the local community and tourists whom may park elsewhere in the village however there are no formed pathways to ensure pedestrians are not required to use the road pavement.*

*It is recommended that the application be refused for the following reasons;*

- Insufficient detail provided within the development application to undertake a full and proper assessment of the proposed development.*
- Inadequate car parking provided*
- Inadequate pedestrian paths available.*
- Insufficient detail to address the Flood impact of the proposed use.*
- Non compliance with the conditions of development consent K98/0420”*

Based on this advice the application is considered inadequate on parking traffic and access. Appropriate reasons for refusal have been included in the recommendation.

#### Development Control Plan No. 5 – Flood Liable Land

The subject site is identified as being prone to flooding. DCP 5 requires residential buildings to have a maximum enclosed area of 50m<sup>2</sup> for those levels located below the design flood level. However, commercial development is permissible normally subject to the provision of some form of flood free storage.

A recent realtor's notice for the subject premises advertised a ground level residential dwelling at this premises, it is recommended that Council resolve to investigate any unauthorised dwelling at the lower level of this building to ensure compliance with DCP No. 5.

Development Control Plan No. 15 – Advertising Structures

The application does not detail any proposed signage. However, site inspections have revealed that the applicants have placed sandwich board advertising within the road reserve along the shop frontage. DCP 15 only permits this type of signage where there is a co-ordinated urban design strategy to market a shopping centre. Therefore, it is recommended that Council resolve to investigate any unauthorised signage at the subject premises.

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

There are no additional matters prescribed by the Regulations that are considered to be applicable to this application.

**(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**

Council's Environmental Health Officer has also reviewed the application and provided the following comments with regard to noise and the appropriateness of a food premises:

"Noise

*Note the business is in very close proximity to neighbouring dwellings. It is anticipated that the increase in customer traffic and delivery of goods will disturb the amenity of the area. Previous Development Consent (K98/420) for the operation of the Café & Craft Gallery included the following condition:*

35. *The craft gallery and refreshment room shall be operated to ensure that objectionable noise is not generated. L90 noise levels measured at the boundary of the subject premises shall not exceed the background noise level by more than 5dBA between the hours of 7.00am and 8.00pm Monday to Saturday inclusive and 8.00am and 8.00pm inclusive on Sundays. Noise levels shall not exceed the background level between the hours of 8.00pm and 7.00am Monday to Saturday inclusive and 8.00pm to 8.00am Sundays.*

*Considering the close proximity of neighbouring dwellings a similar condition would be applied to the proposal. Due to expansion of the business it is unlikely that such a condition could be complied with.*

*Submissions received for the development indicate that current practices include the delivery of goods during early hours of the morning. Conditions would be applied limiting deliveries to the approved hours of operation which would be between 9.00am to 6.00pm Mon to Fri, 9.00am to 5.00pm Sat and 10.00am to 5.00pm Sun.*

*Due to the nature of the business including the delivery of goods such as newspapers in the early hours of the morning it is unlikely that such a condition could be complied with.*

*The public has 24hr access to the PO Box facility located on the property. Loading vehicles and vehicle doors have been creating noise disturbance throughout the night. This is generally reflected in the submissions received for the development.*

*The above noise issues have not been adequately addressed in the development application and therefore the application is not supported.*

#### Food Premises

*Plans submitted are inadequate to assess internal details of premises fit out. Insufficient information has been submitted to determine the extent of food preparation to be conducted on the premises. Conditions placed on previous development application K98/420 were based on the advice received by the applicant that no cooking was to be undertaken on the premises. The kitchen is constrained due to its size and fit out. Further considerations will be required if an expansion to cooking is proposed.”*

As indicated in this report the proposed intensification of the site is not suitable in the proposed location. There are problems with land use conflicts, the lack of on site car parking, noise and general traffic congestion.

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

Tumbulgum comprises of a mixed residential, commercial and tourist oriented village. Immediately adjoining the site is residential development with commercial development in the close vicinity. Whilst it is this mix of uses that normally create the village atmosphere the proposed site intensification is considered to be an overdevelopment of the site. Furthermore, it should be noted that the applicant would not be able to comply with any of the normal conditions of consent that would be applied to mitigate any adverse impact.

Therefore, the site is considered unsuitable for the proposed use.

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

The proposal was notified to adjoining properties who were given 14 days in which to make any submissions. Council has received seventeen (17) objections and four (4) letters of support. The main points of objection are outlined below:

- Inadequate information in the application;
- Inadequate onsite parking;
- Onsite parking that is available is difficult to access;
- There is no loading facilities on site;
- The street is narrow at this location;
- The site is inappropriate;
- The development is operating illegally;
- Deliveries have been occurring throughout the night creating unacceptable noise levels;
- Traffic congestion is creating a dangerous environment;
- Vehicles have been obstructing residential driveways to park while they collect mail;
- Whilst the 2(d) zone permits the development it does not mean it is a suitable site;
- The previous post office site was centrally located whereas the proposed location is on the southern side of town and is not as accessible to everyone;
- The proposed location is more residential orientated;
- It will result in a loss of amenity for residents and tourists visiting the area;
- The proposed post office will be added to a development that does not exist, it traded for 3 months in 1999 and then ceased;
- It is on the ground floor in a flood zone;
- The development is already interfering in the peace of the nearby residents;
- There are no footpaths in the area;
- If the post office were placed opposite 140 Riverside Drive this would create greater pedestrian and vehicle congestion and would result in the loss of two on street parking spaces; and
- The site has become the local bus stop and this is creating greater traffic congestion.

These issues have all been addressed in the context of the above report. The issues are considered to be valid and have supported the recommended reasons for refusal.

**(e) Public interest**

A post office is obviously an essential service for the residents of Tumbulgum, however, the subject site is not considered appropriate. The site lacks adequate car parking, would create land use conflicts and would generate unacceptable noise levels. The proposed use of the premises as a general store and post office is not considered to be in the public interest.

**OPTIONS:**

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

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

If the applicant is dissatisfied with the determination they have a right to lodge an appeal with the Land & Environment Court.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

A post office and general store are considered an essential service for the village of Tumbulgum. However, the proposed site is not suitable for intensification as proposed. There are alternative sites available in Tumbulgum that would be far better suited to the nature of the use.

The subject site has inadequate parking and access, creates a land use conflict with adjoining residential properties, and creates an unacceptable change to the amenity of the neighbourhood. Furthermore, the applicants have pursued unauthorised uses without consent and have ignored conditions of consent and Council's advice. The lodgement of this application has revealed that further investigation regarding these issues is required. Subsequently the recommendation comprises several components to cover all the outstanding matters.

**UNDER SEPARATE COVER:**

Nil.

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**3 [PE] Section 96 Application DA04/0723.01 for an Amendment to Development Consent DA04/0723 for a Pylon Sign at Lot 2 DP 1045941, Minjungbal Drive, Tweed Heads South**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0723 Pt1**

**SUMMARY OF REPORT:**

Council is in receipt of a Section 96 Application seeking to delete two conditions imposed within an approval (DA04/0723) for a pylon sign identifying the South Tweed Sports club. These conditions relate to the safety treatment and construction method of the approved sign, as well as the appearance of the sign.

The NSW Roads And Traffic Authority (RTA) and Council's Transport & Traffic Engineer have reviewed the application. This report concludes that justification for the deletion of conditions 7 & 8 has not been provided and the subject conditions should be maintained.

**RECOMMENDATION:**

That Development Application DA04/0723.01 for an amendment to Development Consent DA04/0723 for pylon sign at Lot 2 DP 1045941, Minjungbal Drive, Tweed Heads South be refused for the following reasons: -

1. Pursuant to Section 79C(1)(a)(i) the development application has not had due regard to relevant provisions of Tweed Local Environmental Plan 2000, in particular Clause 22 and Clause 47.
2. Pursuant to Section 79C(1)(a)(iii) the development proposal has not demonstrated due consideration or compliance with Tweed Shire Development Control Plan No.15 - Advertising Signs Code, as it relates primarily to the proposal complementing and conforming to the building or the locality.
3. Pursuant to Section 79C(1)(b) the proposed development is not supported by a level of detail that displays appropriate measures to mitigate traffic safety concerns with regards to vehicular impact.
4. Pursuant to Section 79C(1)(e) the proposed development has the potential to adversely impact upon traffic safety and as such is not considered in the public interest.

**REPORT:**

**Applicant:** Kiss Graphics Pty Ltd  
**Owner:** South Tweed Bowls Club Limited  
**Location:** Lot 2 DP 1045941, Minjungbal Drive Tweed Heads South  
**Zoning:** Uncoloured  
**Cost:** Nil

**BACKGROUND:**

On 14 January 2005, conditional consent was granted for a pylon sign, identifying the South Tweed Sports Club.

By the way of application under Section 96 of the Environmental Planning and Assessment Act 1979, the applicant has requested an amendment of the consent to delete Condition Nos. 7 & 8, relating to the safety treatment and construction method of the approved sign, as well as the appearance of the sign.

**Proposed Amendments**

Condition No. 7

The applicant has requested the deletion of Condition No. 7 on the following grounds:

- The applicant considers that the comments originally submitted by the RTA were invalid as Council had not received the comments within 21 days of notification as detailed within State Environmental Planning Policy No. 64 – Advertising & Signage
- Given the top-heavy nature of the sign, any impact on the base may bring the sign back to the roadway could lead to a dangerous incident.

Comment

The subject application was forwarded to both the NSW RTA and Council's Traffic & Transport Engineer, neither of which supported the proposed amendments.

Whilst the NSW RTA's comments may have been received after the prescribed 21-day concurrence period, they are still considered valid having consideration to issues raised in respect of the proposed design. Both Council's Traffic & Transport Engineer and the NSW RTA raised significant concerns regarding the traffic safety of the proposal, in this regard it is not considered in the public interest to disregard the specialist advice received on this application.

In the absence of an alternative design proposal prepared by a professional road safety auditor to the satisfaction of Council and the NSW RTA, the deletion of Condition No. 7 is not supported.



Condition No. 8

The applicant has requested the deletion of Condition No. 8 on the following grounds:

- The proposed logo meets the objectives of SEPP No. 64 – Advertising & Signage and Development Control Plan No. 15 – Advertising Signs Code

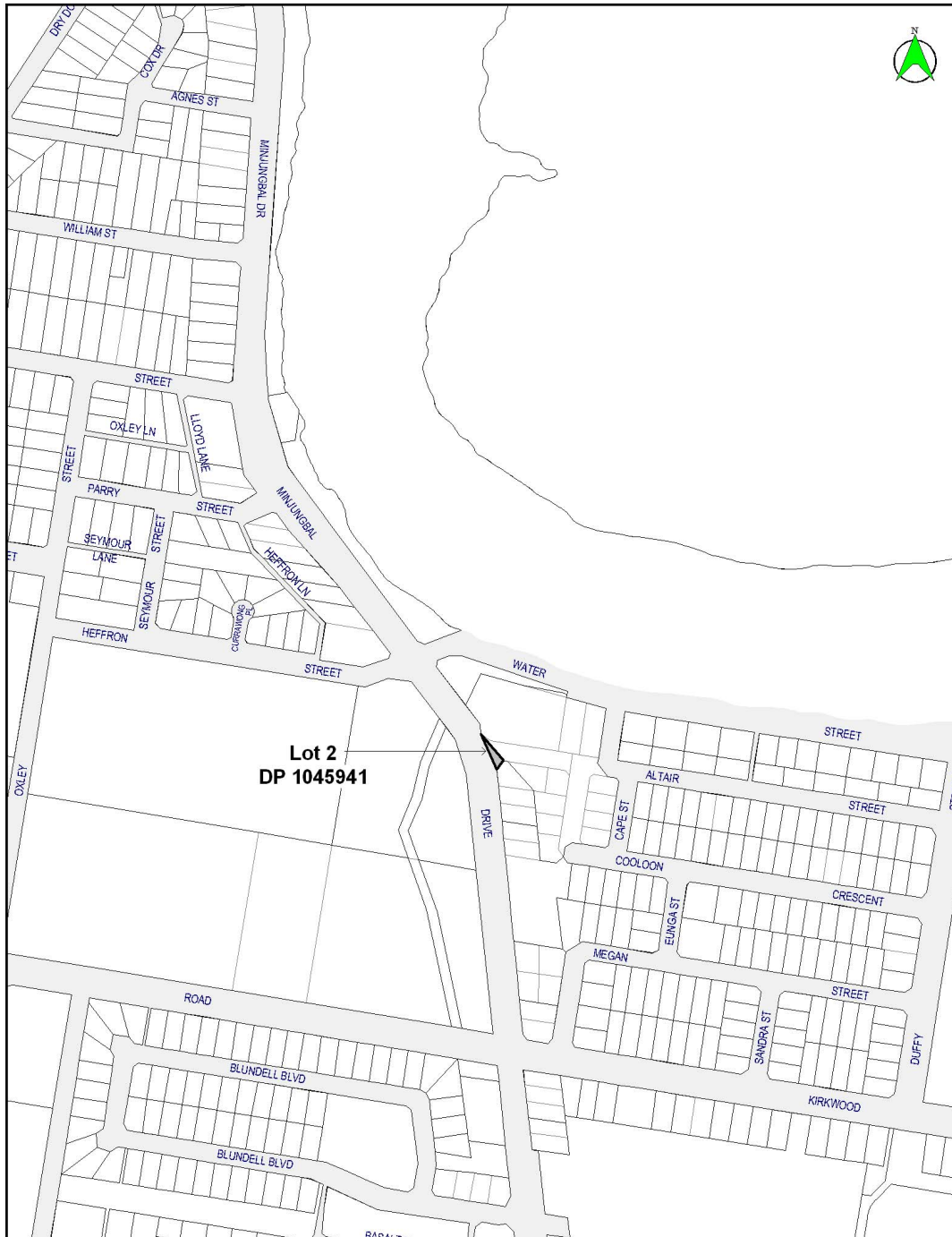
COMMENT


As detailed within the original Development Assessment Panel report of Wednesday 12 January 2005, which is attached for reference, the proposed logo is not considered to be consistent with the corporate logo of South Tweed Sports nor the corporate signage theme present along Minjungbal Drive. Notwithstanding that the proposed logo is a characterisation of the corporate logo, the sign is not considered to be of a design that complements or conforms to either the South Tweed Sports building or the locality. The proposed caricature signage is considered aesthetically detrimental to Minjungbal Drive, particularly as it relates to the scale of the development.

It is noted that the applicant has contended that other signage present along Minjungbal Drive has been approved that is not dissimilar to that being sought. There are examples of signage that are not dissimilar to that proposed and whilst they are not necessarily considered desirable, they are internationally recognised trademarks and corporate logos of the associated development. This is a distinction in this case, where the sign as proposed represents a characterisation of the South Tweed Sports corporate logo and not the corporate logo itself.

For these reasons the request to delete Condition No. 8 to permit the characterisation of the signage is not supported.

**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.  <b>DO NOT SCALE</b>                  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 2 DP 1045941                  Minjungbal Drive, Tweed Heads South</p>	<p>STRATEGIC PLANNING UNIT    <b>Site Plan</b></p>
	<p>File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 27/Apr/2005 Scale: 1:5,000 Sheet: 1 of 1</p>	

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

The proposed amendments sought to development consent DA04/0723 have been considered against the relevant provisions to the Environmental Planning and Assessment Act 1979, accompanying Regulation 2000, and Council planning codes. The proposed amendments are considered unsatisfactory.

**OPTIONS:**

1. Refuse the application for the reasons set out in this report.
2. Approve the application.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicant has a right to appeal in the NSW Land & Environment Court.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

Having regard to the matters raised in this report and the Development Assessment Panel report of Wednesday 12 January 2005, the proposed modifications are not supported on the basis that the amendments will provide for a sign that has potential safety implications and is aesthetically out of character with the locality.

**UNDER SEPARATE COVER:**

1. Development Assessment Panel report of Wednesday 12 January 2005. (DW 1143655)
  2. Approved sign as per original application.
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**4 [PE] Development Application DA04/1396 for a 3 Storey Dwelling and Swimming Pool with Fence and Fence Height Variation at Lot 98 DP 31539, No. 44 McPhail Avenue, Kingscliff**

**ORIGIN:**

**Building Services**

**FILE NO: DA04/1396 Pt1**

**SUMMARY OF REPORT:**

An application has been received seeking approval to construct a three (3) storey dwelling and swimming pool at the abovementioned land. The application also seeks variation to the front fence height.

The application was reported to the Development Assessment Panel where it was unanimously resolved that as the Development Application DA04/1396 for a 3 storey dwelling and swimming pool with fence height variation at Lot 98 DP 31539, No.44 McPhail Avenue Kingscliff is the first three (3) storey dwelling in this locality and although it may conform to the likely character of the area it is inconsistent with the current character bulk and scale of the existing dwellings. For these reasons the application should be referred to Council for determination.

The subject land has an area of approximately 613m<sup>2</sup> with frontage to McPhail Avenue. The land has a moderate fall to the street and existing improvements include a single storey dwelling. The land is also bound by similar sized residential lots containing either a single or a two storey dwelling. A park also adjoins the subject site to the south.

The three storey dwelling will comprise a three (3) car garage, store and entertaining pavilion on the ground floor. Level 1 will comprise bedrooms, bathroom, family room and study with an open deck to the rear. Level 2 will comprise the main bedroom and ensuite, kitchen, living and dining areas with an open deck to the rear. The pool will be located to the rear of the site. The house has a contemporary design with a skillion roof.

Adjoining and adjacent property owners were notified and a total of four (4) submissions of objection were received the details of which will be discussed further in this report.

Under the circumstances it is considered that the proposal is suitable for conditional approval.

**RECOMMENDATION:**

That Development Application DA04/1396 for a 3 storey dwelling and swimming pool with fence and fence height variation at Lot 98 DP 31539, No. 44 McPhail Avenue, Kingscliff 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.  
[GEN0020]
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.  
[GEN0030]
3. No retaining walls or similar structures are to be constructed over Council's sewer main.  
[GEN0090]
4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.  
[GEN0120]
5. The erection of a building in accordance with a development consent must not be commenced until:
  - (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
  - (b) the person having the benefit of the development consent has:
    - (i) appointed a principal certifying authority for the building work, and
    - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
  - (b1) the principal certifying authority has, no later than 2 days before the building work commences:
    - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
    - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
  - (b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
    - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
    - (ii) notified the principal certifying authority of any such appointment, and
    - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[GEN0150]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

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

[PCC0190]

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

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

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

[PCC0240]

8. Prior to the commencement of work a separate development application for the demolition of the existing dwelling is to be submitted and approved by Council.

[PCWNS01]

9. Prior to the commencement of works a delapidation report for the existing dwellings at No.42 and No.46 McPhail Avenue is to be prepared and submitted.

[PCWNS02]

**PRIOR TO COMMENCEMENT OF WORK**

10. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised to the satisfaction of the Principal Certifying Authority and provided with a dish drain or similar at the base or otherwise retained to the satisfaction of the Principle Certifying Authority. All retaining works shall be completed to the satisfaction of the Principal Certifying Authority prior to start of building work. Please note timber retaining walls are not permitted.

Note: All cut and or fill must comply with DCP 47. The top of any battered cut, toe or battered fill and the face of any retaining wall structure supporting cut or fill cannot be closer that 900mm to the boundary where the overall height at any point exceeds 500mm.

[PCW0040]

11. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:

- (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
- (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
- (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
  - (A) the method of protection; and
  - (B) the date of installation of the system; and
  - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
  - (D) the need to maintain and inspect the system on a regular basis.

**Note:** Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

[PCW0050]

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

[PCW0060]

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

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

[PCW0070]

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

[PCW0090]



15. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. **Note** All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.

[PCW0250]

16. 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]

17. 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]

18. 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]
19. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9. [DUR1290]

**DURING CONSTRUCTION**

20. 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]
21. 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]
22. 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]
23. 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]
24. 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]
25. 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]

26. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering & Operations. Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DUR0470]

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

[DUR0870]

28. 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]

29. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.

[DUR0960]

30. 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]

31. 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]
32. 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]
33. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains. [DUR1050]
34. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR1090]
35. 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]
36. The finished floor level of the building should finish not less than 225mm above finished ground level. [DUR1150]
37. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR1160]
38. 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]

39. 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, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1210]

40. 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]

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

41. 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]

42. 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]

43. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professional painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0180]

44. 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]

**USE**

45. The building is to be used for single dwelling purposes only.

[USE0110]

46. The keeping of dogs, cats or other animals on the property is to be in accordance with any relevant 88B Instrument requirements.

[USE0290]

**REPORT:**

**Applicant:** Mr MG Lee and Ms CE Moore  
**Owner:** Mr MG Lee and Ms CE Moore  
**Location:** Lot 98 DP 31539, No. 44 McPhail Avenue, Kingscliff  
**Zoning:** 2(a) Low Density Residential  
**Cost:** \$400,000.00

**BACKGROUND:**

An application has been received seeking approval to construct a three (3) storey dwelling and swimming pool at the abovementioned land. The application also seeks variation to the front fence height.

The subject land has an area of approximately 613m<sup>2</sup> with frontage to McPhail Avenue. The land has a moderate fall to the street and existing improvements include a single storey dwelling. The land is also bound by similar sized residential lots containing either a single or a two storey dwelling. A park also adjoins the subject site to the south.

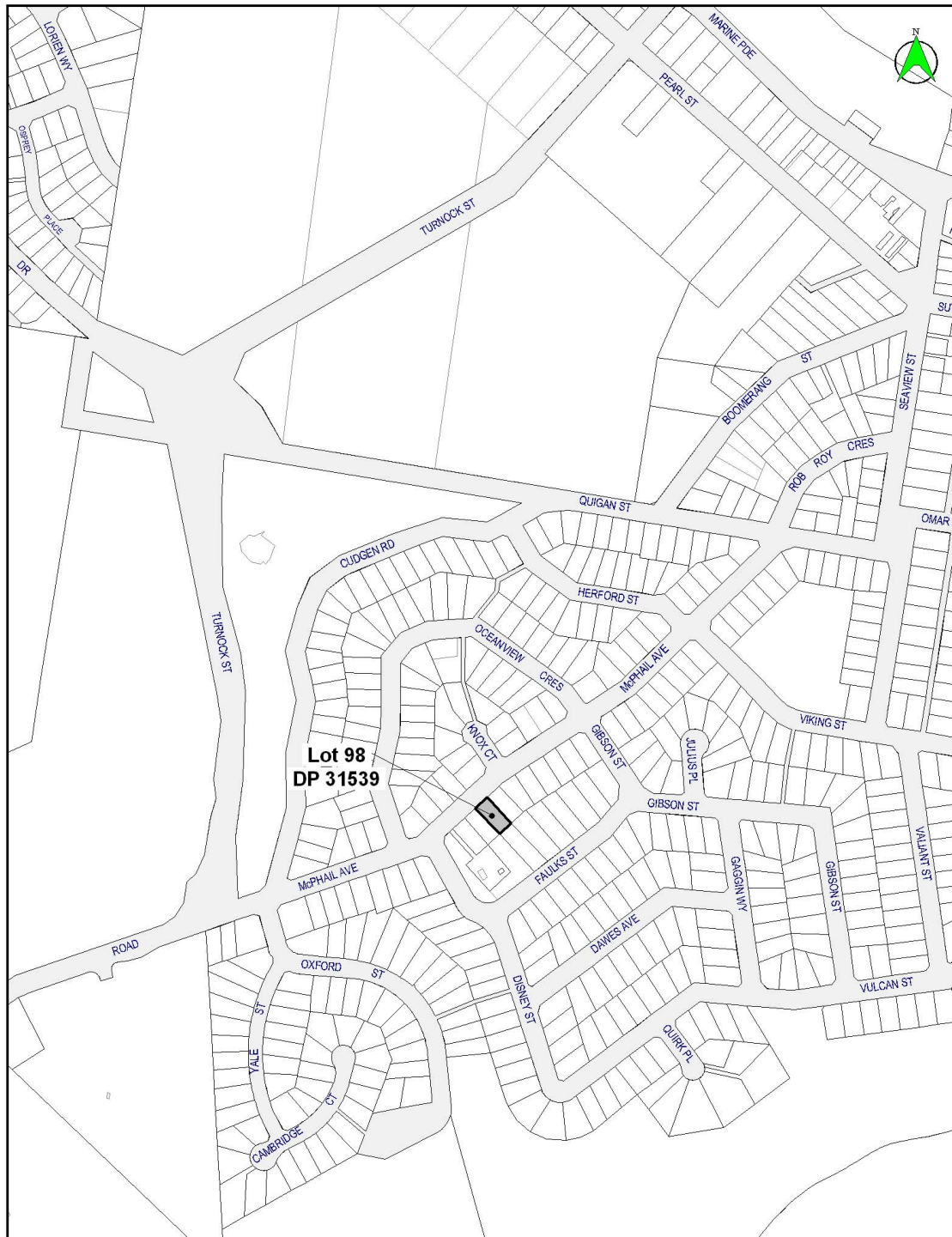
It is proposed to demolish the existing dwelling and construct a new three (3) storey dwelling with a swimming pool. A separate application for the demolition of the existing house will be submitted at a later date when appropriate.

The three storey dwelling will comprise a three (3) car garage, store and entertaining pavilion on the ground floor. Level 1 will comprise bedrooms, bathroom, family room and study with an open deck to the rear. Level 2 will comprise the main bedroom and ensuite, kitchen, living and dining areas with an open deck to the rear. The pool will be located to the rear of the site. The house has a contemporary design with a skillion roof.

A 1.6m high front fence on the front boundary is also proposed. Subsequently the applicant also seeks a fence height variation.

Adjoining and adjacent property owners were notified and a total of four (4) submissions of objection were received the details of which will be discussed further in this report.

**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.  <b>DO NOT SCALE</b>                  COPY ONLY - NOT CERTIFIED                  P.O. Box 816                  Murwillumban, NSW, 2484                  Tel: (02) 6670 2409                  Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i>                  Lot 98 DP 31539                  No. 44 McPhail Avenue, Kingscliff</p>	 <p>TWEED SHIRE COUNCIL</p>	<p>STRATEGIC PLANNING UNIT  <b>Site Plan</b>                  File: N:\MapInfo 7...VA4P Site Plan.Wor Author: J.Batchelor Date: 27/Apr/2005 Scale: 1:5,000 Sheet: 1 of 1</p>
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**CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**

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

Tweed Local Environmental Plan 2000

The subject land is zoned 2(a) Low Density Residential. The proposal is permissible within this zone subject to the consent from Council.  
The subject land is affected by a three (3) storey height limit.

Fence Height Variation

The application also proposes a 1.6m high front fence within the building line to Mcphail Avenue. This has been reported separately and generally complies with Council's fencing policy and has been approved.

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

N/A

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

DCP 2 – Site Access and Parking

The proposal is generally consistent with the provisions of this plan. Three (3) off street car parking spaces are provided and vehicular access to the site is reasonable with suitable site lines.

Current vehicular access arrangements are over a shared driveway with the neighbouring property. This is only a verbal agreement. Proposed vehicular access arrangements will be solely over the subject land. A separate driveway application will need to be prepared and submitted and considered by Council prior to its construction.

DCP 43 – Kingscliff.

The subject land is within the Kingscliff Hill Precinct. The relevant objectives of this precinct are to:

- Facilitate the development of the precinct as a predominantly low density residential area,
- Encourage development to take advantage of available views and climatic effects and,
- Ensure that development on visually prominent sites is relatively unobtrusive.

Under the circumstances it is considered that the proposal is generally consistent with these objectives for the hill precinct. The development is for a single dwelling so it ports low density residential development and will certainly take advantage of the views from the south to the north. The site although on a hill is not a visually prominent site, especially when compared to the land further to the east within this precinct used for medium density purposes. With the construction of a three (3) storey dwelling the structure may become more prominent but this is unavoidable given that most of the dwellings in the locality are either one or two storeys.

However, as the DCP mentions "*It is envisaged that future development within this area will involve gentrification and replacement of existing houses with more upmarket developments.*" Therefore it is accepted that the structure may initially be prominent but over time and the likely redevelopment of the precinct with similar style buildings this individual visual prominence will become less obtrusive.

#### DCP 47 – Cut and Fill on Residential Land

The proposal is generally consistent with the relevant provisions of this plan.

Originally part of a proposed retaining wall alongside the western boundary exceeded 900mm in height. The retaining wall has been modified and moved to achieve a minimum one (1) metre separation distance from the side boundary and complies.

The development has generally retained the existing topographical layout of the site with minimal cut and fill involved. The majority of the cut and fill is within the building envelope and is reasonable.

#### DCP 48 – Tweed Coast Building Heights.

Section 2.2 of the DCP incorporates a requirement that building heights be limited to 11m in height from finished ground level to the ridge of the roof and 9m in height from finished ground level to the underside of the eaves immediately above it.

In this instance the proposed development satisfies the height limit to the ridge of the roof with a maximum height of 10.2m. However the height to the uppermost top plate or ceiling is 9.6m a non-compliance of 600mm.

There are also some minor encroachments to the building envelope provided by section 2.3 of the DCP.

Subsequently the applicant has relied on the performance standards of the DCP to justify a variation to the numerical standards. This is provided below:

*"In the first instance we make reference to the minutes of Council's meeting dated 6 October 2004. In this regard, the Council made resolution that the provisions of DCP 48 be interpreted as indicated in the following resolution. Importantly, this resolution affirms the ability of Council officers to implement a performance based assessment where warranted.*

*Cr J F Murray*

*Cr L F Beck*

*Resolved that:-*

- (i) Council seeks further input from architects, building and urban design consultants and Council officers in respect of Development Control Plan 48 (DCP 48) to investigate and review the need for amending the current performance based criteria to better encourage good urban design.*
- (ii) Pending the finalisation of this review and any resultant amendment to DCP 48 Clause 1.6 of the Plan is interpreted to provide for merit-based assessment of development proposals on sites where Council is of the opinion that the adopted controls are too restrictive to achieve good urban design.*

*The proposed development demonstrates substantial compliance in relation to the provisions of Council's controls, inclusive of overshadowing. In this regard, the shadow plans previously submitted exhibit satisfactory shadowing of neighbouring properties in accord with both DCP 6 and the provisions of AMCORD.*

*In addition, private open space facilities have been sited and sized in a manner that ensures the preservation of amenity for adjacent residents. In particular, all private open space opportunities are located off the boundary (3.0m) and elevated so as to garnish views from across the top of the adjacent property.*

*In terms of view obstruction, view loss will be experienced in relation to the single storey property immediately adjoining to the southwest. It is pertinent to note however that given the form of adjacent properties, there is no correlation between the proposed non compliance with DCP 48 and the loss of views to be experienced by adjacent residents.*

*The site is not overly constrained, with the identified non compliance more closely aligned to the need to provide interest within the design by way of varied and contemporary roof forms.*

*The proposed roof form in no way constrains the ability of others to enjoy views originating from the locality.*

*The proposed development has been specifically designed in substantial accord with Council's requirements as contained within the TLEP 2000. In particular, the proposal adopts a compliant three (3) storey form, which when considered in the context of the desired future character of the area, will be the norm for the wider locality in time to come.*

*No substantial cut and filling is proposed upon the subject site.*

*The proposal seeks to enjoy a significant view, which although widely recognised by the surrounding community as of great benefit, does not fit into the category of grand or of significant community worth.*

*The ocean view enjoyed by the property to the south west is currently not taken advantage of as demonstrated within the following photograph. Furthermore, compliance or otherwise with DCP 48 would be of little relevance to this consideration.*

### *Section 2.3 Building Setbacks*

*A primary setback of 6 metres and a secondary setback of 3 metres is applicable under the DCP, with a setback of 900mm to the side boundaries.*

*The proposal has been designed with a minimum six (6) metre setback to Mcphail Avenue and generous side setbacks of a minimum 1.60m.*

*Accordingly all setbacks proposed are compliant.*

*We should also make reference to the fact that despite being of no relevance to the assessment of single dwelling houses, the proposed development demonstrates general consistency with Council's building envelope provisions as contained within DCP 6.*

### *Roof Design*

*The proposal provides for a distinctly contemporary roof form consisting of a single pitch skillion. The skillion has been orientated such as to maximise available sunlight into the dwelling and minimise impacts on adjacent properties.*

*The adoption of the skillion pitch is the crux of the reason why a small non compliance with DCP 48 has arisen. It is pertinent to note however, that all evidence suggests that this non-compliance in no way translates into adverse impacts on adjacent properties and therefore is consistent with the performance criteria contained within the DCP. Likewise, the adoption of a more conventional gable style roof form, would achieve no grater reduction in impact on adjacent properties. Rather it would simply contradict the architectural form of the proposal and create an ill-fitting infill development on a site that is befitting of something unique and attractive.*

*We trust that the above information assists Council in finalising its assessment of the proposed development and more importantly, demonstrates that the proposal is consistent with the intent of DCP 48, albeit at the expense of complete numerical compliance.*

*Importantly, we seek to advise Council that even the elected Council have requested that the document be utilised with caution, as it is likely that in its current form, good design will go unrecognised at the expense of standard responses to onerous numerical conditions.*

*Should Council require any further information in this regard, we are available at any time on the given numbers.”*

It is considered that the above submission has demonstrated that the variations to the numerical standards of the DCP are justified under the circumstances and achieves suitable compliance with the performance standards of the DCP. The variation to the minimum height to the uppermost top plate of 600mm is considered to be minor and is warranted given that the building is of a contemporary style with a skillion roof that provides articulation and interest and promotes a positive contribution to the streetscape.

Strict compliance with the numerical standards is not likely to create any significant lesser impact on adjacent properties. Rather it would contradict the architectural form of the building and create an improper infill development on a site that is suitable to something unique and attractive. In addition when considered in the context of the desired future character of the area it is expected that this style of development will be the norm for the wider locality as also mentioned in DCP 43 discussed above.

The above submission however has failed to specifically address the encroachments to the building envelope. However, these encroachments have generally been addressed in the submission with the variations to the building height and roof form. The encroachment to the building envelope is largely a result of the skillion roof, which is considered to be an appropriate design, which compliments the contemporary style building.

Generally the encroachments involve the eaves and a small part of the wall. These encroachments are considered to be minor with negligible impact and again strict compliance would not be of any significant benefit in terms of reducing bulk scale or overshadowing.

Therefore the minor variations to the building envelope are also considered to be reasonable.

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

N/A

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

It is considered that the proposed development is not likely to create any significant adverse impacts on both the natural or built environments of the locality.

Minimal physical disturbance is envisaged during construction, which is expected to be short term and will be suitably protected by erosion and sedimentation control measures where applicable. Minimal cut and fill is likely as discussed earlier.

Proposed vehicular access arrangements are satisfactory. The driveway will be located entirely within the subject land.

As discussed in this report above it is considered that the design, scale and appearance of the building is reasonable and will generally be consistent with the future desired built form and character of the locality. This is also supported by DCP 43, which makes reference that it is envisaged that future development within this area will involve gentrification and replacement of existing houses with more upmarket developments.

However, the potential impact in regard to privacy, views, residential amenity and overshadowing on existing adjoining and adjacent residences still needs to be considered.

In this regard, the development has certainly demonstrated substantial compliance in relation to the provisions of Council's controls. The shadow diagrams submitted demonstrate that satisfactory shadowing of neighbouring properties. During the summer months minimal shadowing over adjoining properties is demonstrated. During the winter months the extent of shadowing is obviously increased, particularly during the early and later hours of the day. However, the properties overshadowed by the proposed building will still enjoy significant sunlight during the whole day. The most affected property to be overshadowed is the property to the southwest (No.46) at the time of 9am midwinter. Again during the later hours of the morning and for the majority of the day the property will still enjoy substantial sunlight.

More than adequate private open space has been sited and sized in a manner that should ensure the preservation of amenity for adjacent residents. Increased setbacks will also ensure that privacy and amenity is preserved. The open decks have also been satisfactory located and designed to ensure minimal impact on privacy and amenity.

View loss will certainly be experienced in relation to the single storey dwelling immediately adjoining to the southwest. However, taking into consideration the orientation and design of this dwelling there are already limited views from the dwelling. However there are certainly views available externally from the house on other parts of the property. Any future likely redevelopment of this land will certainly achieve better views. This is similar for the existing single storey dwelling on the subject land that has not been designed to take advantage of views. But with its redevelopment will certainly gain views from the south to the north. With the envisaged redevelopment of this locality these views will also be reduced as other three storey buildings are constructed in the future.

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

It is considered that the site is suitable for the proposed development. The land was specifically created and historically used for residential purposes and its use is certainly consistent with the residential character of the locality.

As discussed in this report the locality is characterised by single and two storey dwellings. The proposal for a three-storey dwelling is inconsistent with this character but is consistent with the relevant provisions of Council's controls. In addition the proposal is also consistent with the desired and future redevelopment of the locality and supports DCP 43, which, envisages that the future development within this area will involve gentrification and replacement of existing houses with more upmarket developments.

Therefore the minor impacts in terms of loss of views is insignificant when considering that in the near future this locality is likely to be redeveloped. There are no identified prohibitive risk factors.

The building has been suitably sited and complies with minimum setback requirements as discussed above in this report.

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

Adjoining and adjacent property owners were notified and a total of four (4) submissions of objection were received. The details of these submissions will be discussed below.

- \* When and how did the previous two (2) storey height limit change to three (3) storeys?

Comment

Under the provisions of the previous Tweed Local Environmental Plan 1987 and the then Building Heights Map the subject land and the locality was identified as three (3) storeys. Under the current TLEP 2000 and Building Heights Map the same area is still identified as having a three (3) storey height limit.

Therefore, the three storey height limit appears to have been in place for some time now.

It is possible that those who raised this concern may have been confused with the two (2) storey height limit in place for the locality east of Seaview, Olga and Viking Streets.

- \* Building does not adhere to 6m front setbacks.

Comment

The proposed building will be setback a minimum of 6m from the front boundary. There are no other structures within the building line.

- \* The existing dwelling currently shares a driveway with an adjoining property No.46 What happens if one of the owners should sell?

Comment

Discussions with the owner of No.46 who shares the common driveway indicates that the common driveway is a verbal agreement only which was established many years ago. Should one of the current owners or any future owner wish to cease or restrict vehicular access over their property then this can be done as no formal right of carriageway exists.

However, the development proposes a separate driveway to be located entirely within the boundaries of the subject land.

- \* Loss of ocean views

Comment

This has already been discussed in this report.

Generally views will be lost particularly for the single storey dwelling to the southwest. Because of its low-lying character and orientation the existing house does not fully achieve views to the east. But with the likely future redevelopment of this locality it is envisaged that this loss will be regained and certainly improved in the future.

This could also be argued for the existing dwelling on the site, which is also single storey and has not been suitably designed or orientated to gain the views or vistas to the east.

- \* Overshadowing

Comment

See section (b) of this report. Generally it is considered that overshadowing will not create any significant adverse impacts on adjoining residences.

- \* Loss of property values.



Comment

This is difficult to establish. But as the real estate market in Kingscliff has significantly increased over the years and that this locality is likely to be redeveloped it is unlikely that the proposal would reduce property values. To the contrary should the rest of the locality be redeveloped similar to this it is unlikely to detract on property values.

- \* Proposal not in character with built form of locality.

Comment

It is agreed that the proposal is not necessarily consistent with the existing built form and character of the locality, which is dominated by single and two storey dwellings.

However, with escalating land values, rates and views it is considered that the locality will certainly be redeveloped in the future similar to the proposal. Council has also identified that the future development within this area will involve gentrification and replacement of existing houses with more upmarket developments.

- \* Increases traffic from increased building sizes.

Comment

It is unlikely that increased building sizes will result in increased traffic. The dwelling is a single dwelling comprising 3 bedrooms and is intended to be used for single dwelling purposes only.

- \* Close proximity of the building will adversely affect the structural integrity of the neighbours house. Side retaining will cause vibration creating cracking because of poor soil type (sand).

Comment

The proposal is not likely to create any significant earthworks on the site. Minimal cut or fill is envisaged which is not likely to extend below the level of the base of the footing of a building on an adjoining property. The building is reasonably setback from the property boundaries and the only likely earthworks near the boundaries is the construction of the driveway and a retaining wall, which is not envisaged to require significant or deep earthworks. There is an existing retaining wall on the southern side of the property on the common boundary.

Therefore the potential for damage to the structural integrity of a building on an adjoining property is considered to be low.

Nevertheless it is considered that the dwellings on the adjoining properties (No.42 & No.46) may still be subject to potential damage due to the sandy soil and construction works.

This has been discussed with the applicant and it is agreed that a dilapidation report be prepared and submitted for the dwellings at No.42 & No.46 McPhail Avenue prior to the commencement of works on the site and any consent will be conditioned appropriately.

**(e) Public interest**

The submissions of objection have been considered and under the circumstances as discussed above these submissions do not warrant refusal or modification to the application.

**OPTIONS:**

1. Approve the application with conditions.
2. Refuse the application

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

In the event that the applicant is dissatisfied with Council's determination, a right of appeal exists to the Land and Environment Court. The proposed development is not designated and as such no third party appeal rights exist.

**POLICY IMPLICATIONS:**

Nil.

**CONCLUSION:**

The proposal generally satisfies all Council policy and the development of the site is consistent with the desired and future built form and character of the locality. It is likely that like the site the locality will in the future progressively involve gentrification and replacement of existing houses with more upmarket developments.

The submissions of objection have been considered and discussed and do not warrant modification or refusal of the application.

Having regard to the above assessment it is considered that the proposal is suitable to the site and is suitable for conditional approval.

**UNDER SEPARATE COVER:**

Nil.

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**5 [PE] Amendment to Tweed Local Environmental Plan 2000**

**ORIGIN:**

**Strategic Town Planning**

**SUMMARY OF REPORT:**

The Engineering and Operations Division is seeking modification to Tweed Local Environmental Plan (TLEP) 2000 in order to simplify the process of obtaining approvals for engineering projects. The Engineering & Operations Division's preference is for public infrastructure works to be excluded from the provisions of Part 4 of the Environmental Planning & Assessment Act. That is to say, permissible without development consent but still subject to the environmental assessment regime contained in Part 5 of the Act.

It has become apparent that much time is spent in formulating and approving applications for works that are not anticipated to result in an adverse environmental impact, leaving less time for the larger projects or necessitating outsourcing of such work to consultants, resulting in increased expenditure on capital works.

The main provisions of the LEP that would require amendment for this objective to be achieved are:

- Acid sulphate soil (ASS) provisions applying to public infrastructure works (Clause 58 Savings) and
- Above ground works associated with water, sewer or drainage works (Schedule 5 Savings Clause 2), particularly sewer pump stations.

**RECOMMENDATION:**

That: -

1. Council resolves to include amendments for Council works within the next "housekeeping" amendment to Tweed LEP 2000.
2. Pursuant to Section 54 of the Environmental Planning and 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 amendments to Clause 58 and Clause 2 of Schedule 5 of Tweed LEP 2000

## REPORT:

The Engineering & Operations Division is seeking modification to Tweed Local Environmental Plan (LEP) 2000 in order to simplify the process of obtaining approvals for engineering projects. The Engineering & Operations Division's preference is for public infrastructure works to be excluded from the provisions of Part 4 of the Environmental Planning & Assessment Act. That is to say, permissible without development consent but subject to the environmental assessment regime contained in Part 5 of the Act.

It has become apparent that much time is spent in formulating and approving applications for works that are unlikely to result in an adverse environmental impact, leaving less time for the larger projects or necessitating outsourcing such work to consultants, resulting in increased expenditure on capital works.

The provisions of the LEP that would require amendment for this objective to be achieved are:

- Acid sulphate soil provisions applying to public infrastructure works (Clause 58 Savings) and
- Above ground works associated with water, sewer or drainage works (Schedule 5 Savings Clause 2), particularly sewer pump stations.

The problems arising with the above situations triggering a development application primarily relate to timing and workload. This is particularly relevant when permits are required from State Government Agencies, such as:

- "Bore Licence" applications from the Department of Infrastructure, Planning and Natural Resources for dewatering activities, and
- Fisheries permits from Department of Primary Industries for "dredging and reclamation" of "removal of marine vegetation".

When proposed works trigger the requirement for such permits and they are submitted in the form of a development application (usually because of the presence of acid sulphate soils), the DA becomes "Integrated Development" and is forwarded to the relevant State Government agency for approval. Despite this referral and resulting "General Terms of Approval", separate licence applications must be submitted and a further fee paid to receive the actual permit or licence sought.

The relevant State Government Agencies have advised Council that permits will not be issued until the DA is approved. In terms of time frame from lodgement until all approvals are obtained and work can legally commence for a project involving dewatering, the period varies between four and six months, comprised of:

- 4 weeks advertising
- 4 to 8 weeks State Government referral processing
- 2 to 4 weeks internal DA processing
- 6 to 8 weeks permit processing (mostly due to Native Title provisions).

If such applications were able to be dealt with as a Review of Environmental Factors (Part V of the EP&A Act) then an environmental assessment and all relevant permits would still be required but the time frame would be reduced to a maximum of eight weeks.

The proposed amendments are highlighted as additions within the relevant clauses below:

**1. Acid Sulphate Soils**

a. Amend Clause 58 Savings Provisions

58 Savings

Nothing in this plan is to be construed as restricting or prohibiting or enabling the consent authority to restrict or prohibit:

- (a) the carrying out of development of any description specified in Schedule 5 other than that specified in Clause 2 or 11 of that Schedule in respect of land to which Clause 35 applies, unless the work specified in Clause 2 or 11 of that Schedule in respect of land to which Clause 35 applies is carried out by or on behalf of Council in the provision of public infrastructure, or
- (b) the use of existing buildings of the Crown by the Crown, or
- (c) home occupations carried on in dwelling houses.

**2. Above-ground works associated with water, sewer or drainage works**

Amend Schedule 5 Clause 2 and 11 as follows:

- 2. The carrying out by persons carrying on public utility undertaking, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings, that is to say:
  - (a) development of any description at or below the surface of the ground,
  - (b) any other development except:
    - (i) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of buildings, or
    - (ii) the formation or alteration of any means of access to a road

- (iii) unless works described in (2)(b)(i) and (ii) are carried out for or on behalf of Council in the provision of public infrastructure.
11. The carrying out or causing to be carried out by a council engaged in flood mitigation works or by the relevant State Government Department of any work for the purposes of soil conservation, mitigation, afforestation, reafforestation, flood mitigation, water conservation or river improvement in pursuance of the provisions of the relevant Acts and Regulations for the above work.
- (a) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect the design or external appearance thereof, up to a maximum of two storey or its equivalent.
  - (b) The formation or alteration of any means of access to a road unless works described in 11(a) and (b) are carried out for or on behalf of Council in the provision of public infrastructure.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The provisions, when implemented, will save time (staff resource) in undertaking minor Council works.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER

### 6 [OGM] Quarterly Budget Review - 31 March 2005

#### ORIGIN:

Financial Services

#### SUMMARY OF REPORT:

This is the third 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 March 2005 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 Functions and by Fund

Functions	Expenditure	Income	Net Cost
Community	31,277,778	21,161,562	10,116,216
Economic	5,408,796	4,270,606	1,138,190
Environmental	14,896,319	9,475,877	5,420,442
Infrastructure	79,018,000	67,899,328	11,118,672
Organisation	4,661,542	34,507,472	(29,845,930)
<b>Total</b>	<b>135,262,435</b>	<b>137,314,845</b>	<b>(2,052,410)</b>

<b>Fund</b>	<b>Expenditure</b>	<b>Income</b>	<b>Net Cost</b>
General	84,360,509	84,360,509	-
Water	26,098,520	26,428,403	(329,883)
Sewer	24,803,406	26,525,933	(1,722,527)
<b>Total All Funds</b>	<b>135,262,435</b>	<b>137,314,845</b>	<b>(2,052,410)</b>



**REPORT:**

**Budget Review 31 March 2005 (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 March 2005 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	Description	Comments	Positive (Contribute to surplus)	Negative (Contribute to deficit)
<b>GENERAL FUND</b>				
<b><u>Engineering &amp; Operations</u></b>				
1	Wardrop Valley expenses	Roadworks for Wardrop Valley		100,000
2	Wardrop Valley funding	Works carried forward from 2003/04 reserve funding Wardrop Valley road works	100,000	
3	Reserve Creek Road	Resumption costs		10,910
4	s94 admin levy - Infrastructure Planning	Revised estimate - additional income received	69,607	
5	s94 admin levy - Planning & Design	Revised estimate - additional income received	15,000	
6	Lakes Drive boat ramp	New waterways project		116,850
7	Public jetties	New waterways project		83,850
8	Waterways asset management	Reallocate asset management funds to boat ramps and public jetties	55,617	
9	WADAMP grant	50% grant funding for Lakes Drive boat ramp	58,425	
10	WADAMP grant	50% grant funding for public jetties	41,925	
11	Waterways loan funding	Allocate new and existing loan funds to boat ramps and public jetties	44,733	
12	Reg Dalton Oval fencing	Council contribution \$1400 from the Assets Reserve Trust Fund towards upgrading perimeter fencing at the Reg Dalton Oval. Minute 212 16/3/2005		1,400
13	Sportsfields assets reserve	Funding for Reg Dalton Oval perimeter fencing	1,400	
14	Salt maintenance	Full year's maintenance not required	51,000	
15	Park amenities	Additional maintenance costs		30,000
16	s94 admin levy - Recreation	Revised estimate - additional income received	17,000	

Item	Description	Comments	Positive (Contribute to surplus)	Negative (Contribute to deficit)
17	Murwillumbah Traffic Study	Murwillumbah traffic modelling study, Barnby Street precinct. Minute 205 16/3/2005		26,000
18	Section 94 Plan 4	Section 94 funding for Murwillumbah traffic modelling study	26,000	
19	Engineering/Contract Management	Management Costs - revised estimate		11,000
<b>Positive Negative</b>				
<b>(Contribute (Contribute</b>				
<b>to surplus) to deficit)</b>				
<b><u>Environment &amp; Community Services</u></b>				
20	Banora Point Community Centre Operating	Garden maintenance March-June		4,420
21	NSW Fire Brigade	Additional contribution - Tweed Heads, Kingscliff & Murwillumbah fire brigades		19,600
22	Cemeteries operations	Increased operational costs		29,700
23	Cabarita SLSC	Costs associated with relocation of temporary building. Minute 156 2/3/05		25,000
24	SES/RFS Headquarters	Additional cost of renovations		60,000
25	Civic Centre Extensions	Reallocate funds to SES/RFS Headquarters	60,000	
26	Environmental Health salaries	Overtime		10,000
27	Health legal expenses	Revised estimate - actual costs		15,000
28	Animal control	Additional costs		61,000
29	Straying cattle	Additional costs		11,000
30	Advertising structure control	Additional costs		13,700
31	Rangers costs	Additional costs		3,600
32	Parking Infringements expenses	Lower than expected costs	49,000	
33	Parking Infringements income	Revised estimate - additional income received	83,000	
34	Murwillumbah Swimming Pool expenses	Additional costs		47,000
35	Murwillumbah Swimming Pool kiosk	Lower than expected costs	2,200	
36	Tweed Heads Swimming Pool expenses	Part of carried forward from 2003/04 not required	35,000	
37	Murwillumbah Swimming Pool income	Revised estimate - additional income received	21,000	
38	s94 admin levy - Environmental Health	Revised estimate - additional income received	17,000	
<b><u>Office of the General Manager</u></b>				
39	Postage	Savings on postage costs	16,000	
40	Cabarita - potential land sale	Probity report costs (\$20000 voted Dec 2004)		11,758
41	Councillors travel & subsistence	Revised estimate	15,000	
42	Travelling	Revised estimate	5,600	
43	Councillors Support	Part funds carried forward from 04/05 not required	16,000	
44	Advertising	Revised estimate		5,000
45	Annual Report	Revised estimate	2,000	
46	Local Govt & Shires Assoc	Additional subscription costs		1,400
47	Australia Day celebrations	Revised estimate - actual costs		5,100
48	Risk Management Program	Program partially postponed	55,000	
49	Public Inquiry Expenses	New estimate		92,000

50	Finance salaries	Cost savings	9,695	
51	Human Resources	Revised estimate - actual costs		20,000
52	Property development funding	Funding probity report costs from land development reserve	31,758	
53	Rates income	Revised income		181,465
54	s94 admin levy - Finance	Revised estimate - additional income received	20,000	
55	Finance Sundry Income	Revised estimate - original budget too high		38,000
56	Corporate Performance/Audit	Increased costs		15,000
			<b>Positive</b>	<b>Negative</b>
			(Contribute to surplus)	(Contribute to deficit)
Item	Description	Comments		
57	Civic Liaison	Part funds carried forward from 04/05 not required		13,000
58	Tweed Link external income	New estimate of estimated income	10,500	
	<b>Planning &amp; Environment</b>			
59	s94 admin levy - Strategic Planning	Revised estimate - additional income received	48,659	
60	Building Control Sundry Income	Revised estimate - additional income received	7,900	
61	Plumbing Inspection Fee	Revised estimate - additional income received	15,000	
62	Conveyancing Drainage Diagrams	Revised estimate - additional income received	25,000	
63	Sewer Plans	Revised estimate - additional income received	15,000	
64	s94 admin levy - Development management	Revised estimate - additional income received	21,734	
			<b>1,062,753</b>	<b>1,062,753</b>
	<b>WATER FUND</b>			
65	Water fund capital expenditure	Revised estimate - works incomplete or deferred and carried over to 2005/06	7,532,527	
66	Water fund Transfers from Reserve	Revised transfer to reserve – works incomplete or deferred and carried over to 2005/06		7,532,527
			<b>7,532,527</b>	<b>7,532,527</b>
	<b>SEWER FUND</b>			
67	Sewer fund capital expenditure	Revised estimate - works incomplete or deferred and carried over to 2005/06	7,432,346	
68	Sewer fund Transfers from Reserve	Revised transfer to reserve - works incomplete or deferred and carried over to 2005/06		7,432,346
			<b>7,432,346</b>	<b>7,432,346</b>

## General Fund

Based on current projection the General Fund is expected to remain as a “balanced budget” for the remaining 3 months of the financial year. Furthermore, any approval for funding of additional programs must be offset by a reduction in an 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
March 2005 Budget Review	0	0	0
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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**7 [OGM] Transaction Banking Services**

**ORIGIN:**

**Financial Services**

**SUMMARY OF REPORT:**

This report explores the benefits of a regional approach to the tendering of transactional banking services.

**RECOMMENDATION:**

That Council:-

1. Negotiates with the Commonwealth Bank to extend the current banking services contract arrangement until 1 October 2006.
2. Prepares banking tender documents in conjunction with other Far North Coast Councils for a period of four (4) years commencing 1 October 2006.

**REPORT:**

Council's banking services tender is due for renewal before 1 July 2005. The Commonwealth Bank has provided bank services to Council for the last four (4) years and will extend the current arrangement until October 2006 with no change or possibly a reduction in the cost of bank fees. October 2006 coincides with the expiration of other Northern Rivers Councils banking services contracts.

At the recent Local Government General Manager's Regional meeting, Council's Executive Manager, Office of the General Manager, Reg Norvill outlined the benefits of a regional approach to the tendering of banking services. These benefits include transaction cost efficiencies accruing from greater economies of scale if a combined councils banking service tender was formulated by Ballina, Byron, Lismore, Richmond and Tweed Councils.

Extension of Tweed Shire Council's current banking arrangements until October, 2006 is proposed to allow formulation of a combined councils banking services tender.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Regional sharing of resources with possible cost saving in bank fees.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**8 [OGM] Corporate Quarterly Report - January to March 2005**

**ORIGIN:**

**Corporate Performance**

**SUMMARY OF REPORT:**

The Corporate Quarterly Report for the period 1 January to 31 March 2005 is presented for Council's information.

**RECOMMENDATION:**

That this report be received and noted.

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

The Quarterly Corporate Report is still being progressively redeveloped to provide progress feedback on designated priorities within the principle activity categories as specified in the 2004-2008 Management Plan. These Quarterly Reports will be combined at the conclusion of the financial year and included in the annual report to the Department of Local Government, Council and the community.

**CORPORATE QUARTERLY PERFORMANCE REPORT – 1 JANUARY TO 31 MARCH 2005**

The following report details the progress for the period January to March on activities identified to be undertaken during 2004-2005 in the 2004-2008 Management Plan. These actions assist Council to work towards its vision of "a premier area in which to live, work and visit".

**Activity 1 - Recreation Services**

Objective:

*To provide high quality open space and a range of recreation facilities, which meet the needs and expectations of the community in a safe, cost effective and efficient manner.*

*The following table specifically identifies key milestones to implement the above priorities identified for 2004/2005.*

Progress towards Actions.

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Ensure adequate provision of resources to maintain open space in major urban release areas; Salt, Koala Beach, Casuarina, Black Rocks, & Seabreeze.	Provision of resources to achieve required work outputs.	June 2005	Currently working within budget funding allocation.	Currently working within budget funding allocation.	Currently working within budget funding allocation	
Commence planning and construction of sports facilities at Kingscliff sports fields	Completed by due date	June 2005	Planning in progress. Consultation with user clubs underway.	On-going Consultation	Draft plan completed	
Upgrade power supply Cabarita Sports Fields	Construction completed in accordance with the program schedule	June 2005	No action to date. Currently waiting on electrician availability.	No action to date. Currently waiting on electrician availability.	No action to date. Currently waiting on electrician availability	
Manage construction of sports fields and associated amenities at Seabreeze	Construction completed in accordance with the program schedule	June 2005	Construction underway and nearing completion. Negotiations currently underway with developers to complete the project.	Field construction completed. Continuing negotiations with developers regarding amenities.	Field construction completed. Lights installed. Awaiting construction of amenities	
Establish recreation facilities West Murwillumbah	Provision of resources to achieve required work outputs	June 2005	Awaiting appointment of landscape architect.	Landscape architect commenced. Commencing design stage.	Community consultation progressing	
Continue implementation of Tweed Coast Bitou Strategy	Provision of resources to achieve required work outputs	June 2005	Ongoing implementation of Bitou Bush strategy.	Ongoing implementation of Bitou Bush strategy.	Ongoing implementation of Bitou Bush strategy.	
<b>Responsible Division/Unit</b>						
<b>Recreation Services</b>						

## Activity 2 - Health & Community Services

Objective:

*To identify community needs and increase well being of members of the community.*

### Progress to Actions

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Document New Garbage Contract / Joint Disposal Initiative with Gold Coast City Council	Documentation completed and contract signed.	Nov 2004	Negotiations nearing completion.	New Garbage Contract finalised. Joint initiative been deferred	New Garbage Contract finalised. Joint initiative been deferred	
Design and preliminary plan New SES / Murwillumbah Rural Fire Service Headquarters	Provisions of resources to achieve required work outputs.	June 2005	DA approved. Purchase of site finalised.	Construction of SES / Rural Fire building in progress at Kyogle Road.	Construction of SES / Rural Fire building in progress at Kyogle Road.	
Build Murwillumbah civic centre office extension	Construction completed in accordance with program schedule.	June 2005	Construction program delayed by 3 months.	Verandah extensions completed and occupied. Approval & design for other extensions proceeding.	Internal modification in progress. Other modifications are planned	
Finalise concept/design plan Murwillumbah Pool and adjacent multi-level car park. Design Murwillumbah pool and adjacent multi-level car park	Provision of resources to achieve required work outputs.	June 2005	Concept design finalised. Council workshop 22 September 2004.	Public comment been invited on Concept Plan	Council. Adopted Master Plan. Funding to be considered in 2005/2008 Management Plan	
Construct Banora Point Community Centre	Construction completed in accordance with program schedule.	Dec 2004	Building works commenced	Building works 75% completed	Building complete.	
Preliminary plan Murwillumbah Community Centre	Provisions of resources to achieve required work outputs.	June 2005	Concept planning commenced	Tender for Kangia Steiner school property submitted- unsuccessful Alternative planning commenced.	Alternate site planning in progress	
Commence redevelopment of Murwillumbah / Tweed Heads Museums	Provision of resources to achieve required work outputs.	Dec 2004	Memo of Understanding 'MOU'. Adopted by Council. Official signing 20 September 2004.	Implementation of MOU ongoing.	Implementation of MOU ongoing	

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Implement the 5 <sup>th</sup> City of the Arts	Completed by target date.	June 2005	Seven Community Cultural Development Projects are currently underway.	Seven Community Cultural Development Projects are currently underway.	Ten community cultural development projects are being maintained	
Upgrade Public Toilets	Construction completed in accordance with program schedule.	June 2005	Report being prepared for Council.	Report being prepared for Council.	Report being prepared for council	
Implement Libraries Strategy	Meet or exceed the target set out in Libraries Strategy.	2 books per resident.	Book stock increasing.	Book stock increasing. Strategies being implemented.	Book stock increasing. Strategies being implemented.	
Develop Heritage Package	Provisions of resources to achieve required work outputs	June 2005	First stage of Community Heritage study completed. First stage to be exhibited along with the Community Heritage Package	Awaiting final report from Heritage consultant.	Finalising Council report	
Social Planning including, Youth and Aboriginal Workers	Provisions of resources to achieve required work outputs	June 2005	Brief deferred as monetary resources for the project need to be finalised before work may commence.	Brief deferred as monetary resources for the project need to be finalised before work may commence.	Brief deferred as monetary resources for the project need to be finalised before work may commence	
<b>Responsible Division/Unit</b>						
<b>Environment &amp; Health Strategic Planning.</b>						

### Activity 3- Economic Development

Objective:

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

Progress to Actions

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Manage TEDC Contract Deliverables Quarterly	Percentage of contracted objectives completed to Councils satisfaction	100%	Performance objectives are being monitored to achieve target.	Performance objectives are being monitored to achieve target.	Performance objectives are being monitored to achieve target.	
Manage TACTIC Contract Deliverables Quarterly	Percentage of contracted objectives completed to Councils satisfaction	100%	Performance objectives are being monitored to achieve target.	Performance objectives are being monitored to achieve target.	Performance objectives are being monitored to achieve target.	
Tourism Industry Development Strategy	Provision of resources to achieve required work outputs	June 2005	Draft brief finalised with TATIC and TEDC.	Draft brief still with TEDC.	Federal funding source identified and funding application is being prepared.	
Facilitate and Implement Reserve Trust Resolutions in relation to Caravan Park Maintenance and Development	Percentage of Reserve Trust Resolutions implemented on time and within budget	100%	Project commenced and running to schedule. The project is 25% completed at the end of the first quarter.	Project commenced and running to schedule. Project is 50% completed at the end of the 2nd quarter.	Project commenced and running to schedule. Project is 75% completed at the end of the 2nd quarter.	
Develop and Implement Economic Development Strategy	Provision of resources to achieve required work outputs	June 2005	Draft Economic Development Strategy prepared. Response from TEDC required before future work may commence.	Working on Draft strategy with TEDC.	Workshop held 23/2/05 with Council. Final draft to be presented to Council.	
Complete Retail Development Strategy	Provision of resources to achieve required work outputs	June 2005	Brief extended. Resources for project need to be finalised before work may commence	Further information sought from consultant. Draft strategy to be provided by consultant.	Workshop planned for 27 April 2005. Draft findings	
<b>Responsible Division/Unit</b>						
<b>Office of the General Manager Business Undertakings Strategic Planning.</b>						

**Activity 4 - Natural and Built Environment**

Objective:

*Conserve the unique biodiversity and scenic quality whilst ensuring sustainable quality development*

Progress to Actions:

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Review application processing eg. Application forms, engineering input, response to legislation amendments.	Ongoing review of individual tasks	Mid 2005	Review has commenced and is ongoing	Review has commenced and is ongoing	Review has commenced and is ongoing	
Review area teams terms of reference	Ongoing review of individual tasks	Mid 2005	Not commenced. Expected to commence in 2 <sup>nd</sup> quarter.	Completed	Completed	Completed
Review Development Assessment Panel terms of reference	Ongoing review of individual tasks	Mid 2005	Not commenced. Expected to commence in 2 <sup>nd</sup> quarter	Completed	Completed	Completed
Review of DA delegations	Ongoing review of individual tasks	Mid 2005	Review has commenced and will be ongoing.	Review has commenced and will be ongoing.	Review has commenced and will be ongoing.	
Meantime determining for Development Applications	1 day better then 36.15 days	Review quarterly	37 days	35 days	45 days	
Review Internal Service Level Protocols	Ongoing review of individual tasks	Mid 2005	Not commenced as yet.	Not commenced as yet.	Not commenced as yet.	
Implement and adopt Tweed Local Environmental Plan Review Program	Percentage of LEP amendments completed within 18 months form Council section 54 resolution	100%	Ongoing implementation and review of the local environmental plan.	Ongoing implementation and review of the local environmental plan.	Ongoing implementation	
Complete Kingscliff Local Plan	Provision of resources to achieve required work outputs	June 2005	Draft plan will be completed by November.	Draft plan deferred pending discussion with Gales Holdings	Workshop planned for 27 April 2005	
Develop Rural Villages Development Strategy	Provision of resources to achieve required work outputs.	June 2005	No work undertaken at this date.	No work undertaken at this date.	No work undertaken at this date.	

Develop Residential Development Strategy	Provision of resources to achieve required work outputs.	June 2005	No work undertaken at this point.	Draft brief prepared.	No program finalised	
Develop Uki Development Control Plan	Provision of resources to achieve required work outputs.	June 2005	Work has commenced on development control plan. Consultants have been engaged.	Consultant has conducted meetings with Steering Committee. Draft Plan presented to Committee.	Draft DCP and Locality plan completed. Public exhibition next stage of implementation	
Construct flood mitigation systems	Provision of resources to achieve required work outputs.	June 2005	Not yet received advice from NSW Government in relation to grant monies for project.	Grant monies received for completion of Design of East Murwillumbah Levee only.	Design 90 % Complete for East Murwillumbah and Dorothy St Levees	
Rehabilitation of Fingal wetlands	Construction completed in accordance with Program schedule	June 2005	Work has commenced on site. 50% completed.	Work approximately 75% complete	All implementation work completed.	
Construct 18-berth marina at Southern Boatharbour	Construction completed in accordance with Program schedule.	June 2005	Contracts for land based activities and marina have been awarded. Construction to commence in 2 <sup>nd</sup> quarter.	Works 95% complete	Work Completed	
Construct new boat ramps	Construction completed in accordance with Program schedule.	June 2005	Work has commenced on Dry Dock and Chinderah boat ramps.	Dry Dock and Chinderah Boat Ramps Completed	Work Completed	
Commence implementation of Coastline Management Plan	Provision of resources to achieve required work outputs.	June 2005	Final draft is on exhibition for public comment.	Comments received from public on final draft. Report to be submitted to Council.	Final Plan 95% Complete	
<b>Responsible Division/Unit</b>						
<b>Development Assessment Strategic Planning Water</b>						



## Activity 5- Infrastructure Planning

Objective:

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

Progress towards Actions:

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Amend DCP5	Adopted by Council	July 2004	Council resolved (15/09/04) to defer decision on amended DCP5 until delivery of the consultant's Flood Study.	March workshop held. Further amendment pending completion of flood study.	Further amendment pending completion of flood study	
Full review Tweed Road Contribution Plan	Adopted by Council	Feb 2005	Review of works program estimates 50% complete.	Review of works program estimates 50% complete.	Review of works program estimates. 60% completed	
Prepare Flood Plain Risk Management Plan	Draft adoption by Council	July 2005	Awaiting on completion of flood study by consultants	Draft flood study received, subject to review.	Draft flood study received, subject to review	
Review Tweed Development Program	Adoption by Council	June 2005	No action to date.	No action taken to date.	No action taken to date.	
<b>Responsible Division/Unit</b>						
<b>Infrastructure Planning</b>						

## Activity 6 - Roads and Transport

Objective:

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

Progress towards Actions

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Urban Works Program	Percentage completed.	June 2005	Commencement of work at Myrtle St. Work 5% completed.	Myrtle Street 100% complete. Coolman Street 90% complete.	Myrtle Street Coolman St 100% complete Church St 90% Elanora Ave 5%	
Complete construction of Piggabeen Road deviation	Construction completed in accordance with Program schedule.	June 2005	Clearing completed. GEOTEchnical work consultants approved.	Clearing completed. Geotechnical Investigation complete. Tender let for Environmental Auditing. No further work to be completed this financial year.	Clearing completed. Geotechnical Investigation complete. Tender let for environmental auditing. No further work to be completed this year.	
Complete construction of Hastings Street, Cabarita carpark	Construction completed in accordance with Program schedule.	June 2005	No work commenced at this date.	No work commenced at this date.	No work commenced at this date	
Drainage Program	Percentage completed.	June 2005	Design work commenced on 50% of projects.	Bongaree Road completed. Pearse Street completed. Raward Ave completed. Design completed for 80% of projects.	Bongaree Road Pearse Street Raward Ave Darlington Dve Completed Bione Ave 10% Elanora Ave 10%	
Roads to Recovery Program	Percentage completed.	June 2005	100% work completed at Smarts Road.	Smarts Road complete.	100% complete	
Federal Assistance Grant (FAG) Program	Percentage completed.	June 2005	Byangum bridge approaches 50% completed.	Byangum Bridge approaches 85% complete.	Byangum bridge approaches 100% High School 100%	

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Bridge Program. Complete construction of Byangum Bridge	Percentage completed	June 2005	Byangum bridge expected to be completed by June 2005	Byangum Bridge 98% complete.	Byangum bridge 100% completed	
Upgrade of Tweed Depot	Construction completed in accordance with Program schedule	June 2005	50% of design work completed at this point.	Design 90% complete.	Design completed Awaiting consent to construct	
<b>Responsible Division/Unit</b>						
<b>Design Works</b>						

**Activity 7 - Water and Sewerage**

Objective

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

Progress towards Actions:

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Award contract for the construction of Kingscliff Sewerage Treatment Plant (\$20M)	Provision of resources to achieve work outputs.	June 2005	Construction awarded for detailed design (\$800,000).	Detail Design 30% complete. Council exercised options to purchase new site 23/12/04.	Detailed Design 80% complete. Contract for site has not yet been settled	
Award contract for the construction of Bray Park Water Treatment Plant (\$30M)	Provision of resources to achieve work outputs.	June 2005	Tender assessment complete for supply of membranes (\$6M).	Contract Awarded for supply of Membranes.	Process Concept complete. Site layout concept 80% complete.	
Manage construction of Duranbah Water reservoir	Provision of resources to achieve work outputs.	June 2005	Concept design has commenced.	Design Completed.	Construction to commence 05/06	
Manage construction of major water distribution mains	Provision of resources to achieve work outputs.	June 2005	Coast Road trunk main complete, except for Cudgera Creek crossing.	Upgrade and replacement of 2 km of distribution main in Terranora Rd. Tenders called for Cudgera Creek Crossing.	Completed 600 main from WPS no 3 to Oak Avenue.	
Finalise design of Clarrie Hall Dam spillway upgrade	Provision of resources to achieve work outputs.	June 2005	Investigation commenced for revised 'pmf'. (Probable max flood)	Revised PMF completed. Dam break study commenced.	Dam Break Study and Dam Safety Emergency Plan 20% Complete	
Manage upgrades at sewerage treatment plants	Provision of resources to achieve work outputs.	June 2005	Hastings Point sewerage treatment plant 80% completed.	Hastings Point STP 95% complete. Banora Point Odour Control, and inlet works refurbishment completed.	Practical Completion for Hastings Point STP.	
Implementation of a sewerage and trade waste charging policy	Provision of resources to achieve work outputs.	Feb 2005	Not commenced.	Not commenced.	Not Commenced	

**Supporting Plans and Strategies**

**Design Water**

**Activity 8 - Corporate Governance**

Objective

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

Progress towards Actions:

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Implementation of international financial reporting standards	Requirements completed in accordance with program.	June 2005	Declaration incorporated into 30 June 2004 Financial statements, Note 1, No 17 as required by the AASB 1047 requirement. Conversion of last year accounts into IFRS format to be conducted in November.	Declaration incorporated into the 30 June 2004 Financial Statements, Note 1. No 17 as required by AASB 1047 requirement  Conversion of last year accounts into IFRS format has been delayed to March 2005 pending the release of the new AAS27.	Declaration incorporated into the 30 June 04 financial statements. Note 1 No 17 as required by AASB 1047 requirement.  Conversion of last year accounts into IFRS format has been delayed to pending release of the new AASB27	
Review Long-term Financial Plan	Provision of resources to achieve required work outputs.	June 2005	Auditors expected to complete last financial year accounts mid Sept. Review of long-term financial plan to expected to commence in 2 <sup>nd</sup> quarter.	Auditors completed last financial year accounts mid September. Review of long-term financial plan due for completion in Jan 2005.	Long-term financial plan to be presented to Council Workshop on 11 May 2005	
Ensure compliance with Local Government Financial Management Regulation in relation to payroll, costing, taxation, accounts payable and receivable practices	100% compliance.	June 2005	Ongoing compliance required. Auditors conduct compliance checks on a regular basis.	Ongoing compliance required. Auditors conduct compliance checks on a regular basis	Ongoing compliance required. Auditors conduct compliance checks on a regular basis	

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Ensure compliance with Local Government Financial Management Regulation in relation to receipting, banking and cash control	100% compliance.	June 2005	Ongoing compliance required. Auditors conduct compliance checks on a regular basis.	Ongoing compliance required. Auditors conduct compliance checks on a regular basis	Ongoing compliance required. Auditors conduct compliance checks on a regular basis	
Establish RTO registered training status for Tweed Shire Council	Completed by due date.	June 2005	In progress. Application to be conducted by end of current quarter.	In progress. Application lodged approval expected by target date.	Application requirements expanded – lodgement delayed.	
Human Resource Policy Review	Completed by due date.	Dec 2004. Revised target date April 2005	Policy review deferred. Human Resource Systems Review has taken priority. Will need to extend target for completion of HR Policy Review.	Review of Human Resources Policies to be completed by revised target date.	<ul style="list-style-type: none"> <li>Performance Development and Review Policies reviewed and redrafted.</li> <li>EEO Policy reviewed and redrafted.</li> </ul>	
Improve Councils OHS Performance	Measure of OHS Risk Audit Results.	80%	Commenced around 60% completed.	60%	64%	
Reduce Number of Workers Compensation claims	Reduce number of claims by 5% (73)	69 claims	Claims for 1 <sup>st</sup> quarter are 16. On Target.	Total Claims to end of 2 <sup>nd</sup> quarter are 50. Double target.	26 for 3 <sup>rd</sup> quarter, 78 for 1 <sup>st</sup> & 2 <sup>nd</sup> quarters, above target	
Implement Freedom of Information Act & Privacy & Personal Protection Act	Number of complaints regarding personal details given out by Council.	Zero	Zero	Zero	Zero	
Implement Strategic Asset and Risk Management Program	Reduce the number of Public Liability Claims by 100%	Zero	Partly implemented, progressing slowly.	Partly implemented, progressing slowly.	Partly implemented, progressing slowly.	
Establish centralised Records Management facility	Concept plans competed.	Revised date July 05	Awaiting lodgement of DA.	Alternate location being investigated.	Temporary location investigated	
State Records Act (1998) compliance	Requirements assessment completed.	Full compliance by 1/1/06	Commenced and on target.	Dependant on establishment of centralised Records Management facility.	Dependant on establishment of centralised records management facility	

2004 / 2005 Projects and Initiatives	K.P.I	Target	Progress First Quarter	Progress Second Quarter	Progress Third Quarter	Progress Fourth Quarter
Rationalisation of GIS	Rationalise number of GIS currently supported and identify single offering that can provide suitable functionality.	Revised date July 05	Investigations currently been undertaken. Target date will need to be extended.	Preparation of RFQ assessment of responses. Implementation by 30 June 05.	RFQ document nearing completion. Will be publicised in April 2005.	
Implement Audit Plan for review of Council's activities - compliance and financial	Complete Audits.	15 by June 2005	4 audits completed.	10 audits completed.	10 audits completed.	
Undertake a review of Council Polices	Percentage complete.	75% by June 2005	Code of conduct completed. Code of Meeting Practice completed.	100% complete. Policy adopted by Council 15 Dec 2004	100% complete. Policy adopted by Council 15 Dec 2004 Training of staff completed	
Develop a Performance Database reporting system using performance indicators for all Council activities	Percentage complete.	40% by June 2005	Development of database in progress. 5% completed.	Development of database in progress. 5% completed.	Development of database in progress. 5% completed.	
<b>Responsible Division/Unit</b>						
<b>Office of the General Manager</b> <b>Governance</b> <b>Revenue</b> <b>Human Resources</b> <b>Financial Services</b> <b>Information Systems Services</b>						

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM ACTING DIRECTOR ENGINEERING AND OPERATIONS

### 9 [EO] Sexton Hill Upgrade and Pacific Highway Masterplan

#### ORIGIN:

#### Works

#### SUMMARY OF REPORT:

The RTA announced on 26 April 2005 its options A and B for the Sexton Hill upgrade of the Pacific Highway. The period for submissions closes 21 May 2005.

This is an interim report addressing this issue and the need for an overall Masterplan for the Pacific Highway between Barneys Point Bridge and Stewart Road, Currumbin.

Council's engineering officers met with RTA representatives on 10 February 2005 to discuss various options for the Sexton Hill upgrade. These issues were further fleshed out with the RTA at meetings with council officers and at a Council Workshop on 9 March 2005. It was agreed that a Masterplan was necessary to plan the upgrading of the Pacific Highway over the next 20 years to ensure all components of the road network, both local and Highway were integrated and that the most cost effective and environmentally acceptable outcome would be achieved.

RTA officers undertook to submit a Draft Masterplan to Council prior to the exhibition of the Sexton Hill upgrade options. This was to ensure that the Sexton Hill upgrade will be compatible with the longer term Masterplan.

Exhibition of the Sexton Hill upgrade is premature until Masterplan issues are resolved.

Upon receipt of a Masterplan a further report will be prepared for Council's consideration prior to determining the Sexton Hill upgrade

#### RECOMMENDATION:

That Council request the Roads & Traffic Authority to:-

1. Submit the Draft Pacific Highway Masterplan (between Barneys Point Bridge and Stewart Road, Currumbin) for consideration in accordance with their undertaking.
2. Extend the Sexton Hill Deviation exhibition period until 1 month after Council has endorsed the Pacific Highway Masterplan.

## **REPORT:**

### **Introduction**

The RTA announced on 26 April 2005 its options A and B for the Sexton Hill upgrade of the Pacific Highway. The period for submissions closes 21 May 2005.

This is an interim report addressing this issue and overall Masterplan for the Pacific Highway between Barneys Point Bridge and Stewart Road, Currumbin.

Council's engineering officers met with RTA representatives on 10 February 2005 to discuss various options for the Sexton Hill upgrade. These issues were further fleshed out at meetings with council officers and at a Council Workshop on 9 March 2005. It was agreed that a Masterplan was necessary to plan the upgrading of the Pacific Highway over the next 20 years to ensure all components of the road network, both local and Highway were integrated and that the most cost effective and environmentally acceptable outcome would be achieved.

RTA officers undertook to submit a Draft Masterplan to Council prior to the exhibition of the Sexton Hill upgrade options. This was to ensure that the Sexton Hill upgrade will be compatible with the longer term Masterplan.

### **Why a Masterplan is Needed**

There are a number of unresolved traffic issues along this section of Highway, particularly its interconnection with the local road system and staging of the upgrades over the next 20 years and cost apportionment between RTA and Council. The principle issues are:-

- The Sexton Hill upgrade draft traffic modelling relies on a Kirkwood Road interchange being in place to reduce traffic volumes at the modified Darlington Drive / Minjungbal Drive intersection. Without Kirkwood Road and connecting ramps the proposed interchange is unable to adequately cater for traffic movements without major congestion and extensive delays.
- The configuration and cost sharing arrangements for Kirkwood Road, Highway ramps and possible service road crossing Terranora Creek are unresolved. It should be noted that this project is significantly more expensive due to RTA requirements.
- The above 2<sup>nd</sup> crossing of Terranora Creek will result in modifications to the Kennedy Drive interchange, which are unresolved.
- The inclusion of the Boyd Street interchange from the Tugun Bypass remains unresolved. Its deletion would impact on the local network at Kennedy Drive and also increase traffic flows on the Pacific Highway North of Kennedy Drive.
- A Need to determine indicative staging of key components of the Highway upgrade when various sections increase from 4 to 6 lanes, timing of additional bridges across Terranora Creek, timing of interchange upgrades at Sexton Hill and Kirkwood Roads, cost apportionment of components that involve interconnection with the local road network and cost apportionment of parallel service road construction.
- Will Council's share of costs be within its financial capacity?

- Key milestones and a need to achieve the best triple bottom line result for all road users, key stakeholders and the environment.

The above issues have been extensively discussed with the RTA at the meeting on 10 February 2005

It is essential that these planning issues be resolved prior to any adoption of the preferred option for Sexton Hill upgrade given its dependency on other Masterplan elements.

**Conclusion**

The commitment to the upgrading of the Pacific Highway by the RTA in exhibiting the options for Sexton Hill upgrade is welcomed. However, in the absence of an agreed Masterplan for the entire corridor the exhibition of this project is premature at this stage.

As the Masterplan is essential to the consideration of the Sexton Hill upgrade it is recommended that finalisation of this project must be deferred pending its resolution. The RTA should therefore be requested to submit the Draft Masterplan for Council's consideration as soon as possible so that the project may be progressed.

Upon receipt of a Masterplan a further report will be prepared for Council's consideration prior to determining the Sexton Hill upgrade.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Impact on Council's Tweed Road Contribution Plan and Council's budget.

**POLICY IMPLICATIONS:**

Impact on Council's arterial road network plan and land use planning particularly in the Lower Tweed area.

**UNDER SEPARATE COVER:**

Nil.

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**10 [EO] Acquisition of Road for Public Purposes**

**ORIGIN:**

Design

**FILE NO:**

**SUMMARY OF REPORT:**

Council has been investigating future requirements for the servicing of the southern coastal zones of the Tweed local government area. It has been considered necessary to identify potential sites for an engineering works depot located in the southern coastal region.

One of the sites identified contains a disused quarry and the recently constructed Pottsville west reservoirs, being Lots 1 in DP 215997 and Lot 4 in DP 573328 off Pottsville Road. Both of these parcels are bounded by a road reserve that when closed will add an area of 9551m<sup>2</sup> to the total areas of Lots 1 and 4.

Council intends to acquire the land for public purposes as the area is unnecessary road reserve following the realignment of Pottsville Road. The land is vested in Council, so there will be no compensation payable in this acquisition. The act of acquisition will close the road.

**RECOMMENDATION:**

That:-

1. Council approves the compulsory acquisition of Lot 1 in DP 1080884 and Lot 1 in DP 1080885 for public purposes for the purposes of the Local Government Act, 1993 under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991;
2. Lot 1 in DP 1080884 and Lot 1 in DP 1080885 be classified as operational following gazettal of the acquisitions; and
3. All necessary documentation be executed under the common seal of Council.

**REPORT:**

Council has been investigating future requirements for the servicing of the southern coastal zones of the Tweed local government area. It has been considered necessary to identify potential sites for an engineering works depot located in the southern coastal region. The proposed depot has the potential to be two thirds of the size of the current Buchanan Street depot at Murwillumbah.

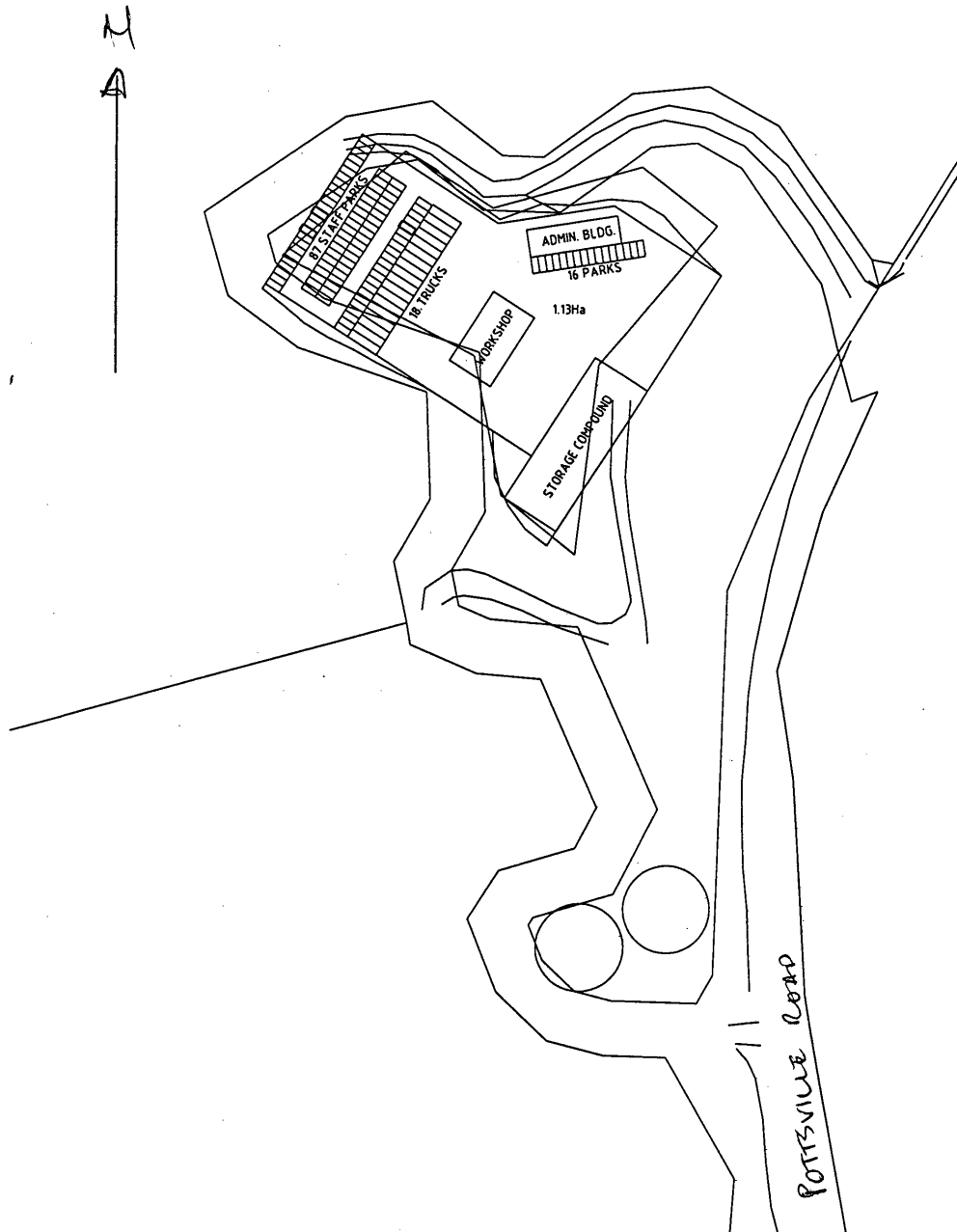
Some of the options available to Council require the acquisition of land from private landowners which are expected to attract high costs for the land due to the scarcity of suitable sites in the southern coastal area.

One of the sites identified contains a disused quarry and the two recently constructed Pottsville West reservoirs, being Lots 1 in DP 215997 and Lot 4 in DP 573328 off Pottsville Road. Both of these parcels are bounded by a road reserve that when closed will add an area 9551m<sup>2</sup> to the total areas of Lots 1 and 4.

There is the potential to amalgamate Lots 1 and 4 with the areas of closed road to create a single parcel comprising an area of 4.49 hectares. Alternatively, there is the potential to create two lots, one for the proposed depot and the other for the reservoirs.

Should the depot be constructed at the location, any fill required for construction could be provided from the quarry. Remediation of the disused quarry would then follow.

An indicative design plan showing the proposed depot within the site is shown below:



One of the advantages of this site is that it is owned by Council and it has close proximity to both Pottsville Road and Cudgera Creek Road. The latter road providing direct access on to the Pacific Motorway.

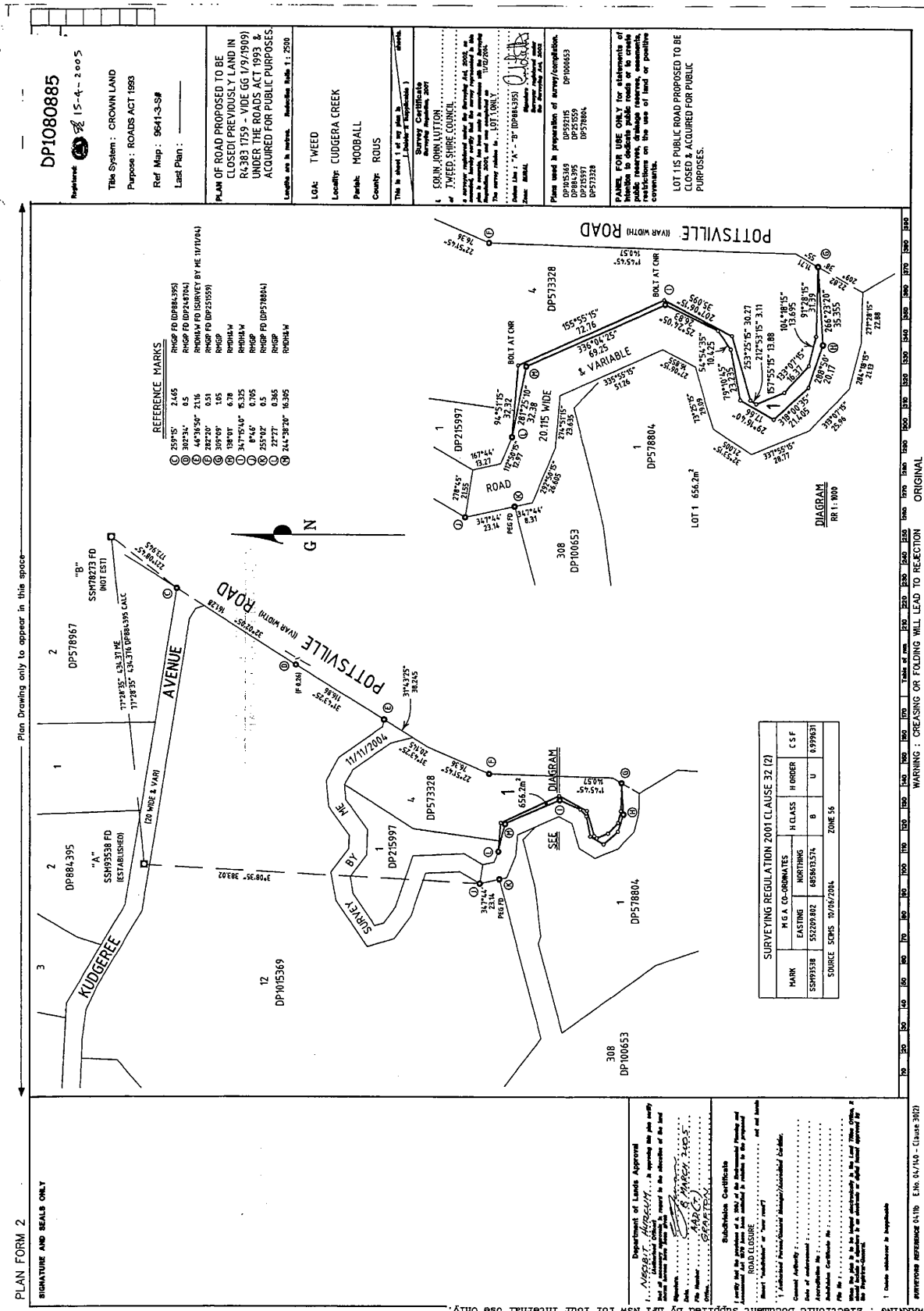
Council intends to acquire the land for public purposes as the area is unnecessary road reserve following the realignment of Pottsville Road. The land is vested in Council, so there will be no compensation payable in this acquisition. The act of acquisition will close the road. A copy of the acquisition plan showing the area to be acquired as Lot 1 in DP 1080884 follows at the end of this report.

The existing reservoirs on Lot 4 in DP 573328 encroach on the road reserve bounding Lot 4 to the west. Council intends to remedy this encroachment by the acquisition of part of the road reserve adjacent to the southern boundary of Lot 4. This closure of road reserve was created in a plan of road closure and acquisition registered as DP 1080885. A copy of this plan also follows at the end of this report.

It is necessary to resolve to acquire Lot 1 in DP 1080884 and Lot 1 in DP 1080885 for public purposes for the purposes of the Local Government Act, 1993 and to make an application to the Minister for Local Government under the provisions of the Local Government Act 1993.

These parcels are to be classified as operational following acquisition to comply with section 31 of the Local Government Act, 1993.





**DP1080885**  
 Registered 15-A-2005  
 This System: CROWN LAND  
 Purpose: ROADS ACT 1993  
 Ref Map: 9641-3-S#  
 Last Plan: \_\_\_\_\_

**PLAN OF ROAD PROPOSED TO BE CLOSED PREVIOUSLY LAND UNDER THE ROADS ACT 1993 & ACQUIRED FOR PUBLIC PURPOSES.**

Lot 1 is PUBLIC ROAD PROPOSED TO BE CLOSED & ACQUIRED FOR PUBLIC PURPOSES.

LOA: TWEED  
 Locality: CUDGERA CREEK  
 Parish: MOOBALL  
 County: ROUS

This is used in accordance with the provisions of the Survey Act 1981.

**Survey Certificate**  
 Surveyed by: JOHN LUTTON  
 Registered: 10/12/2004  
 Surveyed on: 10/12/2004  
 Surveyed for: TWEED SHIRE COUNCIL

Please note in preparation of survey/compilation:  
 DP1080885  
 DP92515  
 DP884395  
 DP25659  
 DP575959  
 DP573328

**PLANES FOR USE ONLY for statements of intention to dedicate public roads or to create public reserves, drainage reserves, easements, or other interests on the use of land or positive covenants.**

PLAN FORM 2  
 SIGNATURE AND SEALS ONLY

Department of Lands Approval  
 I, **ANGELA B. MURPHY**, being the Registrar General of Land, do hereby certify that the above is a true and correct copy of the original plan as submitted to me for the purposes of the Land Act 1988.

**ANGELA B. MURPHY**  
 Registrar General of Land

Subdivision Certificate  
 I, **ANGELA B. MURPHY**, being the Registrar General of Land, do hereby certify that the above is a true and correct copy of the original plan as submitted to me for the purposes of the Land Act 1988.

**ANGELA B. MURPHY**  
 Registrar General of Land

WARNING: Electronic Documents supplied by LPI NSW for your internal use only.

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION ORIGINAL

**DP1080884**  
 Y 15.11.2005

Title System: CROWN LAND  
 Purposer: ROADS ACT 1989  
 Ref Insp: 9641-3-S  
 Last Plan: ---

PLAN OF ROAD PROPOSED TO BE CLOSED PREVIOUSLY LAND IN R4-383 1759 - VIDE GG 179/1909 UNDER THE ROADS ACT 1993 & ACQUIRED FOR PUBLIC PURPOSES.  
 Lengths are in metres. Refer to Table 1. 2/00

LGA: TWEED  
 Locality: CUDGERA CREEK  
 Parish: MOOBALL  
 County: ROUS

This is sheet 1 of an plan in accordance with the provisions of the Survey Act 1988.  
 Survey Certificate No. 10018  
 COLIN MOONILLIOTON  
 Surveyor General  
 of TWEED SHIRE COUNCIL

Please refer to the following:  
 DP905359 DP952315 DP100653  
 DP884395 DP255559 DP518804  
 DP573328 DP573328

**PLAN FOR USE ONLY for submission of application to indicate public roads or to create public reserves, drainage reserves, easements, or other interests on the use of land or positive easements.**  
 LOT 115 PUBLIC ROAD PROPOSED TO BE CLOSED & ACQUIRED FOR PUBLIC PURPOSES.

Plan Drawing only to appear in this space

DIAGRAM RR 1:1000

DIAGRAM SEE

REFERENCE MARKS

MARK	H	G	A	COORDINATES	H	CLASS	H	ORDER	C	S	F
1	50721	2165									
2	30734	615									
3	44750	216									
4	28270	651									
5	7575	3328									
6	73758	124									
7	20674	0375									
8	8746	0795									
9	25592	05									

SURVEYING REGULATION 2001 CLAUSE 37 (2)

MARK	H & A COORDINATES		H CLASS	H ORDER	C S F
	EASTING	NORTHING			
SSM93538	552209.802	688483.574	B	U	0.99831

SOURCE: SDMS 10/06/2004 ZONE 56

PLAN FORM 2

SIGNATURE AND SEALS ONLY

Department of Lands Approval

I, the undersigned, being a duly qualified and licensed Surveyor, do hereby certify that the plan is a true and correct copy of the original plan as submitted to me for approval.

Signature: *[Signature]*  
 Date: *[Date]*  
 Title: *[Title]*  
 Professional Seal: *[Seal]*

Subdivision Certificate

I hereby declare that the plan is a true and correct copy of the original plan as submitted to me for approval.

Signature: *[Signature]*  
 Date: *[Date]*  
 Title: *[Title]*  
 Professional Seal: *[Seal]*

Control Authority

I hereby declare that the plan is a true and correct copy of the original plan as submitted to me for approval.

Signature: *[Signature]*  
 Date: *[Date]*  
 Title: *[Title]*  
 Professional Seal: *[Seal]*

Accreditation No.:

Subdivision Certificate No.:

When the plan is to be used for the purpose of indicating public roads or to create public reserves, drainage reserves, easements, or other interests on the use of land or positive easements, the plan shall be used in accordance with the provisions of the Survey Act 1988.

1 Double indelible inks to be used

UNRECORDED INSTRUMENT 64114 E.M. 04/11/0 - Clause 3(1)

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**11 [EO] Skate Park - Tweed Heads**

**ORIGIN:**

**Recreation Services**

**SUMMARY OF REPORT:**

At its meeting held 15 September 2004, Council resolved to commit \$75,000 towards the construction of a skate facility at Tweed Heads, and seek comment on the proposal to locate the facility on the corner of Minjungbal Drive and Heffron Street, South Tweed Heads.

The only major objection to the proposed location was received from Tweed River High School. In the intervening period, the school has made representation to Council at a session of community access. Council staff has also attended the school to discuss the issues with staff and P&C representatives. Additionally, the Police were contacted directly for comment.

**RECOMMENDATION:**

That Council:-

1. Confirms the community land on the corner of Minjungbal Drive and Heffron Street as the location for a skate park facility.
2. Calls for tenders to design and construct the skate park facility.
3. Provides the Tweed River High School with a letter of support (non-financial) in its application for perimeter fencing.

**REPORT:**

At its meeting held 15 September 2004, Council resolved to commit \$75,000 towards the construction of a skate facility at Tweed Heads, and seek comment on the proposal to locate the facility on the corner of Minjungbal Drive and Heffron Street, South Tweed Heads.

At the close of comment, 4 submissions were received as summarised below:-

Tweed District Residents and ratepayers Association	Support for the proposed facility and site.
Resident	Support for facility and site
Resident and worker at the HACC Centre	No objection to the facility, but concern that the HACC centre staff may be expected to provide first aid, telephone and toilet facilities.
Tweed River High School	Objection to proposed site.

Subsequent to the concerns expressed by the Tweed River High School, the Director Engineering and Operations (DEO) and the Manager Recreation Services (MRS) met with the Acting Principal and representatives of the P&C to discuss their concerns. The school then made representation to Council via Community access.

Correspondence was then forwarded to the Police on 15 November 2004 requesting comment on the proposed location. A response was received 9 March 2005 stating, *"Local police are very supportive of the proposed location of the skate facility at the corner of Minjungbal Drive and Heffron Streets, Tweed Heads South"*.

With consideration to the responses, Council staff determined to recommend to Council to endorse the proposed location for the skate facility and proceed to tender. Prior to this report, the DEO and MRS again met with the Principal of Tweed River High School to inform of the proposed recommendation allowing the school the opportunity for further input.

The school indicated an acceptance of the proposal, and noted that perimeter fencing of the school has been an important consideration for school security, even more so when the skatepark is built. The school has applied through the Department of Education for funding for the fencing. Although rated highly for consideration, their application for funding has thus far been unsuccessful. It was noted that any assistance Council could offer to support their application would be appreciated

Additionally, the school indicated that if the skatepark were to proceed, they would like to be actively involved in the design consultation process with the schools students.

As this site is classified as community land under the Local Government Act 1993, a plan of management will need to be produced and adopted in accordance with the provisions of the Act prior to lodgement of a development application or commencement of construction.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY

### 12 [EC] Membership of Council's Community Cultural Development Advisory Committee

#### ORIGIN:

Environment & Health Services

#### SUMMARY OF REPORT:

Council is advised throughout 2004 the Community Cultural Council Development Advisory Committee had a number of meetings with Brian Ray, and Sarah Brisbane, Central Park's Project Director in relation to (a) the strategic coordination of SALT Central Park and (b) the proposed Community Arts Trust.

To ensure a strategic approach to shire-wide cultural activity and the dissemination of the proposed Cultural Trust Fund it is recommended that two representatives of SALT Central Park, (Sarah Brisbane, Central Park's Project Director and Jackie Chapman, Events/Marketing Coordinator) are invited to become members of Council's Cultural Advisory Committee.

#### RECOMMENDATION:

That in line with the strategic coordination of the events and activities that take place at SALT Central Park and the distribution of the proposed Cultural Trust Fund it is proposed that SALT Central Park's Project Director, and SALT Central Park's Events/Marketing Coordinator become members of Council's Community Cultural Development Advisory Committee

## REPORT:

Council is advised throughout 2004 Council's Community Cultural Council Development Advisory Committee had a number of meetings with Brian Ray, and Sarah Brisbane, Central Park's Project Director in relation to (a) the coordination of SALT Central Park and (b) the proposed Community Arts Trust.

The following is a summary of the discussions to date:

### Ray Group's Vision for Central Park

*a) What is it?*

- 3 acre, grassed amphitheatre facing the ocean
- Sits between Peppers and Outrigger Hotels
- Maximum seating capacity of around 4,000 (VIP low profile seating and then picnic rug style)
- Dedicated by Ray Group to Council as public land/reserve
- 2 phased-approach to staging events in the Park due to staged construction

*b) What do we (SALT) want to achieve?*

- To create a world's best practice seaside community

*c) What's in it for the community?*

- Create a cultural/artistic hub for the Tweed
- Provide a first class seaside venue for artists and talent to perform
- Provide a forum for talent to be nurtured + showcased
- Build on the sense of community in the region
- Contribute to the development of a "Tweed Cultural Trail" (similar to say, the Hawkesbury's Farm Gate Trail, San Francisco's Arts Trail etc)
- Provide economic benefits - serve as a vehicle to help fund arts groups in the Tweed (via a Arts Trust)

*d) The proposed 3 primary uses*

- Retain as Public Park
- Major Events - proposed to have up to 4 major events per annum
  - eg concerts such as Pavarotti in the Park, Outdoor Cinema by the Sea, Symphony by the Sea, Chocolate/Coffee Festival etc
  - Ticketed events, precinct created, long lead times for approvals and production
- Minor events - proposed weekend events
  - school plays, recitals, Shakespeare in the Park, markets, art displays, NSW Dept of Education school events ("Sing"), poetry reading etc

## **Resources and coordination**

The Ray Group has recently recruited Jackie Chapman, *Events/Marketing Coordinator* to coordinate events at Central Park and Saltbar. It is proposed that the position will also act as the interface between the Ray Group and Council to ensure integration of Shire-wide events and activities and those organized by the Ray Group

The Ray Group is currently constructing a permanent base/platform for a stage at the easterly end of Central Park and a permanent power/light control box. This platform/stage and power box will be available for local artists/performers.

As the Ray Group will take the financial responsibility for delivering up to 4 major events per annum in Central Park they will operate with autonomy for the major events, while still collaborating with Council's Community Cultural Development Advisory Committee.

## **Ray Group's proposal for funding the arts community of the Tweed**

Brian Ray and Sarah Brisbane have proposed the following:

Up to AUD\$25,000 from the major paid (ticketed) events organised by the Ray Group in Central Park, will be "donated" to an Arts Trust, which will be in effect, a subcommittee of the Community Cultural Development Advisory Committee.

The Trust will serve as a vehicle for distributing these funds to fledging arts/cultural groups and activities in the Tweed, based on very clearly defined and transparent grant criteria. The Community Cultural Development Advisory Committee will draft the grant criteria and widely publicise the availability of funds, at the appropriate time.

The Arts Trust – while essentially a pooled grant fund, is also a sub committee of the Community Cultural Development Advisory Committee and would comprise no more than 5 members, with 2 representatives from the Ray Group (the Events/Marketing Coordinator and Sarah Brisbane).

It is not the Ray Group's expectation that all artists who receive a grant via the Arts Trust need to perform and/or exhibit at Central Park. Rather than be prescriptive, the Ray Group wish to promote the arts/cultural talent of the *broader* Tweed region and perhaps a proportion of these activities will occur in Central Park.

## **Response to proposal**

In line with the above proposal Council's Cultural Development Officer is currently drafting Guidelines and an Application for the proposed Cultural Trust fund.

If the proposal does come to fruition it would be preferable to engage Council's existing Community Cultural Development Advisory Committee to oversee the trust rather than create a subcommittee with five members. All members of the Committee are longstanding members that have expertise in a diversity of arts related areas.

In order to support the strategic process so far undertaken by Council to coordinate a viable and strategic approach to promoting the collective appeal of Tweed's shire-wide festivals and events it will be beneficial to have input from SALT Central Park's coordinators on the Community Cultural Development Advisory Committee.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**13 [EC] Lease from Corporate Property Developments Pty Ltd - Tweed Shire Community Options Project**

**ORIGIN:**

**Design**

**SUMMARY OF REPORT:**

Tweed Shire Community Options Project's current lease has expired and they have negotiated a lease for larger and more suitable premises at Corporation Circuit, Tweed Heads South that meet the criteria of access required to attract funding from both the State and Federal Governments. The car parking facilities do not form part of the area to be leased, but are secured by a concurrent Licence Agreement with no separate licence fee payable.

The funding from the Department of Health, Ageing and Community Care will meet the rental payable on the Lease.

Council has received the lease and licence documentation and is now ready to execute same to enable the Project to move into the premises as soon as possible.

**RECOMMENDATION:**

That:

1. Council approves entering into a Lease for premises located at Suite 5A Corporation Circuit, Tweed Heads South for a two year term and an option for a further two years;
2. Council approves entering into a concurrent Licence Agreement for use of the Car Parking Area; and
3. All necessary documentation be executed under the common seal of Council.

**REPORT:**

Tweed Shire Community Options Project's current lease has expired and they have negotiated a lease for larger and more suitable premises at Corporation Circuit, Tweed Heads South that meet the criteria of access required to attract funding from both the State and Federal Governments.

Council has received the Lease and Licence documentation and is now ready to execute same to enable the Project to move into the premises as soon as possible.

The terms of the Lease are as follows:

Term: 2 years with an option for a further 2 years  
Rental: \$25,000.00 per annum plus GST  
Outgoings: \$3,187.50 (one off per annum fee)  
Area: 100m<sup>2</sup> includes kitchenette and toilet facilities, adjacent to a toilet with disability access

It is now necessary to resolve to enter into the Lease and Licence Agreements and to resolve to execute all necessary documentation under the common seal of Council.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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**14 [EC] Banora Point Caravan Park**

**ORIGIN:**

**Environment & Health Services**

**FILE NO: PF4030/2635 Pt11**

**SUMMARY OF REPORT:**

Council's Environment & Health Services Unit and Development Assessment Unit have both been involved with legal proceedings in relation to the above-referenced Caravan Park regarding issues of non-compliance.

**RECOMMENDATION:**

That:-

1. This report be received and noted.
2. The Park Owner/Operator's Application for Approval to Operate be prepared for Council's determination.

**REPORT:**

Council's Environment & Health Services Unit and Development Assessment Unit have both been involved with legal proceedings in relation to the above-referenced Caravan Park regarding issues of non-compliance.

These matters were set down for hearing in the Land and Environment Court before Justice Talbot for 31 March 2005 and 1 April 2005 for determination. Prior to this hearing, the owner/operator of the Park lodged an Application to the Court for dismissal of an appeal lodged by him regarding those issues relative to a decision made by Council's Development Assessment Unit in respect to a s.96 Application lodged with Council and consequently no further legal proceedings eventuated for those issues.

However, legal proceedings continued for non-compliance of issues of an ongoing nature for which Council's Environment & Health Services Unit had issued Orders previously and which were scheduled for hearing as mentioned above.

On the morning preceding the scheduled hearing (i.e. 30 March 2005) Council Officers and Council legal representatives conducted an inspection of the Park to: -

- a. Ascertain present status of issues of non-compliance,
- b. Determine an alternative course of action to ensure compliance as opposed to a full court hearing (i.e. to draft "Consent Orders" for discussion by both parties for presentation to Justice Talbot, if agreed to) and
- c. Formulate a route for a proposed inspection of the Park by Justice Talbot highlighting non-compliance issues for observation by him prior to and on the morning of the first day (31 March 2005) of the scheduled hearing in the Land and Environment Court.

On the afternoon of 30 March 2005 Council Officers and Council's legal representatives agreed to "Draft of Consent Orders" prepared by Council's legal team for submission to the legal representatives of the Park Owner/Operator. During that afternoon, evening and the morning of 31 March 2005 an agreement was reached between Council Officers, Council's legal representatives the Park Owner/Operator and his legal representatives on draft Consent Orders based on those mentioned above for submission to the Court and also that Council's costs would be paid by the defendant.

On the morning of the Court hearing and prior to commencement of the hearing in the Court Justice Talbot along with Council Officers, Council's legal representatives, the Park Owner/Operator, his legal representatives and park employees conducted an inspection of the park taking the pre-determined route as formulated by Council Officers on the preceding day during which all issues of non-compliance were highlighted. Justice Talbot had previously inspected the Park in July 2004 at which time all non-complying and other issues (which have since been complied with) were brought to his attention.



On completion of the Park inspection by Justice Talbot and all others as afore mentioned, those involved proceeded to the Tweed Heads Courthouse for commencement of the hearing.

After further discussions outside Court between both parties, the agreed to "Consent Orders" were presented in Court to Justice Talbot who then endorsed the Orders.

A summary of these Orders is as follows:-

1. The Respondents (Park Owner/Operator) to provide and make available and thereafter maintain adequate laundry facilities for use by the occupants of the Park.
2. Provide tie-downs to structures throughout the Park, where required in accordance with the requirements of a practising structural engineer and provide Council with a Statutory Declaration stating that such work is done in accordance.
3. Display the Community Map as approved by Council and re-number all sites in accordance with such map until approval by Council of another Community Map lodged with Council has been issued. It should be noted that in relation to this Order it can be stayed until:
  - a. The Park Owner/Operator's Application for Approval to Operate lodged in February 2004 is determined by Council and
  - b. All appeal rights of the Owner/Operator are exhausted should Council determine to Refuse the Application for Approval to Operate.
4. Carry out such repairs considered necessary to make defective caravans etc. roadworthy and maintain thereafter.
5. Carry out such repairs considered necessary to render unsafe caravans etc. as nominated, in a safe and healthy condition and maintain thereafter.
6. Pay the Applicant's (Council's) costs as agreed.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER:**

Nil.

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## REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

### 1 [SUB-CC] Minutes of the Communications Committee Meeting held Tuesday 15 March 2005

#### FOR THE CONSIDERATION OF COUNCIL:

##### VENUE

South Sea Islander Room, Tweed Heads Civic Centre.

##### TIME

4.10pm.

##### PRESENT

Councillor M Boyd (Acting Chair), Ms Melinda Barton, Mr W Smith, Mr Neil Baldwin (Governance Officer), Mrs Marilyn Smith (Civic Liaison Officer) and Mrs Marion Walsham (Journalist).

##### APOLOGIES

Councillor B Carroll, Ms J Robb, Mr N Douglas.

##### MINUTES OF PREVIOUS MEETING

Moved: D Kelso

Seconded: W Smith

**RESOLVED** that the Minutes of the Communication Committee meeting held Thursday, 17 February 2005 be accepted as a true and accurate record of the proceedings of that meeting with the addition of Ms M Barton being listed as present.

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#### BUSINESS ARISING

##### *Items from meeting held 17 February 2005*

##### **Fingal Head Community Association**

M Smith reported that copies of the Consultation and Communications policies had been sent to the Association and an offer by M Smith to attend one of the Fingal Head Community Association's Meetings if the Association desired.

## 1. Handling Complaints

N Baldwin said this was a matter being discussed at the Public Inquiry into Tweed Shire Council. He said a new policy was introduced on 15 December 2004 and Council was in the process of forming a multi-disciplinary team to take the complaint handling policy forward.

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## CORRESPONDENCE

It was confirmed that a report will be included in the Quarterly Management Plan report with regards to what percentage of correspondence had been answered within 14 days.

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## AGENDA ITEMS

### 1. Tweed Shire Council Public Inquiry

M Smith presented a précis of mentions of the Tweed Link in published submissions to the Inquiry.

Discussion was held on the Pandanus Parade advertisement in the Tweed Link and moves to make development advertising more relevant to readers.

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## GENERAL BUSINESS

### 2. Section 12 of the Local Government Act

N Baldwin offered to bring Section 12 of the Local Government Act before the Committee. He advised that this Section relates to information that is freely available. It lists specific delegated authorities, meeting agenda and minutes. He also advised that Local Government was affected by the Local Government Act, the freedom of information act and the privacy and personal information act. The Committee may also review items that are discussed by Council in Committee, which is under Section 10 of the Act.

**RESOLVED** that Section 12 of the Local Government Act and a copy of the Complaints Policy are placed on the Agenda of the Communications Committee Meeting to be held on Tuesday, 19 April 2005.

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### **3. Code of Meeting Practice**

Cr Boyd suggested a possible future change in the Code of Meeting Practice. He suggested that it should be clearly minuted when councillors change recommendations that are made by staff. For example changes could be in a different font or underlined.

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### **4. Potential Controversial Issues**

Discussion took place on making a recommendation to Council. that it become a matter of policy to identify at an early stage potentially controversial developments and that appropriate steps be taken to better inform the public. Council should consider facilitating a public meeting at which developers are requested to provide all relevant information on the application. An example of such an issue is the proposed development of 75 lots at Keilvale Village.

**Moved: Cr Boyd**

**Seconded: W Smith**

**RECOMMENDATION** that Council:

1. Identifies at an early stage potentially controversial developments and that appropriate steps be taken to better inform the public.
  2. Facilitates a public meeting at which developers are requested to provide all relevant information on the application.
- 

### **NEXT MEETING**

The next meeting of the Communications Committee will be held on Tuesday, 19 April 2005 commencing at 4.00pm at the South Sea Islander Room, Tweed Heads Civic Centre.

It is proposed to discuss alternating meetings with a Murwillumbah venue.

**The meeting closed at 5.15pm.**

### **EXECUTIVE MANAGER'S COMMENTS:**

Noted and referred to the Executive Management Team.

### **EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:**

**Decision** that the Executive Management Team acknowledges that the figures on answered correspondence will form part of the complaints handling section of the Quarterly Management Plan reporting process.

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**Decision** that the Executive Manager provide in the "Director's Comments" on the Communication Committee minutes of 15 March 2005 a note that Council monitors projects for public response and remains open to the holding of a public meeting.

**Decision** that, in response to the suggestion by Cr Boyd recorded in the Communication Committee minutes of 15 March 2005 that Councillor changes to staff recommendations in Council reports be minuted, the Governance Officer prepare a report to Council recommending the original Council report recommendation appear in the minutes. The Governance Officer to investigate any other improvements that can be made to such a system. A copy of the report is to be provided to the Communication Committee.

**EXECUTIVE MANAGER'S RECOMMENDATIONS:**

*As per the Committee's recommendation.*

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**2 [SUB-TRC] Minutes of the Tweed River Committee Meeting held Wednesday 13 April 2005**

**FOR THE CONSIDERATION OF COUNCIL:**

**MINUTES OF THE TWEED RIVER COMMITTEE MEETING HELD WEDNESDAY 13 APRIL 2005**

**Tweed River Committee**

**VENUE:**

Canvas & Kettle Meeting Room, Murwillumbah Civic Centre

**TIME:**

9.00am.

**PRESENT:**

Cr H James (Chair), Cr W Polglase (Mayor), Cr M Boyd, H Christopher (Bilambil Heights Progress Assoc); C Masters (Tweed Landcare Inc); R James (Caldera Environment Centre); D Gray (Ecoroc), R Hagley (DIPNR); B Loring (NSW Fisheries); R Quirk (Tweed River Advisory Committee & NSW Cane Growers' Association); G Judge, J Lofthouse, T Alletson, D Oxenham, G Edwards, M Hancock, Ian Percy (Tweed Shire Council).

**INFORMAL:**

Susan Davidson (Minutes Secretary).

**APOLOGIES:**

Cr L Beck (Tweed Shire Council); L Tarvey (National Parks and Wildlife Service);

**MINUTES OF PREVIOUS MEETING:**

**Moved:** Cr Max Boyd

**Seconded:** Claire Masters

**RESOLVED** that the Minutes of Meeting held Wednesday 9 February 2005 be accepted as a true and accurate record of the proceedings of that meeting.

**BUSINESS ARISING:**

**Item from Meeting held 09 February 2005**

**1. Gold Coast Airport**

**Pollution - Water**

Tom Alletson identified two main issues which have come from the Gold Coast Airport EIS:-

1. There is evidence of groundwater contamination through leachate.
2. There is groundwater movement to the southeast in the direction of the Cobaki Broadwater.

Further Groundwater monitoring is required and can be undertaken through bores at a cost of \$26,000 or hand augers and manual testing.

Two similar letters were sent to both the Gold Coast City Council dated 21 March 2005 and to the Gold Coast Airport dated 15 March 2005 requesting analysis results be made available to Council representatives.

To date no response has been received from Gold Coast City Council. Bob Biggwell from Gold Coast Airport responded to the letter and has requested a meeting with Council representatives to follow up the issue.

Cr Max Boyd stated he felt it was unsatisfactory that the Gold Coast City Council had not responded to the issue. Ian Percy advised he will contact the Gold Coast City Council today to follow up. If no response is received Tom Alletson will send a follow up letter to the Gold Coast City Council.

Item was deferred to next meeting awaiting response from Gold Coast City Council and outcome of meeting with Gold Coast Airport representatives.

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### **Item from Meeting held 13 October 2004**

#### **2. Stotts Channel**

HMC Environmental consulting undertook a preliminary investigation into acid sulphate soils. HMC found results from soil sampling indicated sediment in the area to be dredged contained Acid Sulphate soil at levels significantly above nominated criteria.

Several Management Options were suggested by HMC:-

1. Do nothing;
2. Mechanical dredging - land based treatment and final placement;
3. Mechanical dredging - hydraulic separation and replacement;
4. Mechanical dredging - no land based treatment and dredged material placed in Tweed estuary.

Tom Alletson advised to move forward, the Committee needs to resolve to prepare a brief for Consultants.

Cr Henry James asked the question of whether the issue of drainage rather than Acid Sulphate soils should be dealt with.



The Upper Estuary Management Plan says to dredge for boating but Bob Loring advised the boating access was adequate.

Richard Hagley suggested the need to explore modelling for drainage and residence times. A similar two dimensional model has been developed for the Rocky Mouth Creek Catchment.

Tom Alletson will convene a focus group meeting with agencies. The meeting is to include Cr Henry James and Robert Quirk.

Graham Judge left 10.00am.

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### **Item from Meeting held 11 August 2004**

#### **1. Potential Project - Foreshore Management Plan, Wommin Lake and Lagoon Wommin Lake; Riverbank Erosion; Road - Wommin Lake Cr**

Following a request received from residents to clear oleanders, Tom Alletson has finalised a plan to revegetate the area. Committee agreed for Tom Alletson to implement the Wommin Lake Crescent Foreshore Management Plan.

---

### **CORRESPONDENCE IN:**

#### **1. NRCMA - Development of Catchment Action Plan Total Catchment Management**

Advice to Council from Michael Pitt on the time line and major tasks involved in preparing the Northern Rivers Catchment Action Plan.

Robert Quirk gave a presentation and updated the Committee on the Plan. The NRCMA will discuss targets with Council in June.

Robert Quirk, Jane Lofthouse and Tom Alletson will talk to the NRCMA about upcoming funding opportunities. The Committee members were asked to bring project ideas to the next meeting.

**2. NRCMA - Communique 6**

**Total Catchment Management**

The CMA newsletter was made available to Committee members. It is available on the NRCMA website.

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**3. Letter from Gold Coast Airport - Provision of Water Quality Data  
Tweed River Committee; Cobaki Broadwater; Airport - Coolangatta;  
Water Quality - Monitoring - Catchment**

This letter was discussed in Business Arising.

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**4. Letter from Minister for the Environment - Cobaki Wetlands Ramsar  
Nomination  
Tweed River Committee; Cobaki Broadwater;  
Tweed River Management Plans**

Minister Bob Debus has sent a reply advising Council on various aspects of the process to nominate Cobaki Broadwater and surrounds as a Ramsar Wetland.

Tom Alletson to contact Minister to request his department stay in touch with matters relating to this issue and request results from any assessments.

Tom Alletson to organise a copy of the Wetland Care Australia (WCA) Wetland Assessment document to Robert Quirk and Rhonda James.

Cr Max Boyd voiced concerns that the WCA report will harm the Committees' chances of getting funding for works at Cobaki.

Mayor Polglase suggested that the Committee needed to critique the document. Committee members were asked to make any comments to Jane Lofthouse or Tom Alletson.

**Moved:** Mayor Warren Polglase

**Seconded:** Cr Max Boyd

**RESOLVED** that the Committee, through the Executive, undertake a critical review of the Wetland Assessment Report by Wetland Care Australia for endorsement by the Committee and Council for submission to the NRCMA.

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**5. Submission from Brian Boyd - Returning Beauty to the Tweed  
Tree Planting Areas - Tweed River; Riverbank Erosion**

Mr Brain Boyd has prepared a submission that advocates reforestation of the riverbanks of the Tweed Valley.

Tom Alletson to write back to Mr Boyd and outline projects undertaken by Tweed River Committee and others and their success to date.

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**6. Submission from Tweed Bird Observers - Constructing a Bird Hide at Trutes Bay**

**Birds; Fauna Protection**

The Tweed Bird Observers have approached Council about the possibility of constructing a bird hide on the foreshore of Trutes Bay. A request has been made for assistance in the preparation of a design and cost estimate for such a facility, so that funding can be sought from other agencies.

Tom Alletson advised the Committee has a significant budget for bird roost projects.

**Moved:** Cr Max Boyd

**Seconded:** Rhonda James

**RESOLVED** that the Tweed River Committee support the Tweed Bird Observers request to contribute to the preparation of detailed designs, cost estimates and approvals to construct a bird hide at Trutes Bay.

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**7. Rowlands Creek Park Tree Planting  
Tree Planting; Landcare; Schools UKI Public; Noxious - Weeds**

A request was received from Eddie Roberts (UKI Steering Committee, UKI Public School P & C; Tweed Landcare Inc and Rowlands Creek / Chowan Creek Landcare) to undertake a tree planting day during Education Week 16-20 May 2005 in conjunction with UKI Public School Students at Rowlands Creek Park.

Mr Roberts has requested assistance from Council which includes:-

- Eradication of weeds in the area to be planted;
- Approximately 100 holes dug by auger;
- Woodchip mulch; and
- Bollards placed around the planting site.

The costs to Council were estimated at approximately \$2,000.

**Moved:** Cr Max Boyd

**Seconded:** Robert Quirk

**RESOLVED** that Tweed River Committee support the Rowlands Creek Park tree planting and rehabilitation project.

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**CORRESPONDENCE OUT:**

- 1. Letter to Gold Coast City Council - Provision of Water Quality Data  
Water Quality - Monitoring - Catchment; Tweed River Committee**

This letter was discussed in Business Arising.

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- 2. Letter to Gold Coast Airport - Provision of Water Quality Data  
Airport Coolangatta; Water Quality - Monitoring - Catchment;  
Cobaki Broadwater; Tweed River Committee**

This letter was discussed in Business Arising.

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**AGENDA ITEMS:**

- 1. TRC Program Overview**

**Tweed River Committee**

All existing and proposed projects were discussed in terms of status and budget allocations.

Tom Alletson to get a proposal from Ozgreen to repeat the educational program, Kids, Companies and Creeks.

Cr Max Boyd suggested the Committee develop promotional material on the Tweed River Committees' achievements since its beginnings. The promotional document could be in the form of a booklet and/or multi media and provided on the Council Web Site.

Robert Quirk suggested the Committee invite the Minister to view projects undertaken.

11.50am Graham Judge arrived back from meeting.

Cr Henry James advised Committee members to contact Jane Lofthouse or Tom Alletson with any ideas on potential bank erosion / stabilisation projects.

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**2. TRC Major Projects 2005**

**Terranora Broadwater; Cobaki Broadwater; Estuary Management;  
Tweed River Committee; Water Quality - Monitoring - Catchment**

Three important projects scheduled for commencement this year were discussed. These were the repeat of the Estuary Health Assessment, Cobaki and Terranora Broadwater Management Plan Review and Council water quality monitoring program review.

Tom Alletson and Jane Lofthouse will commence tendering processes for these projects.

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**3. Condong Regional Boating Facility**

**TEDC; Estuary Management; Pontoon; Sustainable Regions Program**

The creation of a regional boating facility was identified as a short-term objective in the Upper Tweed River Estuary Management Plan. The only works to date at this site have been construction of a concrete boat launch pad for use by Murwillumbah's boat building industry. This was a joint project between TEDC and Council with funds secured through the Sustainable Regions Program.

The boat building industry has been using the facility and commented that the installation of a floating pontoon would greatly enhance the usability of the facility.

Installation of a pontoon would require design and approvals. It would be premature to undertake this process without producing the full design and gaining approvals for the full proposed facility.

The Draft Tweed Estuary Boating Plan acknowledges the proposal in the Upper EMP to construct a regional boating facility at Condong and recommends that Council define those characteristics valued most by boaters that would frequent this ramp.

The Committee was requested to consider if planning should be commenced for the Condong Regional Boating Facility.

Jane Jofthouse advised any further work on this project would be deferred until the outcome of the Boating Facilities Needs Analysis.

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**4. Community Support Officer Northern Rivers CMA**

**Total Catchment Management; Tweed River Committee**

The NRCMA have advertised for Community Capacity Building contractors.

The question has been asked of the Tweed River Committee and Council as to the level of involvement that Council would like to have in this contract.

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The current CCB Officer for Tweed is Kate MacKenzie, employed on a part-time basis and housed at the Murwillumbah DIPNR office. Claire Masters asked the Committee if Council would consider applying to employ the Community Support Officer.

Graham Judge provided an update on the Vegetation Strategy and advised there was lots of ongoing work and there was a need to consider organisation of budget and revenue.

Claire Masters requested an integration of natural resource management within Council.

**RECOMMENDATION:**

That Council submits a contract application for Community Support Officer – Northern Rivers CMA Community Capacity Building by 28 April 2005.

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**5. Foreshore Land Acquisition - Bluey Hill Park, North Tumbulgum  
Estuary Management Plan; Parks - Bluey Hill Park**

There is a piece of foreshore land along Dulguigan Road, North Tumbulgum that, due to an oversight, was never included in the road reserve. The parcel in question is directly behind the old ferry ramp and effectively means that access to the ramp and the river is across private land. Council currently has a licence over the ferry ramp from the Department of Lands but are effectively in breach of the Licence conditions as Council cannot provide access to it from public land.

The owners of the land wish to consolidate the parcel onto the portion of property on the other side of the road. Should this occur, it would isolate this small section of foreshore from public access and restrict the potential future uses of the area (e.g. additional/alternative boat ramp).

The Upper Tweed River Estuary Management Plan identifies “Bluey Hill Park” as an integral part of the *Lower Rous Ecological and Cultural Recreation Experience* with provision of a timber jetty and picnic tables.

It is proposed that Council be recommended to acquire this parcel of land to ensure public access to this part of the Tweed River foreshore in perpetuity.

Jane Lofthouse asked the Committee to fund a land valuation of the land in question.

**Moved:** Cr Max Boyd

**Seconded:** Robert Quirk

**RESOLVED** that Council be requested to commence the process of acquisition for the parcel of foreshore land in private ownership at North Tumbulgum to ensure public access to the Tweed River in this location.

**RECOMMENDATION:**

That Council commences the process of acquisition for the parcel of foreshore land in private ownership at North Tumbulgum to ensure public access to the Tweed River in this location.

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**GENERAL BUSINESS:**

**1. Tugun Bypass EIS**

**Tugun Bypass**

Cr Max Boyd advised all Councillors have a copy of the EIS on the Tugun Bypass and would like all Committee members to obtain a copy.

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**2. Floodgate Projects**

**Floodgate Management**

Marty Hancock advised of current floodgate projects.

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**3. Oxley Cove Rehabilitation Project**

**Oxley Cove**

Tom Alletson and Harry Christopher are to distribute an information flyer on the Oxley Cove Rehabilitation Project.

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**4. Tweed River Committee**

**Tweed River Committee**

Carl Cormack congratulated Jane Lofthouse on 10 years service to the Tweed River Committee.

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**5. Riverbank Structures**

**Illegal Building Works; Pontoons**

Robert Quirk voiced concerns on the number of structures on riverbanks that do not have approval.

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**NEXT MEETING:**

The next meeting of the Committee is to be held on 8 June 2005 at the Canvas & Kettle Meeting room commencing at 9.00 am.

The meeting closed at 12.33pm

**DIRECTOR'S COMMENTS:**

Nil.

**DIRECTOR'S RECOMMENDATIONS:**

*As per the Committee's recommendation.*

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**3 [SUB-TCC] Minutes of the Tweed Coastal Committee Meeting held Wednesday 13 April 2005**

**FOR THE CONSIDERATION OF COUNCIL:**

**Minutes of the Tweed Coastal Committee Meeting held Wednesday 13 April 2005  
Tweed Coastal Committee**

**VENUE:**

Canvas and Kettle Meeting Room, Murwillumbah

**TIME:**

Commencing at 1.00pm.

**PRESENT:**

Cr Henry James (Chair), Cr Max Boyd, (Tweed Shire Council), Terry Kane (Cabarita Beach-Bogangar), Gary Thorpe (Hastings Point), Rhonda James (Caldera Environment Centre), John Harbison (Mooball), Kersten Tuckey (Department of Lands) Richard Hagley, (Department of Planning, Infrastructure and Natural Resources), Jason Pearson (Kingscliff), Stewart Brawley, Jane Lofthouse, Tom Alletson, David Oxenham (Tweed Shire Council).

**INFORMAL:**

Brian Hughes (Coastcare)

**APOLOGIES:**

Cr Lynne Beck, Cr Warren Polglase (Mayor), Lance Tarvey (NSW National Parks and Wildlife Service).

**MINUTES OF PREVIOUS MEETING:**

**Moved:** P Harding

**Seconded:** Cr M Boyd

**RESOLVED** that the Minutes of the Tweed Coastal Committee Meeting held Wednesday 9 February 2005 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

**BUSINESS ARISING:**

**Item from Meeting held 8 December 2004**

**4. Cudgera Creek Tidal Obstructions**

**Cudgera Creek; EC2005-307**

This project went to tender and one submission was received. The project will require a further allocation of \$12,000 above that allocated to enable works to go ahead. To be discussed further under "Program Status" in agenda items.

**Item from Meeting held 9 February 2005**

**3. Hastings Point Marine Education Centre - SEAWEEK  
Environmental Education; Endangered Species**

Tom Alletson displayed the winning entry for the Seaweeek competition. The winning poster was by Jenna Rogers and Tegan Smith-Watts from Year 9, Kingscliff High School.

---

**Item from Meeting held 9 February 2005**

**4. Water Quality - Tweed Laboratory Centre  
Tweed Coastal Committee, Monitoring**

The following information was provided by the Tweed Laboratory Centre (TLC) regarding water quality monitoring in the coastal creeks following rain events.

Three options were discussed:

**A:** Community members do pH and Salinity (\*and possibly DO) on site, bring samples into lab for nutrients (filtered into tubes on site), faecal coliforms, chl 'a' and BOD.

While BOD is not currently performed on the Coastal Creek sites this may be a good option for event monitoring to ascertain potential oxygen depletion pollution.

Training required to take samples correctly and learn how to calibrate meter would take 3 hours.

**B:** Rain gauges are provided to community members that can alert the laboratory to rain events as they happen. In most cases a response time of one hour would be possible to most events whether they be rain or visible (eg. fish kills).

**C:** Full response, collection and testing provided by Tweed Lab.

\* DO = Dissolved Oxygen. The field meters used currently by Tweed Laboratory Centre are around \$4,000-5,000 each and DO, pH and EC/Salinity is calibrated for the meter each day. This necessitates the use of buffers, standards, chemical reagents and various items of glassware. Cheaper units (ca \$1000) still require calibration for pH and salinity in the same manner but the DO can be done more easily. However the results (especially DO) on these cheaper models are not reliable and may not be comparable to results obtained from regular monitoring using the Tweed Lab's meters.

Following discussion it was resolved that rain event monitoring should be included in the regular sampling undertaken by the TLC. Need to check with the Environment and Health Unit if adequate protocols are in place for sampling to occur following fish kills or other reported pollution events.

---

**Moved:** Cr M Boyd

**Seconded:** T Kane

**RESOLVED** that Council be requested to develop a protocol for actions required following notification by the community of a fish kill or other pollution event to ensure sampling is undertaken in a timely manner. Protocol to include contact details, sampling regime required, time frames and after-hours contacts. If a protocol exists, it should be reviewed to ensure methodology is adequate.

**RECOMMENDATION:**

That Council develops a protocol for actions required following notification by the community of a fish kill or other pollution event to ensure sampling is undertaken in a timely manner. Protocol to include contact details, sampling regime required, time frames and after-hours contacts. If a protocol exists, it should be reviewed to ensure methodology is adequate.

---

**CORRESPONDENCE IN:**

**1. Offshore Artificial Surf Reefs**

**Coastal Management**

Mr Steve Barrett visited Council to promote an artificial surf reef that he has designed and is looking for a location for the prototype. The artificial reef is for producing surf only and has not been designed for coastal protection. The purpose is to create additional surf breaks on straight beaches to reduce crowded conditions.

The reef design is to be manufactured from steel and be deployed 300-400 metres offshore.

Correspondence received and noted.

---

**2. Nominations for Fingal Head Representative**

**Tweed Coastal Committee**

There are two nominations for the position of community representative for Fingal Head from Mr Darrell Tully and Mr Evan Matthews.

The nominations were examined by the Committee and it was resolved that the nomination from Mr Evan Matthews be supported due his involvement in, and letter of support from, Fingal Head Community Association and Fingal Head Coastcare.

**Moved:** J Pearson

**Seconded:** P Harding

**RESOLVED** that the nomination from Mr Evan Matthews for Fingal Head representative on the Tweed Coastal Committee be supported.

**RECOMMENDATION:**

That Council appoint Mr Evan Matthews as the Fingal Head representative on the Tweed Coastal Committee.

---

**AGENDA ITEMS:**

**1. Creek Bank Stabilisation - Cudgen Creek and Cudgera Creek Final Report  
Riverbank Erosion; Cudgen Creek; Cudgera Creek**

The final design reports for the Cudgen and Cudgera Creek Stabilisation Projects were presented and discussed at the meeting.

The proposal for Cudgera Creek includes a timber observation deck built with screw piles. It is proposed not to provide any revetment of this section of creek bank. Removal of access onto the bank should provide some protection from unnatural erosion. A canoe launch platform is proposed at the lower section of riverbank slightly north.

The estimated cost for the two platforms at Cudgera Creek is \$12,000. Rhonda James noted that funds would not be available through the Koala Beach Management Committee, as this project would not fit into the criteria for expenditure of funds.

**Moved:** Cr M Boyd

**Seconded:** J Harbison

**RESOLVED** that the Committee take the designs to the community and if these are supported, obtain detailed design and estimates and commence approval process.

The proposal for Cudgen Creek identifies a number of zones for works including full rock protection (section 1), terraces and ramps to retain the bank and provide access to the beaches, and ancillary works to upgrade car access and Jack Julius Park.

Noted that works on retaining walls behind the beaches is considered the highest priority and that an excavator could be used to undertake preliminary works to consolidate the rocks that have been displaced from the erosion scarp in Section 1.

**Moved:** J Harbison

**Seconded:** J Pearson

**RESOLVED** that the Committee take the designs to the community to ascertain the priorities for works and if these are supported, obtain detailed design and estimates and commence approval process.

---

## 2. Adoption of Tweed Coastline Management Plan

### Coastline Management Plan

Changes were made to the Draft Coastline Management Plan in accordance with the outcomes of the meeting held 2 March 2005. Copies of the finalised Plan were distributed at the meeting. Any comments on the Plan should be submitted to Jane Lofthouse before Friday 29 April.

Noted that there were some minor changes required to page numbering and the like prior to issue of the finalised Plan for adoption by Council.

**Moved:** R Hagley

**Seconded:** J Harbison

**RESOLVED** that Council be requested to adopt the Tweed Coastline Management Plan and forward the Plan to the Minister for Infrastructure and Planning, Minister for Natural Resources for approval subject to no changes of substance being required.

See Directors Comments regarding the Recommendation.

---

## 3. Addendums to Tweed Coast Estuaries Management Plan

### Tweed Coastal Committee; Estuary Management

The Plan has been adopted by Council, however a number of minor changes are required to the finalised Plan following input from the Department of Lands. These include:

#### Cudgen Creek

- Rewording of "Waterfront Structures" existing situation and actions required.
- Addition of a further action under "Road Bridge" as per below and include TSC as lead agency under responsibility.

The removal of the bridge abutments was not carried through from the old Estuary Management Plan to the 2004 Plan.

Unfortunately, "Road Bridge" was included in the Cudgen Creek table in relation to the lack of pedestrian access only. The Actions Required column currently is:

*"Include pedestrian / cycleway on new bridge and / or build a new bridge at a suitable location"*

Need to include a comment about constricted flows and add action:

*"When bridge is replaced, ensure the design of the bridge allows improved flood and tidal flow"*

---

### **Cudgen, Cudgera and Mooball Creeks**

- Add action to “Development” under each Creek - “*Develop and implement a strategy to combat illegal clearing of vegetation*”. Wording is consistent with Coastline Management Plan. Priority “High”. Responsibility is Department of Lands and TSC.
- “Rehabilitation and Revegetation” add **Department of Lands** to last paragraph “*rationalise responsibilities...*”]

### **General**

- Add **Chapter 23 – Plan Monitoring, Evaluation and Review**

“The Tweed Coastal Committee will conduct monitoring and review of the Management Plan every 12 months when consideration is given to the forward program for the following year.

A formal review and evaluation of the Management Plan is to be undertaken in 2009.

The review will evaluate the efficacy of implementation of the Plan and detail outcomes and outputs. A updated Plan, taking into consideration outcomes from the review and new issues, will be produced to guide the next five years of implementation.”

- Section 20 Implementation schedule

*Add* – “The lead agency is highlighted under the *Responsibility and Funding* column for each suite of actions.”

Bold the lead agency under “Responsibility” column (usually Council) within tables 21.1 to 21.4.

- Table of Contents to be corrected.
- Provide a summary table within Chapter 22 “Funding Sources” detailing totals of cost estimates.

Cr Boyd requested that estimates be totalled for management actions to indicate the level of financial commitment required to implement the Management Plan. It was resolved that this should be done and reported to Council. In addition, examples of projects from the 1997 Management Plan that were not completed should be provided.

---

## **4. Program Status**

### **Tweed Coastal Committee; Estuary Management**

Current projects, status of projects and current budget allocations were discussed at the meeting. Specific items discussed are listed below.

Discussion on the reallocation of funds to complete the Cudgera Creek Tidal Obstruction Project. This project requires a further allocation of \$12,000. Jane Lofthouse to renew the NSW DPI Fisheries permit for removal of mangroves and provide a copy of approval to Kersten Tuckey, Department of Lands.

Discussion on the level of water quality sampling and the budget overspend within this allocation. A water quality monitoring review of all monitoring being undertaken by Council is to be undertaken shortly.

**Moved:** J Harbison

**Seconded:** D Oxenham

**RESOLVED** that the current water quality sampling regime in the Coastal Creeks be changed from one sample run per month in Cudgen, Cudgera and Mooball Creeks to one sample run every two months plus three event samples per year. An event being more that 20 mm of rain falling in 24 hours within the catchments.

**Moved:** G Thorpe

**Seconded:** J Harbison

**RESOLVED** that \$12,000 be temporarily reallocated from the Education budget allocation of the Tweed Coastal Committee to the Cudgera Creek Tidal Obstructions removal project.

**RECOMMENDATION:**

That Council endorse the temporary reallocation of \$12,000 from the Education budget allocation of the Tweed Coastal Committee to the Cudgera Creek Tidal Obstructions removal project.

---

**GENERAL BUSINESS:**

**1. Draft Tweed Coast Surf Life Saving Strategy**

**Surf Lifesaving**

Jason Pearson noted that the Draft Tweed Coast Surf Life Saving Strategy (public submissions closed 12 April 2005) recommends that Council establish a "Beach Management Committee" consisting of Councillors, staff and representatives from Surf Life Saving and boardriders clubs.

**Moved:** J Pearson

**Seconded:** Cr H James

**RESOLVED** that this Committee alert Council to the membership of the Tweed Coastal Committee that would fulfil the requirements of a "Beach Management Committee".

**RECOMMENDATION:**

That Council be advised that it is considered that the current membership of the Tweed Coastal Committee fulfils the requirements of a "Beach Management Committee" as recommended in the Draft Tweed Coast Surf Life Saving Strategy.

---

**2. Erosion - Mooball Creek**

**Riverbank Erosion, Mooball Creek**

Peter Harding noted that the riverbank immediately upstream of the Mooball Creek boat ramp is eroding.

---

**NEXT MEETING:**

The next meeting of the Tweed Coastal Committee will be held on Wednesday 8 June 2005 in the Canvas & Kettle Meeting Room commencing at 1.00pm.

The meeting closed at 3.30pm.

**DIRECTOR'S COMMENTS:**

A separate report detailing changes to the Draft Tweed Coastline Management Plan will be submitted to the meeting of 18 May 2005. Copies of the finalised Plan will be provided.

**DIRECTOR'S RECOMMENDATIONS:**

As per the Committee's recommendations.

---



**4 [SUB-SAC] Minutes of the Sports Advisory Committee Meeting held Tuesday 19 April 2005**

**FOR THE CONSIDERATION OF COUNCIL:**

**VENUE:**

Cabarita Beach Sports Centre

**TIME:**

5.00pm

**PRESENT:**

**Committee Members:** Cr Warren Polglase, Cr Bernie Bell, Cr Steve Dale, Linda Threlfo, Cherie Aston & Stewart Brawley

**Informal:** Mrs Blyth Short (Recorder)

**APOLOGIES:**

Merve Edwards, & Dr Barry Rigby

**CONFIRMATION OF MINUTES:**

**Moved: Cherie Aston**

**Seconded: Cr Dale**

**RESOLVED** that the Minutes of Sports Advisory Meeting held Tuesday 22 February 2005 be accepted as a true and accurate record of the proceedings of that meeting.

---

**BUSINESS ARISING:**

**Item from Meeting held 22 February 2005**

**1. Sports Field Plan of Management**

Planit has been appointed to do the Sports Field Plan of Management. When a draft is ready, it will be presented to the committee for discussion.

---

**Item from Meeting held 22 February 2005**

**3. Ned Burns Fields – Toilets**

The Ned Burns Field toilets have been closed due to hygiene reasons.

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**Item from Meeting held 22 February 2005**

**5. Seabreeze Sports Facility**

Council is awaiting the final plans and costing from Metricon for the facilities. Field and lights are complete.

---

**Item from Meeting held 22 February 2005**

**6. Koala Beach Sports Fields**

Council accepted a bond from the Ray Group for the construction of the fields. The Ray Group is currently questioning some of the approval conditions.

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**Regional Facilities Plan**

Six submissions have been received, upon appointing a consultant the process will take up to 6 months.

---

**Arkinstall Park Exercise Trail**

The installation of exercise equipment is considered cost prohibitive. However, the proposal for distance markers at fields may be a practical option.

---

**CORRESPONDENCE:**

**1. Portable Soccer Goal Post Safety Standards**

Most Soccer Clubs make their own goal posts. Council's Corporate Officer is currently looking into the standards and Council's liability.

---

## **2. North Coast Academy of Sport**

NCAS have requested \$7,623. Council traditionally allocates \$1,500 annually. This amount has not changed for several years whilst the number of Shire athletes supported has increased significantly.

**Moved: Steve Dale**  
**Seconded: Cherie Aston**

Unanimous.

### **RECOMMENDATION:**

That Council increases its annual contribution of \$1500 to \$5,000 towards the North Coast Academy of Sport.

---

### **GENERAL BUSINESS:**

#### **1. Pottsville Oval**

Cr Dale advised that a Pottsville resident has expressed interest in the use of Pottsville Oval for Australian Rules.

---

#### **2. Piggabeen Sports Fields Parking**

General discussion regarding the lack of parking at Piggabeen Sports Complex. Rangers have been advised and will be policing the streets when the next Senior League game is held.

Council's Design Unit has investigated options for an extended car park estimated costs are \$100,000.

---

### **NEXT MEETING:**

The next meeting of the Sports Advisory Committee will be held 21 June 2005.

The meeting closed at 5.50pm

### **DIRECTOR'S COMMENTS:**

#### **Item 2 - Correspondence - North Coast Academy of Sport**

The 2005/2006 budget currently funds \$1,500. If this recommendation is approved then there will need to be an adjustment at the Quarterly Review.

---

**DIRECTOR'S RECOMMENDATIONS:**

**Item 2 - Correspondence - North Coast Academy of Sport**

That Council considers an increase in the grant to the North Coast Academy of Sport from \$1,500.00 to \$5,000.00 at its next Quarterly Budget Review.

---

**5 [SUB-TDC] Minutes of the Tweed Dune Care Advisory Committee Meeting held Thursday 21 April 2005**

**FOR THE CONSIDERATION OF COUNCIL:**

**VENUE:**

Pottsville Environment Park

**TIME:**

5.00pm

**PRESENT:**

**Committee Members:** Cr Max Boyd, Cr Henry James, Ms Kate McKenzie (Landcare Community Support Officer), Arthur Rawlanson (Pottsville Dune Care), Kay Bolton (Fingal Head), Ian Anderson (Kingscliff North), Peter Langley (Kingscliff Community Dune Care), Brian Hughes (Coast Care Facilitator), Frank McLeod (Dept Lands), & Mr Rodney Keevers.

**Informal:** Gerard Bambach (Cabarita Beach Dune Care), Rhonda James, Graham Carlill (Seabreeze), Neville Jennings (Nth Kingscliff), Kaye Louis (Pottsville), Bill Louis (Pottsville), John Shefferan & Blyth Short (Recorder)

**APOLOGIES:** Mr Stewart Brawley

**MINUTES OF PREVIOUS MEETING:**

Corrections: the meeting 10 February 2005 was held at the Pottsville Environment Centre not the Casuarina Beach Sports Centre.

**Moved: Kay Bolton**

**Seconded: Peter Langley**

**RESOLVED** that the Minutes of the Tweed Dune Care Advisory Meeting held Thursday 10 February 2005 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

**BUSINESS ARISING:**

**General Business item from Meeting held 10 February 2005**

**5. Tree Vandalism**

**Vandalism**

General discussion regarding the vandalism of the trees at 228 and 230 Marine Parade, Kingscliff in February 2005. Committee alarmed at the lack of interest taken with the previous recommendation.

**Moved: Kay Bolton**  
**Seconded: Peter Langley**

**Moved Unanimously.**

**RECOMMENDATION:**

That Council invites the Department of Lands to erect their 'tree vandalism' sign at 228-230 Marine Parade, Kingscliff.

---

**Business Arising item from Meeting held 10 June 2004**

**1. Pandanus Leaf Hopper**

Rodney advised that there has been no recent outbreaks this summer except 2 pandanus trees at Casuarina that were bought into a private job from a Queensland Nursery. Most trees that were treated are recovering very well after recent rain.

---

**Business Arising item from Meeting held 10 June 2004**

**2. Bitou Bush Control Strategy**

Rhonda advised that there are funds available for another spray program for the 4<sup>th</sup> year. It was requested that any large patches of bitou be reported to Rhonda for them to be addressed in the next spray program. Bitou will be targeted west of coast road during the next round of work due to commence mid May 2005.

---

**General Business item from meeting held 10 February 2005**

**6. Occupational Health & Training for Volunteers**

Groups requested to forward names to Rodney Keevers in the next few weeks so training can be organised. Occupational Health & Safety legislation and the Pesticides Act requires that volunteer users are certified. Council to forward a letter to the individual dune care groups to formally request names be forward to Rodney Keevers within 4 weeks of volunteers requiring training.

---

**General Business item from meeting held 10 February 2005**

**3. Casuarina Beach Dune Care**

Cr James advised of a recent community group meeting expressed that some residents are unhappy with the 'untidiness' of one area of the dunes which have dead casuarinas. An onsite meeting with Aspect North, Cr James, Dougal Walker & Stewart Brawley recently discussed this issue.

Additionally, Multiplex advises that they have no responsibility for the maintenance of the Casuarina dunal areas.

---

**General Business item from meeting held 10 February 2005**

**7. Fingal Head Walkway**

Work on the walkway leading to the headland has commenced this week. The Conservation Management study hasn't progressed any further, Frank McLeod to follow up.

---

**CORRESPONDENCE:**

**1. Surf Life Saving NSW**

Surf Life Saving NSW Environmental Statement supports and encourages activities that enhance the protection of the foreshore environment. Cr Holdom sees a potential nexus between Dune Care groups and Surf Life Saving NSW. General discussion. Resolved to forward a copy of the correspondence to individual dune care groups to discuss further.

---

**GENERAL BUSINESS:**

**1. Pottsville Dune Care**

Arthur Rawlinson advised that with the recent passing away of Arthur Poole the group has concerns with storage of their equipment. The Neighbourhood Centre is a possible option for storage this option to be pursued with Rhonda James. The group will discuss the election of a new president and a recommendation will be put forward at the June meeting.

Council forward a letter of appreciation to Mrs Poole for their 14 years of dedicated volunteer work with the Pottsville Dune Care Group.

## 2. Pottsville Environment Centre

Kaye Louis expressed concerns with the lack of ongoing maintenance to the Pottsville Environment Park and advised that she would like to be invited to attend the next meeting of the Pottsville Environment Centre Committee.

---

## 3. Cabarita Beach Dune Care Representative

With the resignation of Ron Butler the Cabarita Beach/Bogangar Residents Association nominated Gerard Bambach as the new representative of the Cabarita Beach Dune Care Group.

**Moved: Kay Bolton**

**Seconded: Cr James**

### **RECOMMENDATION:**

That Council appoints Gerard Bambach as the new representative of the Cabarita Beach Dune Care Group on the Tweed Dune Care Advisory Committee.

---

## 4. Weed Control

Rhonda James advised that the dune care groups need to address weeds other than just bitou. General discussion. Council to forward information with the latest weed control methods.

---

## 5. Salt Dune Management Plan

Cr James advised that topsoil was scraped from the Bogangar School site and taken to the Salt foreshore site to germinate native heath. Consequently, many heath species came up however it is being overtaken by wattle. Wallum Banksia is doing well. Rhonda suggests that the wattle is injected and left to stand. Cr James suggested that there is evidence that the plan may need to be reviewed as the outcome has failed to meet the species diversity and coverage.

---



## **6. Dune Care Groups**

Brian Hughes will be conducting a survey in the next few months to establish which stage each of the Dune Care Groups are. General discussion with declining number of dune care volunteers. Suggested a Tweed Link story to be run and small list of contacts be included in the next few Tweed Links.

---

### **NEXT MEETING:**

The next meeting of the Tweed Dune Care Advisory Committee will be held 10 June 2005.

The meeting closed at 6.45pm

### **DIRECTOR'S COMMENTS:**

Nil.

### **DIRECTOR'S RECOMMENDATIONS:**

*As per the Committee's recommendations.*

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**6 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 21 April 2005**

**VENUE:**

Peter Border Room

**TIME:**

Commencing at 9.00am.

**PRESENT:**

**Committee Members:** Cr John Murray; Tweed Shire Council; Mike Baldwin, Roads and Traffic Authority; Jason Thrupp, NSW Police; Mr Neville Newell, MP, Member for Tweed.

**Informal:** Acting Chairman: Mr Ray Clark and Judith Finch Tweed Shire Council.

**APOLOGIES:**

Mr Don Page MP, Member for Ballina Mr Paul Morgan.

**MINUTES OF PREVIOUS MEETING:**

**RESOLVED** that the Minutes of the Local Traffic Committee Meeting held Thursday 17 March 2005 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

**Schedule of Outstanding Local Traffic Committee Items**

**Traffic - Committee**

**11. Queen Street, Murwillumbah**

**R4500 Pt1; DW1034590; Car Parks - Murwillumbah; Parking Zones**

The Committee discussed the issues raised above and did not support the reserving of spaces for vet staff on public land even though a long term agreement with doctors allows such. The conversion of a 'No Parking' zone in Queen Street to a loading zone was considered appropriate as it provides up to 15 minutes for a station wagon or commercial vehicle to park to load or unload and half an hour for trucks. The Committee considered that this matter should be reconsidered in 12 months time or earlier if major changes to the car parking in the vicinity being planned are implemented. The issue of hotel patrons blocking access to the rear of the vets on site car parking is a private matter between the adjoining land holders and should be resolved between themselves.

**RECOMMENDATION:**

That the 'No Parking' zone adjacent to the old BGF building in Queen Street be converted to a loading zone.

**Current Status:** To be brought forward to the LTC for meeting in May 2005.

---

**BUSINESS ARISING:**

**1. Ranger's Report**

**Rangers**

The Ranger's Report was tabled and discussed and the Committee advised that monthly meetings are now held with the Rangers.

For Council's information.

---

**Item from Meeting held 17/2/2005**

**13. Bilambil Road - Speed Limit**

**R0530 Pt 2 - DW1158135; Traffic - Speed Zones**

*Request received in relation to the 80kph speed Limit on Bilambil Road.*

*The Traffic & Transport Engineer advised the Committee that the complainant would like the speed limit reduced to 60kph.*

*That this item be deferred for speed survey data to be collected and an analysis on crash data and brought back to the next Committee meeting.*

*For Council's Information.*

**From Meeting held 17/3/2005:**

*"Deferred to the next meeting of the Local Traffic Committee as the traffic counters have not been available.*

*For Council's information."*

**From Meeting held 21/4/2005:**

The Road Safety Officer advised that the 85<sup>th</sup> percentile was 81kph. The crash data for the last 4 years showed 7 crashes which were single vehicle crashes indicating excessive speed.

The 85<sup>th</sup> percentile indicates that the majority of drivers feel that an 80kph speed limit is appropriate. A reduction in this limit would not be recommended as potentially drivers would be encouraged to break the speed limit. Adjacent development would also indicate to drivers that 80kph is an appropriate speed limit.

---

*Jason Thrupp arrived at 9:25am*

For Council's information.

---

**Item from Meeting held 17/2/2005**

**11. Bay Street, Tweed Heads**

**R0470 Pt2; Traffic - Parking Zones**

*"Request from the Chamber of Commerce to introduce permit parking due to congestion caused by construction vehicles.*

*The Committee discussed the parking situation in Bay Street for Business owners and agreed to introduce a Business Permit Parking Scheme to the 31 December 2005.*

*That a Business Permit Parking Scheme be implemented as per the RTA Traffic Direction TDT 2001/05 to apply to the two off street car parks on Bay Street and on-street parking on Bay Street between Enid Street and Thompson Street. The scheme will apply to the 31 December 2005 and any extension of time will be considered by the Traffic Committee at its December meeting.*

**RECOMMENDATION:**

*That a Business Permit Parking Scheme be implemented as per the RTA Traffic Direction TDT 2001/05 to apply to the two off street car parks on Bay Street and on-street parking on Bay Street between Enid Street and Thompson Street. The scheme will apply to the 31 December 2005 and any extension of time will be considered by the Traffic Committee at its December meeting.*

**Current Status:** *To be brought forward to the LTC for meeting in December 2005."*

**From Meeting held 21/4/2005:**

The Road Safety Officer tabled a sample of the Parking Permit. The RTA Representative advised that the RTA Guidelines should be checked on the issuance of number of parking permits which should be in line with available spaces.

To be brought forward to the LTC meeting of 19 May 2005.

For Council's information.

## Part A

### GENERAL BUSINESS:

**1. Tumbulgum Road and Racecourse Road, Murwillumbah  
R4540 Pt1; R5570 Pt1; DW1179904; Traffic - Safety**

Request received in relation to sight distance to the right at the intersection of Tumbulgum Road and Racecourse Road which is reported to be impeded by Barna grass growing along Mayal Creek. It is also suggested that the high voltage sign may need to be moved to create better sight distance.

The Road Safety Officer advised that the grass is now being cut correctly and a letter has been forwarded to Country Energy asking them to relocate the sign. The Committee noted that a 'Stop' sign needs to be installed to ensure oncoming vehicles are observed.

### RECOMMENDATION:

That a 'Stop' sign be installed on Racecourse Road at the intersection of Tumbulgum Road.

---

**2. Duranbah Road, Duranbah  
R1740 Pt3; DW1182713; Traffic - Speed; Traffic - School Zones;  
Traffic - Committee**

Request received for speed surveys to be undertaken in the School Speed Zone on Duranbah Road, Duranbah.

The average speed of drivers travelling in the 40 km/h school zone in the morning is 63 km/h, 85<sup>th</sup> percentile is 73 km/h with a volume of 76 vehicles.

The average speed of drivers travelling the 40km/h school zone in the afternoon is 62 km/h and 85<sup>th</sup> percentile is 75 km/h with a volume of 80 vehicles.

The Committee noted that the School access is a gravel surface. The Committee suggested that the School should consider improving the driveway access. The Police Representative undertook to ensure enforcement of the area.

For Council's information.

---

**3. Vintage Lakes Drive and Medoc Place, Tweed Heads South  
R5747 Pt1; DW1160027; Traffic - Safety; Traffic - Speed Zones**

Petition received in relation to the speed of vehicles on Vintage Lakes Drive. Suggestion received for the installation of a speed bump and/or children crossing island for children to be able to cross the road when catching the bus to and from school.

---

Vintage Lakes Drive is a 50 km/h speed limit. Speed surveys have been carried out near No. 50 Vintage Lakes Drive and are reported as follows:-

9.6% of vehicles travelling between 70 and 80 km/h

35% of vehicles travelling between 60 and 70 km/h

36% travelling between 50 and 60 km/h.

Average daily traffic is 1400 vehicles.

The Road Safety Officer advised that there had been 3 crashes in 4 years in this section of the road.

Cr Murray suggested that there could be "Radar signs" placed in various hot spots of the shire where speeding was an issue.

The Police Representative advised that he would ensure that Vintage Lakes Drive is enforced for speeding.

The road width is inadequate for the installation of a pedestrian refuge and the Committee noted that the installation of traffic calming such as speed humps when retro-fitted tend to generate noise which becomes an area of complaint for adjacent residents.

The Committee agreed to a 'Children Crossing' sign being installed and that the area be monitored.

**RECOMMENDATION:**

That a 'Children Crossing' sign be installed on Vintage Lakes Drive between Port Drive and Medoc Place for eastbound traffic.

---

**4. Numinbah Road, Chillingham (Crystal Creek Bridge)**

**DW1183190; R3780 Pt4; Traffic - Committee; Bridges - Crystal Creek**

Request received for the removal of the 'Give Way' sign at the eastern side of Crystal Creek Bridge and replacement with a 'Stop' sign as motorists who do not stop cannot see vehicles in the dip on the western side of the bridge.

The Committee decided that the bridge needed to be checked for location of "Give Way" sign and that such a sign should be installed on the side of the bridge with best sight distance, in accordance with RTA Guidelines. The Committee did not agree to the installation of a 'Stop' sign.

To be brought forward to the May 2005 Local Traffic Committee meeting

For Council's information.

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**5. Dune Street, Fingal Head**

**R1720 Pt1; DW1167248; Traffic - Committee; Parking - Illegal**

Request received for assistance with vehicles parking in a driveway in Dune Street, Fingal Head.

The Committee agreed that the complainant be advised that driveway obstructions can be enforced by ringing the Police and / or Rangers at times of incidents occurring.

For Council's information.

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**6. Beryl Street, Tweed Heads**

**DW1184092; R0520 Pt1; Traffic - Parking Zones**

Request received for the car parking areas outside the Twin Towns Veterinary Clinic on Beryl Street to be designated for parking for their clients only. It was noted that developments are generally responsible for providing adequate on site parking to meet their needs.

The Committee noted that such a request is not enforceable and the issue of time parking was also discussed however it was noted that this may have an impact on staff parking and residents. The situation will be monitored further.

For Council's information.

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**7. Miles Street and Ourimbah Road, Tweed Heads**

**DW1181947; R3340 Pt1; R3970 Pt2; Traffic - Safety**

Request received in relation to speeding vehicles on Miles Street, Tweed Heads (near the Qld border). It is also reported that vehicles regularly speed on Ourimbah Road.

It is reported that there have been numerous accidents on Miles Street which have been speeding related.

Crash history in that vicinity shows 5 accidents in the last 4 years. The Police Representative undertook to organise enforcement in the area.

The Road Safety Officer will request the Design Office to investigate the intersection for potential improvements.

To be brought forward to the May 2005 Local Traffic Committee meeting

For Council's information.

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**8. Racecourse and Cane Road, Murwillumbah  
R4540 Pt1; DW1181441; Traffic - Speed; Traffic - Safety**

Request received in relation to:-

1. Speeding vehicles near the horse stabling complex with a report received that motorists are constantly exceeding 100ph.
2. The intersection of Racecourse Road and Tumbulgum Road has cane weeds growing which is blocking the vision of oncoming traffic across the bridge. It is requested that the cane weed be poisoned or removed as it is slashed but grows very quickly.
3. The power sign at the intersection of Racecourse Road and Tumbulgum Road is also reported as obstructing vision.

The Committee noted that warning signage has previously been installed for the complex to open and close as they use the road.

1. In relation to speeding vehicles near the horse stabling complex the Committee noted that the signage erected several years ago does not appear to be used as per its intention. The Trainers Association should ensure that the signs are only opened where there is activity in that area. This is currently not done with the warning signage remaining open all the time, reducing the effectiveness of the signs.

Council officers will examine linemarking in this vicinity to ensure it is clearly delineated. A reduction in the speed limit is not supported and the horse trainers should ensure that it is safe to cross before doing so.

2. The Road Safety Officer advised that the grass is now being cut correctly. The Committee noted that a 'Stop' sign needs to be installed to ensure oncoming vehicles are observed. This was approved in Item 1 of this Agenda.
3. The Road Safety Officer advised that a letter has been forwarded to Country Energy asking them to relocate the sign.

For Council's information.

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**9. Cabarita Road, Cabarita Beach  
R0900 Pt1; R0360 Pt1; R4360 Pt1; DW1184098; Traffic - Speed**

Request received in relation to the provision of traffic calming for speeding vehicles on Cabarita Road. It is reported that speeding is particularly bad between Banksia Avenue and the 'Stop' signs at Poinciana Street.

The Committee noted that speed surveys are being undertaken and that reporting showing any anomalies would be given to the Police for enforcement. The Police Representative advised that this area is being reviewed.

To be brought forward to the May 2005 Local Traffic Committee meeting

For Council's information.

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**10. Hammond Drive / Clothiers Creek Road Intersection**  
**R1160 Pt7; Traffic - Committee; DW1176802; Traffic - Speed Zones**

Request received for a review of the temporary 40/80kph speed limit sign recently installed on Hammond Drive at about 370m from the Clothiers Creek Road intersection. It is also requested that the 80kph uphill limit could be changed to a maximum of 60kph.

The Committee noted that the road reflects the speed limit in surrounding areas and a reduction in speed limit would not necessarily lead to a reduction in the speed of travel of vehicles. The 40/80kph speed limit sign will be removed at the finish of road works in the very near future.

For Council's information.

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**11. Dry Dock Road, Tweed Heads South, Pearl, Boomerang, and Oxford Streets and McPhail Avenue, Kingscliff, Tweed Coast Road, Pottsville, Cudgera Creek Overpass of Motorway**  
**R1680 Pt3; DW1187051; Traffic - Committee; Speed Zones;**

Request received for various issues as follows:-

1. Traffic calming in Oxford Street, Kingscliff. Issues of local and school traffic speeding to and from Kingscliff High School.
2. Consideration of a speed limit reduction from 60kph to 50kph from Town roundabout (Coronation Drive / Coast Road North to Koala Beach intersection).
3. Roundabout on Pearl Street and Boomerang Street. Community would like ti rebuilt to ensure that drivers have to slow to go around / through the intersection rather than just "run over it".
4. Concerns with excessive speeding on Dry Dock Road. Requests that greater attention by Police on weekends and later at night.

5. Report of speeding along McPhail Avenue especially in the mornings that appear to be trades people going to the SALT development with speeds of 65-70kph going up to 90kph. They travel up Cudgen Road, past the TAFE before they fly over the crest of McPhail and down to Viking Street. The other group of speeders appear to be at weekends with noisy exhaust and sound systems.
6. Cudgera Creek Overpass of Motorway. Traffic heading north and turning right onto the bridge have to turn right across 2 westbound lanes. This is not clear to motorists and current road markings have also faded.

The Committee comments as follows:-

1. The Road Safety Officer undertook to review the School Zone arrangements. It was noted that residents should be encouraged to report individuals to the Police and make the necessary statements. The Committee agreed that the School should be approached in relation to speeding.
2. Speed surveys near Pottsville Bowls Club show 55.5kph as the 85<sup>th</sup> percentile and it was decided that the 50kph speed limit should be extended.
3. The Road Safety Officer advised that the Roundabout on Pearl Street and Boomerang Street is not on the Works Program and that cars do not appear to traverse the central island which is required to allow larger vehicles to turn.
4. In relation to speeding on Dry Dock Road the Committee noted this area as a problem. The Police Representative advised that they are aware of this problem.
5. In relation to speeding on McPhail Avenue the Police Representative noted this and undertook to enforce the area.
6. In relation to the Cudgera Creek Overpass of the Motorway the Committee the RTA Representative undertook to assess the linemarking to ensure better delineation. The Road Safety Officer also requested the RTA Representative to also assess the 'Give Way' signage on the off ramp heading south to better delineate the intersection.

**RECOMMENDATION:**

That the speed limit be reduced to 50kph on Tweed Coast Road between Coronation Avenue and Cudgera Avenue.

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**12. Kyogle Road, Dum Dum**

**R2970 Pt12; Traffic - Committee; Speed Zones; Safety; DW1190367; 1189409**

Request received in relation to Kyogle Road which runs through Dum Dum Farm at 973 Kyogle Road. It is reported that there are regular accidents along this road with a 'black spot' 50 metres either side of the Mt Warning turn off. In wet weather it is particularly bad. It is also reported that despite good fencing cows do sometimes wander on to the road and cause accidents (as occurred on 18 April 2005).

A review of the speed limit is requested from "Drive to Suit conditions" to 80kph along the sharp curvy parts of the road.

The RTA Representative suggested that a Road Safety Audit of Kyogle Road be implemented together with an analysis of crash data to ascertain driver behaviour on the road.

To be brought forward to the May 2005 Local Traffic Committee meeting

For Council's information.

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Part B

**1. Barnby Street, Murwillumbah - Staged Residential Subdivision**

**DA05/0308 Pt2; Traffic - Committee; Property No. 28210;  
Property No. 83510; DW1186227**

In accordance with Schedule 2 of SEPP 11 - Traffic Generating Developments the above development application requires referral to the Local Traffic Committee, as it is a subdivision comprising of 50 or more allotments.

The Committee should note that the related master plan MP04/0001 (which sought conceptual approval for a similar proposed subdivision at Barnby Street, Murwillumbah) is still to be processed as Council at its meeting of 15 December 2004 resolved as follows:-

- "1. Before Council makes a final decision about the revised Masterplan for the Barnby Street subdivision it conducts a traffic modelling study to review network options for mitigating impact on the existing and proposed Barnby Street precinct, including but not limited to another ring road.*
- 2. The model incorporate current traffic flows which result from these options."*

The Committee noted that increased traffic movements on William Street due to its steepness is not desirable. There are concerns with the intersection of William Street and Byangum Road intersection and concerns were raised with Barnby Street and Byangum Road intersection. The Committee considers that an alternative access to the development should be part of any approval to alleviate the above traffic issues.

For Council's information.

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**2. Bells Boulevard, Kingscliff**

**DA05/0258 Pt1; Traffic - Committee; Traffic - Parking; Property No. 94650**

Request received for Local Traffic Committee advice in relation to traffic and off site parking issues for an outdoor concert at Central Park, SALT. This is in respect to Lot 174 DP 1075495, Lot 1 DP 1075645, Lot 12 DP 873604, Lot 102 DP 873985, Lot 3 DP 803772.

It was noted that there could be a number of events held at Central Park, SALT per year with 4 - 5,000 people attending such events. Offsite parking at Council's Sewage Treatment Works is proposed, catering for up to 2,000 vehicles and bus people to the site. Parking at Kingscliff TAFE of 350 - 400 spaces is also proposed. Permission has been given for use of these sites.

The RTA Representative suggested that a 12 month periodic approval could be given with traffic monitoring. The Committee decided that the plans tabled seem suitable however if these parking areas were not available at the time of the events then another plan should be in place. It was also a concern that Casuarina Way was proposed to be closed off to through traffic and such a closure was not supported. It was noted that access is proposed to only be given by permit parking and access to residents.

Temporary 'No Parking' zones may be supported on Casuarina Way during times of special events.

The placement of VMS signs on the Pacific Highway should be referred to the Roads & Traffic Authority.

It was noted that 'No Stopping' zones would have to be installed on Casuarina Way.

Cr Murray suggested that for events of this size a Workshop should be organised with the Local Traffic Committee a minimum of 2 months prior to the first event for finer details to be discussed in more detail.

It should be considered that crowd control should use the Police "user pays" system.

For Council's information.

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**3. Lot 7 DP685566 Greenway Drive Tweed Heads South  
DA04/1643 Pt2; Traffic - Local Area Traffic Management; Traffic - Committee;  
DW1190630**

Request received for Local Traffic Committee advice in relation to SEPP No. 11 - Traffic Generating Developments.

The development is for a mixture of residential and commercial premises. There are an estimated 741 vehicle movements per day.

**DECLARATION OF INTEREST**

Cr J Murray declared a non-pecuniary interest in Item 3, Part B in accordance with the code of conduct.

This declaration is due to political support contributions.

As the interest is extremely remote it is the intention of Cr J Murray to declare this possible non-pecuniary interest, but take part in the discussions and voting on these matters, as Cr J Murray fully supports the recommendations of the professional staff in these matters. This was declared during the meeting as an incorrect name appeared on the Late Agenda handed out at the meeting.

The Committee noted that the intersection of Minjungbal and Machinery Drive is already at capacity. The Committee requested that the consultant provide a review of other options for access to the property from Greenway Drive.

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**NEXT MEETING:**

The next meeting of the Local Traffic Committee will be held 19 May 2005 in the Peter Border Room commencing at 9.00am.

The meeting closed at 12:05 pm.

**DIRECTOR'S COMMENTS:**

Nil.

**DIRECTOR'S RECOMMENDATIONS:**

*As per the Committee's recommendations.*

**7 [SUB] Sub-Committee Minutes Circulated to Councillors Not Requiring a Council Decision**

**FOR THE CONSIDERATION OF COUNCIL:**

1. Minutes of the Arts Northern Rivers Inc Board Meeting held Monday, 4 April 2005 (DW1190580)
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**ORDERS OF THE DAY**

- 1            **[NOM] Public Opposition to the Sale of Council Land in Pandanus Parade, Cabarita**

**NOTICE OF MOTION:**

Councillor M R Boyd moves:

That in view of the overwhelming public opposition to the sale of Council land in Pandanus Parade, that Council resolve to discontinue all negotiations with interested parties and advise them the land is not for sale.

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**CONFIDENTIAL MATTERS**

**CONFIRMATION OF MINUTES**

**Minutes of the Confidential Council Meeting held Wednesday, 20 April 2005**

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**Minutes of the Confidential Extraordinary Meeting held 27 April 2005**

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**[ID] [EC] Lease or Licence or Agreement for Community Health to Use Areas  
Within the Banora Point Multi-Purpose Centre**

**REASON FOR CONFIDENTIALITY:**

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

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
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## REPORTS THROUGH ACTING GENERAL MANAGER IN COMMITTEE

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

#### 1 [OGM] Lease or Licence or Agreement for Community Health to Use Areas Within the Banora Point Multi-Purpose Centre

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