



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 6 April 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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CONFIRMATION OF MINUTES

Minutes of the Ordinary Council Meeting held on Wednesday, 16 March 2005

UNDER SEPARATE COVER:

Minutes of the Ordinary Council Meeting held on Wednesday, 16 March 2005
(DW1174227)

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SCHEDULE OF OUTSTANDING RESOLUTIONS

Schedule of Outstanding Resolutions

FOR COUNCILLOR'S INFORMATION:

17 March 2004

REPORT FROM DIRECTOR ENGINEERING SERVICES

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

202

Councillor H James

Councillor B M Luff

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

Current Status: Reassessing technical aspects including alternative sites.

16 June 2004

REPORT FROM DIRECTOR PLANNING & ENVIRONMENT

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

432

Councillor M R Boyd

Councillor S M Dale

RESOLVED that this item be deferred.

Current Status: Deferred.

4 August 2004

2 [NOM] Section 149 Certificates

NOTICE OF MOTION:

Cr G J Lawrie

Cr L F Beck

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

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

ITEMS DEFERRED IN COMMITTEE

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

REASON FOR CONFIDENTIALITY:

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

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

C 123 RESOLUTION:

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

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

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.

19 January 2005

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY

18 [EC] Council Land, Pandanus Parade, Cabarita

Cr L F Beck
Cr G B Bell

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

Current Status: Probity Officer's report received and included in Business Paper of 16 March 2005.

16 February 2005

REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT

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

Cr G J Lawrie
Cr J F Murray

RESOLVED that this matter be deferred and that the Director Planning & Environment prepares a report for Council's consideration that contains conditions for approval including reference to colour of the building.

Current Status: Report being prepared.

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

Cr L F Beck
Cr G J Lawrie

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

Current Status: Briefing session held on Wednesday, 30 March 2005, further session to be held on 27 April 2005. Report to be included in Business Paper of Wednesday, 4 May 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.

MAYORAL MINUTE

Mayoral Minute

Councillors,

1. Tweed Shire Council Public Inquiry

17 March – Appearance at Inquiry

2. TEDC

18 March – TEDC Board Meeting at Tweed

3. Dog Show

19 March – Open Dog Show Murwillumbah Showground

4. Rotary International

19 March – Open Rotary Model United Nations Assembly (MUNA) at Tweed

5. Seniors Week

20 March – Closing Seniors Week celebrations at Murwillumbah

6. Wallum Community Pre School

20 March – Presentation Wallum Gala Golf Day at Tweed

7. Lot 490

22 March – Meeting Lot 490 committee at Murwillumbah

8. NOROC

29 March – Noroc/NRCMA Workshop at Lismore

9. Surf Life Saving Strategy

29 March – Workshop SLS Strategy at Kingscliff

10. Commonwealth Games

1 April – Meeting at Tweed with James Cooper to discuss Fundraising Program for 2006 Team Appeal

11. Citizenship

1 April – Private Citizenship Ceremony at Tweed Heads (Ms. Fiona Tasker)

12. Arts Northern Rivers

4 April – Board Meeting Arts Northern Rivers

13. NRACC

7 April – NRACC Meeting at Ballina

14. Justine Elliot

7 April- meet with GM and Ms. Justine Elliot (Member for Richmond)

15. SALT

7 April – Industry & Media Launch Outrigger on the Beach at Salt

16. Lifeworx Church

9 April – Men's Breakfast

17. Murwillumbah Netball

10 April – Open Origin Shield Carnival at Murwillumbah

18. Drug Information

12 April – Local Drug Information Project (details TBA)

INVITATIONS ACCEPTED:

- 16 April – Commissioning VMR Point Danger Rescue Vessel (Point Danger 2)
- 25 April – Anzac Day Services – Dawn Service Uki & Service at Tweed
- 28-30 April – RANSW Annual Congress and AGM in Sydney

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

- Building & Financing Local Government Infrastructure 2005 **7-8 April** Rydges Hotel Sydney
- Ozwater Exhibition **9-11 May** Brisbane
- LGMA National Congress & Business Expo **22-25 May** Canberra
- International Riversymposium **6-9 September** Brisbane
- Australian Sister Cities Association National Conference **25-28 September** Latrobe City

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ITEMS DEFERRED

[ID][OGM] Second Round Donations 2004/2005 - Festivals Policy

ITEM DEFERRED FROM MEETING HELD:

16 March 2005

RESOLVED that Councillors Bell and Carroll be requested to prepare a report on the second round of Festivals Policy applications for 2004/2005 and this to be submitted to the 6 April 2005 Council meeting.

THIS ITEM IS THE SUBJECT OF A FURTHER REPORT AT ITEM XXX OF THIS AGENDA

ORIGIN:

Governance

SUMMARY OF REPORT:

Tweed Shire Council recognises a need to assist non-profit community groups and organisations and individuals who are interested in and working towards the enhancement and the well being of its residents and the Shire, through the promotion of appropriate festivals.

Further to the adoption of Council's Policy on Festivals, applications were sought for the second round of funding and are now submitted for Council's determination.

RECOMMENDATION:

That Council determines the distribution of funds for the second round of donations to Festivals in accordance with the adopted policy and the funds voted in the 2004/2005 Budget.

REPORT:

Council, at its meeting held on 21 April 1999, adopted the Festivals Policy. As a result of the Policy, the first round of applications for 2004/2005 were resolved by Council at its meeting on 15 September 2004 and are documented for Council's information.

The following application criteria is used to determine applications:

- No financial assistance will be given to privately owned businesses/companies.
- Organisations must be Tweed based or the funds are to be used on a service or activity for Tweed.
- No financial assistance will be given to Government Departments or agencies or for support of Government owned facilities.
- No financial assistance will be given to sporting organisations as these organisations have ample other avenues for financial assistance.
- The funds are not to be used for a social activity for members of the organisation exclusively.

Second round applications have been received as follows, with the following funds available for distribution.

The 2004/2005 Budget allocation for festivals is \$33,990.00, of which \$17,000.00 (net) has already been distributed, which leaves a balance of \$16,990.00 available for second round funding.

Applicant	Amount Requested	Purpose
1. Cabarita Beach SLSC	\$2,000.00	To fund the running costs of the annual Tweed Coast Raft Race & Family Picnic Day.
2. Mooball & District Movers	\$2,000.00	To assist in the running of the Tour de Tweed.
3. Wintersun Festival Association	\$7,500.00	To assist in the running of the 2005 Wintersun Festival
4. Wollumbin Dreaming Inc	\$6,000.00	To assist in the running of the 2005 Wollumbin Festival
5. Speed on Tweed Pty Ltd	\$4,500.00	To assist with the running of the 2005 Speed on Tweed event
6. Murwillumbah Community Centre	\$1,000.00	To assist with the organisation of Harmony Day on 20 March 2005
7. Tyalgum Festival Committee Inc	\$4,000.00	To assist with the organisation of the Tyalgum Festival of Classical Music
8. Kingscliff & District Chamber of Commerce	Undisclosed	To assist with the running of the 2005 Kingscliff Art, Food & All That Jazz Festival.
TOTAL	\$27,000.00	

In the first round of the 2004/2005 Budget for Festivals, funds were distributed as follows:

Festival	Allocation	Date Held/Proposed to be Held	Reported to Council
Greenback Tailor Fishing Competition	\$2,500.00	Requested return of funds - event cancelled.	
Tweed Coast Outriggers	\$2,000.00	May 2005	TBA
Tweed Shire Senior Citizens' Week	\$4,500.00	March 2005	TBA
Tweed Valley Banana Festival & Harvest Week	\$8,500.00	Sept 2004	
Tyalgum Diggers Sports	\$2,000.00	July 2005	TBA
TOTAL	\$19,500.00		
ADJUSTED TOTAL (Net)	\$17,000.00		

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

2004/2005 Budget allocation for Festivals is \$33,990.00.
 Expenditure to date for 2004/2005 is \$19,500.00 with a refund of \$2,500.00 pending from the organisers of the Greenback Tailor Fishing Competition.

POLICY IMPLICATIONS:

Festivals Policy

UNDER SEPARATE COVER:

1. Cabarita Beach Surf Lifesaving Club (DW 1159193)
2. Mooball & District Moovers Inc (DW 1161078)
3. Wintersun Festival Association Inc (DW 1163800)
4. Wollumbin Dreaming Incorporated (DW 1164770)
5. Speed on Tweed Pty Ltd (DW 1165281)
6. Murwillumbah Community Centre (DW 1165282)
7. Tyalgum Festival Committee Inc (DW 1165283)
8. Kingscliff & District Chamber of Commerce (DW 1170760)

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[ID][OGM] Second Round Donations 2004/2005 - Donations Policy

ITEM DEFERRED FROM MEETING HELD:

16 March 2005

RESOLVED that Councillors Bell and Carroll be requested to prepare a report on the second round of Donations Policy applications for 2004/2005 and this to be submitted to the 6 April 2005 Council meeting.

THIS ITEM IS THE SUBJECT OF A FURTHER REPORT AT ITEM XXX OF THIS AGENDA.

ORIGIN:

Governance

SUMMARY OF REPORT:

Tweed Shire Council recognises a need to assist non-profit community groups, organisations and individuals who are interested in and working towards the enhancement and the well being of its residents and the Shire.

Therefore, second round applications for financial assistance under Council's Donation Policy were sought and are now submitted for Council's determination.

RECOMMENDATION:

That Council determines the distribution of funds for the second round of donations in accordance with the adopted Policy and the funds voted in the 2004/2005 Budget.

REPORT:

Council at its meeting held on 17 March 1999 adopted the Donations Policy. As a result of the Policy the second round of applications for 2004/2005 have been received and are now documented for Council's consideration.

The following application criteria is used to determine applications:

- No financial assistance will be given to privately owned businesses/companies.
- Organisations must be Tweed based or the funds are to be used on a service or activity for Tweed.
- No financial assistance will be given to Government Departments or agencies or for support of Government owned facilities.
- No financial assistance will be given to sporting organisations as these organisations have ample other avenues for financial assistance.
- The funds are not to be used for a social activity for members of the organisation exclusively.

Council at its meeting of Wednesday 6 October 2004 resolved to form a Working Group consisting of Councillors Bell and Carroll and the Acting General Manager to bring forward to Council a recommendation of the allocation of funds to applicants. It was decided by the Working Group that application that fell within the following criteria would not be eligible for a donation.

- Preschools.
- Priority to organisations that have no other source of funding from – State, Council, Local Businesses eg. Registered Clubs.
- Low priority where previous In-Kind/Cash support from Council.
- Elimination of Service Clubs – ability to raise their own funds.
- Elimination of funding to Council owned assets.
- Churches/Religious based Groups.
- Other Government agency functions.
- Residents Associations.
- Sporting Groups.

	Applicant	Donation Requested	Purpose
1	Bilambil Community Preschool Inc	\$1,500.00	to build new outside playground equipment for the preschool.
2	Blind & Vision Impaired Support Group Far North Coast Inc	\$1,500.00	to improve the well-being of the blind and visually impaired residents of the Shire.
3	Camp Quality Northern NSW	\$2,000.00	to assist with funding of camps for local children living with cancer.
4	CERRA Advisory Committees	\$1,000.00	to subscribe to the first run printing of "Remnants of Gondwana".
5	Cooloon Childrens Centre Inc	\$1,500.00	to cover costs associated with the 2005 Kids Festival.
6	Cudgen Progress Association	\$500.00	to purchase and install bronze pledges at the Cudgen War Memorial
7	Fingal Head School	\$2,000.00	to assist in the organisation of a Community Ball.
8	Friends of the Pound	\$2,000.00	for the desexing of rescued animals and providing an education for pet owners of the Shire.
9	Gold Coast Tweed District Bowls Association	\$1,100.00	to help offset the costs associated with Gold Coast-Tweed Winter Carnival
10	Grandparents Assisting Grandchildren Support Inc	\$2,000.00	to assist in covering public liability insurance costs.
11	JCI Tweed Valley	\$2,000.00	to assist in the promotion of the JCI Tweed Valley organisation.
12	Kingscliff Lions Club Inc	\$1,000.00	to assist in providing professional entertainment for the 2005 Carols by Candlelight.
13	Kunghur Community Preschool	\$2,000.00	to update children's outdoor equipment at the preschool.
14	Mt Warning Community Preschool Inc	\$2,000.00	for improvements to playground and repairs to some equipment.
15	Murwillumbah Meals on Wheels Services Inc	\$1,500.00	to assist in purchasing a new freezer for the storage of meals.
16	Murwillumbah Quilters	\$1,645.60	for the purchase of sixteen (16) quilt stands.

	Applicant	Donation Requested	Purpose
17	Murwillumbah Uniting Church Preschool Inc	\$800.00	to assist with the construction of a concrete base for a storage shed.
18	Northern Rivers Area Health Services	0.00	to assist in providing advisory signage in the hospital precinct at Tweed Heads.
19	Pippies Early Childhood Centre	\$2,000.00	to purchase new facilities for the Centre.
20	Possums Community Preschool	\$2,000.00	to assist with the repair of kitchen and benches in line with OH&S requirements.
21	Rosellas Community Preschool	\$2,000.00	to assist with costs associated with repairs to the roof of the Preschool.
22	Surfrider Foundation	\$2,000.00	to assist in the formulation of an environmental educational package.
23	The Family Centre Community Projects Inc.	\$2,000.00	to update and print a men's resource booklet for 2005/2006.
24	Tsunami Judo Club	\$1,500.00	to assist with costs associated with the 2005 Australian Kodokan Judo Championships.
25	Tweed Heads Pallative Support Inc	\$2,300.00	for the training and education of volunteers in the 2005 year.
26	Tweed Shire Family Day Care	\$2,000.00	to purchase ancillary equipment for the Administration/Playgroup facility
27	Tweed Shire Vacation Care	\$1,000.00	to purchase 50 swim shirts for the protection of children and staff at swimming and beach activities.
28	Twin Towns Family History Group Inc	\$1,910.00	to purchase NSW archive Kit items.
29	Twin Towns Friends Association Inc.	\$2,000.00	to assist with every day running costs of the Association
30	Twin Towns Playgroup	\$1,500.00	for the upgrade of security of the buildings and provision of screen to windows.
31	Uki Hall Public Hall & Recreation Reserve Trust	\$2,000.00	to restore and repolish the flooring of Uki Hall.
	TOTAL	\$50,255.60	

The approximate amount requested for the second round of donations for 2004/2005 is \$48,655.60, plus an undisclosed amount from the Northern Rivers Area Health Service.

Under the Council's Donations Policy the following amounts were distributed in the first round of applications.

Arthritis Foundation	\$200.00
Burringbar School of Arts	\$1,000.00
Burringbar Village Arts Centre	\$500.00
Caldera Environment Centre Inc.	\$1,000.00
Kids in Need	\$1,500.00
Murwillumbah Musicians Club	*(\$1,000.00)
Pottsville Community Association Inc.	\$450.00
Tweed Combined Country Halls Association Inc.	\$1,000.00
Tweed District Safety House	\$1,500.00
Tweed Parkinson Support Group	\$500.00
Twin Towns & District Garden Club Inc.	\$410.00
Tyalgum Literary Institute	\$1,000.00
Uki Village & District Residents Associations Inc.	\$700.00
TOTAL	\$9,760.00

*It should be noted that the funds provided to the Murwillumbah Musicians Club were returned due to the event being cancelled.

The 2004/2005 Budget allocation for donations is \$20,000.00 of this amount \$9,760.00 has already been allocated, leaving \$10,240.00 available for distribution in the second round.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

2004/2005 Budget allocation for donations is \$20,000.00.
Expenditure to date is \$9,760.00

POLICY IMPLICATIONS:

Donations Policy

UNDER SEPARATE COVER:

1. Bilambil Community Preschool Inc (DW 1164771)
2. Blind & Vision Impaired Support Group Far North Coast Inc (DW 1161077)
3. Camp Quality Northern NSW (DW 1164071)
4. CERRA Advisory Committees (DW 1164767)
5. Cooloon Childrens Centre Inc (DW 1162445)
6. Cudgen Progress Association (DW 1164070)
7. Fingal Head School (DW 1164072)
8. Friends of the Pound (DW 1160473)
9. Gold Coast-Tweed Bowls Association (DW 1170371)

10. Grandparents Assisting Grandchildren Support Inc (DW 1163803)
 11. JCI Tweed Valley (DW 1165450)
 12. Kingscliff Lions Club Inc (DW 1163159)
 13. Kunghur Community Preschool (DW 1164069)
 14. The Family Centre Community Projects Inc. (DW 1164068)
 15. Mr Warning Community Preschool Inc (DW 1165451)
 16. Murwillumbah Meals on Wheels Services Inc (DW 11578888)
 17. Murwillumbah Quilters (DW 1164768)
 18. Murwillumbah Uniting Church Preschool Inc (DW 1163074)
 19. Northern Rivers Area Health Service (DW 1167985)
 20. Pippies Early Childhood Centre (DW 1164067)
 21. Possums Community Preschool (DW 1159389)
 22. Rosellas Community Preschool (DW 1163802)
 23. Surfrider Foundation (DW 1163158)
 24. Tsunami Judo Club (DW 1165757 & 1160175)
 25. Tweed Heads Pallative Support Inc (DW 1165279)
 26. Tweed Shire Family Day Care (DW 1163801)
 27. Tweed Shire Vacation Care (DW 1159916)
 28. Twin Towns Family History Group Inc (DW 1162444)
 29. Twin Towns Friends Association Inc (DW 1119449)
 30. Twin Towns Playgroup (DW 1164769)
 31. Uki Public Hall & Recreation Reserve Trust (DW 1165280)
-

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT

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

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

MATTERS FOR CONSIDERATION

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

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1 [PE] Development Application DA03/1578 for a Shopping Centre at Lot 123 DP 1049552, Botanical Circuit (corner Fraser and Leisure Drives), Banora Point

ORIGIN:

Director

FILE NO: DA03/1578 Pt2

SUMMARY OF REPORT:

Council at its meeting of 2 February 2005 resolved as follows in relation to the above application: -

- "1. The applicant and land owner be advised that Council would support the advertising of an amendment to Development Control Plan No. 3 if additional land is provided to optimise the access buffer areas and urban design aspects of the proposed complex.*
- 2. A workshop be held on this particular proposal at a suitable time and that the Workshop includes a presentation by the proponents."*

The proponent has responded to Council's resolution by way of letter dated 21 March 2005. The proponent advised Council that they were unable to acquire additional land and therefore did not intend to amend the application and have requested Council to determine the application as originally submitted.

The original assessment of the application that was submitted to the Council meeting on 20 October 2004 has been reproduced in this agenda and the recommendation of that report continues to be supported.

RECOMMENDATION:

That Development Application DA03/1578 for a shopping centre at Lot 123 DP 1049552, Botanical Circuit (corner Fraser and Leisure Drives), Banora Point be refused for the following reasons: -

1. The proposed development does not satisfy the Clause 8 consent consideration requirements of the Tweed Local Environmental Plan 2000 in relation to the relevant aim of the plan and unacceptable cumulative impacts on the community.
2. The proposed development is considered to generate economic impacts that are unacceptable.

3. The proposed development does not achieve the objective for development near designated roads being:

* to protect and improve the capacity, efficiency and safety of designated roads.

The extent of the impact on the designated road network is considered unacceptable.

4. The proposed development is inconsistent with Clause 47 of the North Coast Regional Environmental Plan 1989 in that it will create a new shopping centre in isolation from the existing retail centres.
5. The proposed development is inconsistent with Development Control Plan No. 3- Banora Point West/Tweed Heads South in relation to: -
- design standards relating to part of the site
 - intended neighbourhood function of the site
 - designated land use for the site in part
6. The subject land dimensions and shape limit the proposed development in relation to the following design areas and is considered to therefore be inappropriate for the proposed development: -
- * provision of expanded parking demand
 - * location of entry/exit access and distance from signalised intersection
 - * provision of a practical layout on site in relation to car parking, pedestrian safety, delivery bay and waste location and adequate buffers to residential land
7. The proposed development is considered to result in unacceptable impacts to the residential amenity of the surrounding residential estate.
8. The proposed development is considered to result in unacceptable traffic impacts on the local road network.
9. The proposed development is not in the public interest due to the impacts on the residential amenity and local roads from the design, economic impact on the Tweed as a whole, and extent of variation to the intended scale of the commercial activity on the site.

REPORT:

Applicant: THG Resource Strategists c/ Urbis JHD
Owner: Metricon Pty Ltd and Lanlex Pty Ltd
Location: Lot 123 DP 1049552 Botanical Circuit, Banora Point
Zoning: 2(c) Urban Expansion
Cost: \$5,150,000.00

BACKGROUND:

Council at its meeting of 2 February 2005 resolved as follows in relation to the above application: -

- "1. The applicant and land owner be advised that Council would support the advertising of an amendment to Development Control Plan No. 3 if additional land is provided to optimise the access buffer areas and urban design aspects of the proposed complex.*
- 2. A workshop be held on this particular proposal at a suitable time and that the Workshop includes a presentation by the proponents."*

The proponent has responded to Council's resolution by way of letter dated 21 March 2005. The proponent advised Council that they were unable to acquire additional land and therefore did not intend to amend the application and have requested Council to determine the application as originally submitted.

In line with the proponents request, Council's report of 20 October 2004 that assessed the application is reproduced below.

"BACKGROUND:

Council is in receipt of a Development Application for a proposed Banora Central Shopping Centre which is to be located at the intersection of Fraser Drive and Leisure Drive in the Flame Tree Park Estate. The subject site has an area of 1.13ha and the proposal will be accessed via the Leisure Drive extension, and Fraser Drive.

The Banora Point Centre Shopping Centre is to have a proposed retail floor space of 3430m² and be accompanied by 163 car parking spaces on site. The proposal provides standard retail facilities and includes a major tenant. The proposed supermarket component is 2800m² with specialty shop areas at the entry of 335m² and 295m². The application is accompanied by detail in relation to associated signage.

The applicant has submitted that the proposal represents an important opportunity to secure an appropriately sized retail development that will provide necessary services in the growing community. The application describes the proposal as

being a modern convenience centre with one major tenant however there is the ability for the specialty retail requirements to also be serviced. The application refers to shop uses such as grocery, newsagent, liquor shop, real estate agency uses or refreshment rooms and an outdoor eating area in the central court area. Their submission implies that these are uses that could possibly be located in the two smaller tenancies of proposed development.

The proposed building is approximately 8.2m high, is single storey and has a typical standard supermarket design with an arched roof over the entry area and some façade detail.

The Development Application is accompanied by an economic impact assessment prepared by Urbis justifying the need for the proposal as well as a traffic management report justifying and assessing the traffic impacts of the proposal. The application is also supported by engineering statement and acoustic report that deals with the acoustic requirements to the adjoining boundaries and the application also has extensive landscaping.

The development application is accompanied by a submission to vary Development Control Plan No. 3 - Banora Point West Tweed Heads South. The subject site has two designated uses being neighbourhood business and 'Residential A'. As the proposal is over land not included in the neighbourhood business precinct it would be necessary to amend the Development Control Plan to include the larger land area and no longer be designated as 'Residential A'.

The following report addresses the issues raised by the application.

SITE DIAGRAM:



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

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

Tweed Local Environmental Plan 2000

The subject land is zoned 2(c) Urban Expansion under the Tweed Local Environmental Plan 2000. The primary objective of the zone is:

- To identify land for urban expansion (which will comprise mainly residential development focused on multi-use neighbourhood centres) and to ensure its' optimum utilisation consistent with environmental constraints and the need to minimise residential land take.*

The secondary objectives include:

- To allow associated non-residential development which meets the recreation, shopping, commercial, employment and social needs of future residents;*
- To ensure that sensitive environmental areas within and outside the zone are protected from any adverse impacts of development;*
- To enable planning flexibility to achieve the other objectives of the zone are providing detailed guidelines through Development Control Plans.*

The Tweed Local Environmental Plan provides the definition of a "shop" which is:

land used for the purpose of selling, exposing or offering for sale by retail goods, merchandise or materials but does not include a building or place elsewhere defined under the Local Environmental Plan.

The proposed use is considered to be a shop that is permissible with consent in the subject zone under the Tweed Local Environmental Plan.

Clause 8 of the Tweed Local Environmental Plan provides consent consideration and states that the consent authority may only consent to development if:

- a) It is satisfied that the development is consistent with the primary objectives of the zone within which it is located, and*
- b) It has considered those other aims and objectives of this plan that are relevant to the development, and*
- c) It is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or*

catchment that will be affected by its being carried out or on the area of Tweed as a whole.

The proposed development is considered to be consistent with the objectives of the zone. One other aim of the plan contained in Clause 4 of the Tweed Local Environmental Plan that is considered to be relevant to the proposal is:

- d) To encourage sustainable economic development of the area of Tweed compatible with the area's environmental and residential amenity qualities.*

The proposed development is not considered to have satisfied the above aim for reasons detailed in the attached report prepared by Core Economics and dated 20th September 2004 being technical advice sought to assist in the assessment of this development application. The proposed development is not considered to achieve sustainable economic development.

Further it is considered that the residential amenity qualities of the Flame Tree Park Estate and Fraser Drive precinct would be diminished from the proposal for design, amenity and traffic reasons contained in this report.

The proposal is not considered to have satisfied the aims of the plan relevant to the proposal.

Unacceptable cumulative impacts are considered likely to occur from the proposal on the community and locality and accordingly the proposal is not considered to warrant consent.

Clause 15 of the Tweed Local Environmental Plan requires Council to assess the availability of essential services prior to granting consent to any development on land. Council's Engineers have assessed the proposed development and have advised that the subject site is able to be serviced and that the proposed development does not require augmentation of existing services.

Clause 16 of the Tweed Local Environmental Plan relates to heights of buildings. The subject land under the Local Environmental Plan has a three (3) storey height limitation. The proposed development is single storey in height and is considered to comply with the height limitation under the Local Environmental Plan.

Clause 17 of the Tweed Local Environmental Plan relates to social impact assessment and states "that where the consent authority considers the proposal is likely to have a significant social economic impact, the consent authority must consider a social impact statement in relation to the proposed development." The applicant has submitted an economic impact assessment as part of the proposed development. The

most critical elements of the social impact of the proposed development as submitted by the applicant are:

- *Opportunities for employment for residents in the area; and*
- *Impact on employment of people within other retail centres that may be impacted upon by the proposed development.*

This aspect of the proposal is further assessed in this report. It is noted that the applicant has failed to identify the adverse impacts of the proposal or adequately justify the need.

Clause 22 of the Local Environmental Plan is applicable to the proposal as the subject land has frontage to a designated road. The subject designated road is Fraser Drive. To assist in assessing the likely impacts the applicant has submitted a traffic impact assessment report prepared by TTM Consulting which addresses the issues of traffic impact onto the designated road.

Subsequent designs and submissions have been received on the proposal in relation to traffic as Council's Engineer is not satisfied that the proposal would result in a practical or functional development in relation to traffic design. The inadequacy of design is further exacerbated due to the proposals proximity to a designated road.

Council's Engineers have assessed this aspect of the proposal and provided detailed traffic comment that is included in this report.

Clause 34 of the Tweed Local Environmental Plan relates to flooding. The subject land has been filled as part of the development of the Flame Tree Park Estate. As the subject land meets the minimum height for the flood design requirements no further detail is required in relation to flooding.

Clause 35 of the Tweed Local Environmental Plan relates to the management of acid sulphate soils. As the subject land has been filled as part of the development of Flame Tree Park, it is unlikely that the proposed development will impact on acid sulphate soils as the provision of services will be in the fill material. In the event that the proposed works impact on acid sulphate soils the management of these soils would be required.

Clause 37 of the Tweed Local Environmental Plan is applicable to the proposed development as the land is within a transmission line corridor marked on the zoning plan. The proposed development was referred to Country Energy as part of the assessment and advice received raised no objection in relation to the transmission easement.

Clause 39A of the Tweed Local Environmental Plan relates to land identified as being bushfire prone and where in the opinion of the consent authority the land is likely to be bushfire affected a number of matters should be taken into account.

In assessing the proposal it is evident that the proposed development is not a special purpose use and is not integrated development. The natural features of the land and its location in the urban environment reduces the likely significance of bushfire risk and consequently no further detailed assessment is required on this issue.

Clause 48 of the Tweed Local Environmental Plan relates to advertising signs. The objective of this clause is to ensure that there is not a proliferation of signs or that signage does not lead to a visual impact or detract from the amenity of the local area. The addition of the development at the prominent intersection and associated signage is further assessed in this report under the relevant State Environmental Planning Policy.

As the proposal has not been able to satisfy the statutory consent considerations of the Tweed Local Environmental Plan the proposed development is unable to be supported.

North Coast Regional Environmental Plan 1988

Clause 47 of the REP requires a number of matters to be taken into consideration before granting consent. The main sub point relevant to the proposal is:

- a) *Strong multi functional town centres should be maintained to focus the drawing power of individual businesses and maintain the integrity of the main business area by only zoning land for further commercial or retail development where that development adjoins or is adjacent to the existing town centre,*

To assist in the assessment of the proposed development advice was sought from Core Economic in relation to the economic aspects of the development and retail impacts generated. The proposed development is not considered to have been formulated with adequate consideration to the economic impacts for the following points and accordingly Council cannot rely on the proponents reports or primary conclusions. It is considered that the development does not achieve the intentions of the REP.

- *The Primary Trade Area is considered to be too large, resulting in proportionally lower market shares.*

- *No evidence is submitted to support the assertion that customers would rather utilise services of a neighbourhood centre rather than visit a large regional shopping centre.*
- *No evidence is submitted that the Bi-Lo supermarket is overtrading.*
- *Statistical information provided is not at a collector district level and errors in information cannot be explained.*
- *Errors in population size and household income could be material in considering impact and viability.*
- *Market share calculations between centres raises inconsistencies, assumptions and factual errors.*

State Environmental Planning Policies

State Environmental Planning Policy No. 11 - Traffic Generating Development

The proposed development required referral to the Regional Traffic Committee under clause 3 of State Environmental Planning Policy No. 11. The Regional Traffic Committee raised a number of concerns in relation to the proposal.

One of the main concerns was the impact of this type of development on the future operation of the signalised intersection of Fraser and Leisure Drive particularly when traffic volumes in the order to 24,000 vehicles per day are realised on Fraser Drive. The traffic report accompanying the application assessed Fraser Drive volumes at 16,000 per day and Regional Traffic Committee raised that additional modelling may be required to assess the impacts.

The Regional Traffic Committee raised a number of other issues that need to be assessed as part of the development. Council's Engineers have provided further assessment in relation to the issues raised. The traffic impacts of the proposal are further addressed in this report.

State Environmental Planning Policy No. 64 - Advertising and Signage

State Environmental Planning Policy No. 64 provides assessment criteria when considering proposed signage. The applicant has submitted a detailed table addressing how the proposed signage satisfies the requirements of SEPP 64. The applicant has submitted that the signage for the proposal includes:

- *A pole sign, approximately 15m high located on the corner of Leisure Drive and Fraser Drive;*
- *Facia signs;*
- *Below awning signs;*
- *Wall flush sign on the Leisure Drive elevation of the building advertising the major tenant of the centre; and*

- *Ancillary signage depicting traffic flow, pedestrian, cyclist and vehicles together with signage depicting elements such as shopping trolley bays.*

It is also noted that there is a second pole sign identified on the submitted plans at the intersection of Fraser Drive and the Leisure Drive extensions near the traffic lights.

The applicant has submitted that the proposed signage has been designed as a holistic package to ensure the integration of the design elements with the overall built and landscaped form of the centre. The only signage to be illuminated is the logo which is in the facade of the development. The light source is concealed fluorescents which glow over the sign instead of providing high level illumination. The applicant has submitted that the illuminated sign will be turned off as part of the trading hours.

The proposed development will result in significant changes at the intersection of Fraser Drive and Leisure Drive extensions. The proposed commercial use at the submitted scale will result in a number of amenity impacts to the adjoining residential areas as well impacts to the road safety in this location.

It is acknowledged that signage accompanies developments of this nature and size however it is considered that the site was never intended to support a commercial use of this scale and it could reasonably be concluded that signage of the volume and scale proposed are beyond what could be expected on the site and adjacent to the residential precinct.

The pole sign at the intersection may result in safety impacts to the traffic network and is considered to detract from the signalised function of the intersection.

If the development were able to be supported on all other grounds it is considered that there would be merit in requesting the applicant to provide a more comprehensive signage strategy for the site limiting signage from the outset to prevent the unsightly proliferation that often accompanies developments of this scale.

State Environmental Planning Policy No. 71 - Coastal Protection

The subject land is not identified as being in a significant coastal location. As the proposed development is not identified as significant coastal development, Council is the consent authority. The application has been assessed in relation to the provision of Clause 8 of SEPP 71.

The matters for consideration under Clause 8 are primarily of a coastal environment nature, and as the site is not adjacent to any coastal foreshore or associated environs the application is considered to generally satisfy the provisions of SEPP71.

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

The proposed development is not considered to require detailed assessment in relation to any of the draft environmental planning instruments applicable to the site.

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

Development Control Plan No. 2 - Access and Carparking

The following table assesses the requirements for the proposal under DCP2.

Standard	Requirement	Complies / Variation
<i>On site car parking</i>	<i>4 per 100m² including staff and customer. Based on area of 3430m², 137 spaces required.</i>	<i>Complies and exceeds requirements with 163 car parking spaces.</i>
<i>Delivery Bays</i>	<i>1/1500m² GFA for deliver bays with min of 2 for supermarkets</i>	<i>Proposal has one main loading area and a second smaller loading area for speciality shops.</i>
<i>Bus Stops</i>	<i>1/100m² GFA</i>	<i>A bus bay is provided on the Fraser Drive frontage.</i>

The development complies with Council's DCP2 requirements in terms of on site parking and two loading areas however there is a clear absence of bus bays, taxi stand and functional movement through the site for vehicles. As the lot shape is narrow and long there is not the width to provide circulation through the site for loading bays or customer parking. The queue lengths to leave the site may back into parking areas and conflicts between customers/pedestrians/vehicles may occur.

Regional Traffic Committee Requirements

The Regional Traffic Committee highlight the practical difficulties of the proposal and the car dependent nature of the development. It is also noted that the RTA Guidelines for Traffic Generating Developments would require 6.1 spaces per 100m² and therefore 209 spaces might be a more appropriate provision of on site parking. The lack of further area on the site limits the ability for the development to provide for expanded

car parking demand. For merit considerations the proposal is not supported based on lack of ability to provide expanded demand.

Development Control Plan No. 3 - Banora Point West/Tweed Heads South

The subject site is identified under the Development Control Plan as being a local shopping centre/neighbourhood business precinct. The subject land is partly identified as 'Residential A' precinct.

The neighbourhood business designation was amended as part of Stage 4 of Flame Tree Park identified as being suitable for a petrol station and associated convenience retail. The area of the local shopping centre/neighbourhood business identified site in DCP 3 is 5486m² and the proposed development including the area identified as Residential A has increased the size of the neighbourhood business to be a total area of approximately 1.13ha.

The applicant has submitted that there is a definite need to re-evaluate what the needs and extent of needs are of the residents that the need for a local shopping centre may have changed and to this end the applicant has submitted an economic impact assessment report. The applicant has submitted that they contend that due to the changing expectations of the consumer, the continued growth of the area and the limitations of other retail centre sites the subject development represents an ever diminishing opportunity to provide residents with a level of service and convenience that is expected in modern residential neighbourhoods.

The area of land that the proposal is located on that is designated as residential was identified and intended to be a medium density residential area within Flame Tree Park. This was identified in Stage 4 of Flame Tree Park Estate, as submitted by the applicant.

To achieve the required densities in Flame Tree Park Estate the developer provided a number of larger lots which would support units and therefore ensure the required land yield was achieved. These larger lots were identified for this purpose in Stage 4 of Flame Tree Park Estate. It is noted these were located adjacent to the neighbourhood business site being a suitable location for medium density development.

The proposal involves the use of one of the unit sites to increase that land area available for the commercial development. This is considered to be in conflict with the adjoining development that is completed for units and the potential future developments adjoining the site.

The proposed development changes the intended and identified land use pattern provided for by Development Control Plan No. 3.

Development Control Plan No. 3 provides objectives for the business components in the area. These are:

- *To provide for commercial activity at both a local and neighbourhood level;*
- *To ensure the appropriate location of retail and commercial facilities in terms accessibility, residential amenity and traffic circulation;*
- *To promote the integration of other community activities with retail and commercial uses to encourage a focus of community activities.*

Development Control Plan No. 3 provides guidelines in relation to the development of the neighbourhood business and local business centre sites. These development guidelines include that no buildings within the identified areas should exceed two (2) storeys in height. The proposed development complies with this requirement. Included also are guidelines in relation to landscaping, fencing, setbacks, advertising signs, bus stops, toilets, vehicular access and parking. Special requirements are also included for the Flame Tree Park site. This is the site subject to the application. This clause relates to the site within Flame Tree Park Estate Stage 4 being Lot 433.

Development Control Plan No. 3 provides that the following design principals for the site:

1. *Orientate the proposed service station and shop layout so that at least one of the businesses is capable of providing a suitable public area located on the quiet side road frontage. That business should set back sufficiently to allow an intervening treed outdoor area that has not included parking between the development and the street. The parking for it being off the service station concourse. Free standing frontage advertising is acceptable subject to obtaining the necessary approvals.*
2. *Provide an integrated public transport stop and shelter.*
3. *Integrate safe separated pedestrian and cycle movement into and through the site.*
4. *Control façade design and lighting to minimise the adverse visual impact of the development on Fraser Drive and provide effective landscaping on the perimeter and through the site.*
5. *Consign security lighting spill within the site.*

In comparison to the above requirements it is evident that the proposal does not achieve the intended treed outdoor area intervening the development to the road, and that on site car parking does dominate the frontage. It is considered that the development does not achieve the intended development design principles identified for the site.

Development Control Plan No. 3 designates the residential areas into density levels. The area that the shopping complex is located on is partly designated 'Residential A'. The 'Residential A' areas are predominantly conventional detached housing in character and amenity, although duplexes are permitted.

The Flame Tree Park subdivision layout provided larger sized lots which enabled the developer to identify a number of unit sites. The subject land is one of those sites and the applicant submitted as part of Stage 4 of Flame Tree Park that by providing units on this site, the proposed subdivision layout and density being achieved could be supported. To this end, Council approved the Stage 4 development of Flame Tree Park and consequently the unit sites were identified. One of those sites has been developed.

Development Control Plan No. 3 includes general objectives and the purpose of the plan which clearly states that the Plan is to give guidance to those wishing to develop within Banora Point West/Tweed Heads South area and indicate Council's policies with respect to development and to form a basis for negotiations should a departure from the provisions of the Plan be requested.

The development control plan includes some development principles and those relevant to the application are:

- To enable development for retail, commercial and community purposes for the local neighbourhood in appropriate locations within the site.*
- To provide for industrial and commerce/trade activities which are to be significantly buffered from residential areas.*

Also the land uses identified within the plan include commercial. Within the Development Control Plan there is the provision for one neighbourhood shop and one neighbourhood shopping centre. The neighbourhood shop is located in Precinct 3 and to service the convenience needs of the immediate local residents. The local shops identified in Precinct 5 being larger in size than a neighbourhood shop will service the whole Development Control Plan area catchment. These local shops, service stations, squash courts, etc. for an integral part of the community facilities precinct. It is considered that the subject land is partly identified for the purpose of local shopping.

In summary the proposed development is inconsistent with the Development Control Plan No. 3. It would be necessary, should Council be of the view to support the proposal, to amend Development Control Plan No. 3. The local residential development and the people who purchased into that area would have purchased with an expectation that part of this development site would be a larger unit site and the extent of the change by providing a supermarket is considered to be significant.

The process of amending a Development Control Plan is detailed and specific and would enable residents the opportunity to consider a Development Control Plan change separate to the proposed commercial development. As the application raised a number of traffic issues and concerns in design the advertising of the proposed development did not include a combined Development Control Plan amendment. There were significant merit issues which were identified which needed to be resolved prior to Council being able to support a change to the Development Control Plan. To proceed to determine the proposed development application without properly addressing all of the Development Control Plan issues and the need to amend the Development Control Plan would not be in the public interest. The Environmental Planning and Assessment Act sets out a procedure for amending Development Control Plans which includes the consideration of issues and the need for wider public consultation to determine the suitability of the development.

As the Tweed Shire Retail and Centres Strategy hasn't been completed as yet or adopted by Council the assessment and determination of a retail application and the question of inconsistency with the Development Control Plan No. 3 is considered to be premature as the critical research of that retail strategy is fundamental to determining whether DCP 3 should be amended or otherwise.

Given the advice provided by Core Economics on the development application it is considered that the proposal to amend DCP 3 to provide the whole site for commercial business purposes could not be supported on economic grounds.

Council's Strategic Planning unit also provided the following comment on the proposal.

"Existing Provisions for Commercial / Retail Developments

DCP 3 was originally adopted in 1990.

Section 5 of DCP 3 specifically identifies One (1) Neighbourhood Business and one (1) Local Business Centre have been located within the DCP area to service the daily shopping and other needs of the future population.

Some discrepancies exist in the identified retail hierarchy. The DCP 3 map identifies two (2) Local Shops. One at the "Sullivans" development off Fraser Drive, and the other at corner of Woodlands Drive and Leisure Drive. The Neighbourhood Business is located at the corner of Fraser and Leisure Drive.

Also there are some discrepancies with the terminology between the maps and the written instrument. On the map the term Local

Shops are used where in the instrument they are referred to as Local Business Centres.

DCP 3 recognises one "1" Neighbourhood Business at the Corner of Leisure and Fraser Drives. Originally this site was identified as Local Shops. Several amendments were carried out which swapped the centre types with the centre located at the corner of Leisure and Woodlands Drive. There is a specific reference in Clause 5.3 to the area (lot 433) to be used for the Neighbourhood Business. There is no further description to the use or maps provided on the identified lot in the DCP. Clause 5.3 also specifically refers to a service station as a specific use for the site.

History to Commercial / Retail Provisions for the Site

There has been a series of amendments to the DCP over the last few years to modify the DCP for specific developments. Below is a historic description to the amendments which relate to the area identified for Neighbourhood Business which is located on the corner of Fraser and Leisure Drives.

On 6 September 2000 Council resolved (Attachment 1) to amend DCP 3 to include the current Section 5.3, which relates specifically to the Neighbourhood Business site on Cnr Leisure and Fraser Drives. The new section 5.3 specifically refers to a Service Station. This reference is further elaborated on in the Council report as follows;

A concept plan of the proposed neighbourhood business site has been submitted by the developers consultants showing a service station (at the northern part of the site) and 5 shops with left in left out vehicular access from Fraser Drive. Car parking is proposed within the area between Fraser Drive and the shops.

A Concept Plan (plan 2643/2; 10/8/00)(Attachment 2) lodged on Council files, identifying a Service Station, 5 smaller individual shops and parking and traffic layout which was submitted to Council prior to the adoption of the new Section 3.5 of DCP 3. Considering the date of drawing and the date of the Council report it is inferred that this is the plan referred to in the Council report.

Further comment by the then Planning and Design Unit, on the proposed Concept Plan was included in the Council report. These points formed the basis of the new section 5.3 of DCP 3.

Planning & Design Unit comments

A number of issues have been raised in relation to the detailed design of future development of the Neighbourhood Business site (Lot 433) based on the concept plan tabled by the applicant.

In particular, the detailed design of the site should satisfy the following principles:-

- 1. Orienting the proposed service station and shop layout so that at least one of the businesses capable of providing a casual community meeting place is located on the (quiet) side road frontage. It should be set back sufficiently to allow an intervening treed outdoor area that has no included parking between the development and the street, the parking for it being off the service station concourse. Freestanding frontage advertising OK.*
- 2. Providing an integrated public transport stop and shelter.*
- 3. Integrating safe separated pedestrian and cycle movement into and through the site.*
- 4. Controlling hard landscaping, façade design advertising and lighting to minimise the adverse visual impact of the development on Fraser Dive. Providing soft landscaping on the perimeter and through the site.*
- 5. Confining security lighting sill within the site.*

No map or further description of the service station was included in the Council report or subsequently included in DCP 3.

Proposed Retail Development's Inconsistency with DCP 3 (Retail Development Considerations)

The retail development proposed for the Neighbourhood Business is considered to be inconsistent with the intentions of DCP 3 in the following respects;

- The original size of the area identified for Neighbourhood Business is larger than is proposed by the proposed development. This subsequently will increase the size of the retail floor area which can be accommodated on the site. The proposed development essentially doubles the amount of retail floor space identified in the original concept plan.*

- *The catchment goes beyond the DCP 3 area. This raises the question of whether the development goes beyond the intent of the Neighbourhood Business (Attachment 3).*
- *The proposed use is specifically for a supermarket and other shops not a service station as described in the DCP.*

Proposed DCP 3 amendment and Relaxations

Section 5.2 Relaxation

There is a request for a relaxation to buffer distances from Fraser Drive, access to the centre via Fraser Drive and the provision of a bus shelter. These issues are identified in Section 5.2 of DCP 3.

Section 5.3 Deletion

The proponents have expressed in the SEE that they wish to increase the size of the area identified on the map. This is important because the lot is specifically identified in section 5.3 as lot 433 within release area 4.

The SEE identifies that Lot 123 DP 1049552, the proposed site, consists of lots 433 and 434 on the approved plan G248-CP18. This essentially increases the land areas available and subsequently the floor space available for the retail development.

The size of the original lot 433 would restrict the size of the amount of retail floor space that can be developed. By increasing the area to include the original lot 434 a fundamental increase in the original size of the Neighbourhood Business area and subsequently the retail floor space will be gained.

The Economic Impact Assessment (Appendix D attached to the SEE) has identified a primary catchment extending as far south along Terranora Rd to Tumbulgum. The secondary catchment for the proposed retail development includes Tumbulgum. It is questionable whether the extent of this catchment was intended for the definition for DCP 3 Neighbourhood Business. But there is indication in the DCP that retail catchment is the local neighbourhood. However this is not clearly expressed.

Section 9.3 Amendment

There is obviously some history to this matter, particularly with the Engineering Services Division. There are considerable implications to any amendment to this section. Particularly implications to the contributions plan, Lower Tweed Transportation Contribution Plan.

Retail Development Strategy

Core Economics have been engaged to prepare a Retail Development Strategy for the Tweed Shire. These issues listed above will be considered in the preparation of the Retail Development Strategy.

Increasing the size of the land area in this location increases the size and scale of the retail development which was envisaged in this Neighbourhood Business precinct of DCP3.

Recommendation

Considering that the primary and secondary catchment extend well outside the DCP 3 area it is considered prudent to postpone any amendment to increase the area identified in the DCP for Neighbourhood Business until the Retail Development Strategy has been adopted by Council.

Conclusion

The following recommendations are put forwarded in relation to the proposed Banora Central Shopping Centre (Part Lot 123 DP1049552 (specifically proposed lots 433 and 434 on approved plan G248 – CP18 26 July 2002), Fraser Drive, Banora Point;

- 1. Considering that the retail catchment extends well outside the Development Control Plan 3 area and the amendment to increase the area identified in the DCP for the use of a Neighbourhood Business is premature until Council has adopted the Retail Development Strategy.*
- 2. That any amendment to Development Control Plan 3 includes a review of the retail / business centres. This should be undertaken in conjunction with the preparation of the final Retail Development Strategy."*

Given the above advice and assessment in relation to DCP 3 it is considered that the proposed development should not be supported for reasons reflected in the recommendation.

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

The NSW Coastal Policy applies to the subject land. The proposed development is considered to be consistent with the strategic aims and objectives of the policy document.

(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

Traffic Impact

The proposed development has been assessed by Council's Engineers who have detailed the unacceptable design in full. The location of the site adjacent to a significant signalised intersection, expected traffic volumes and lot depth and width constraints are factors increasing the unsuitable nature of the site for the development.

Regarding the Leisure Drive entry, the proposed entry manoeuvre could not be considered as conventional or satisfactory access to a shopping complex located close to a major signalised intersection. The proposed entry requires a U-Turn manoeuvre, for which the applicant has relied on a turning template in AS2890.01, which is for a vehicle (car) travelling in the 0-5 kph range. The proposed template is considered unacceptable for the design of an intersection with a major road for a number of reasons:-

A review of the submitted turning template, shows that for vehicles to enter the car park from Leisure Drive they must slow down to 0-5 kph, 'swing out' to the extremity of the travelling lane in Leisure Drive and then cross over the car park entry road centreline. It is considered that it is unrealistic to assume roads users will be aware of this requirement to enter the car park, leading to driver confusion.

The entry itself lies only 35-50 metres from the intersection between Fraser Drive and Leisure Drive, which means that drivers entering Leisure Drive will have minimal time to indicate and perform their movements, particularly if they have turned into Leisure Drive from Fraser Drive.

The proposed arrangement aligns the Leisure Drive through traffic (from the east of Fraser Drive) directly into the left turn entry into the complex. It is unlikely that traffic entering the complex or through traffic, will be aware that traffic having to enter the complex will have to brake to such an extent (0 - 5 kph) to enter the car park, leading to the very real danger of rear end collisions.

Other potential conflicts exist with right and left turning traffic from Fraser Drive. The proposed arrangement could introduce a weaving problem with right turners trying to enter the complex and left turners wanting to continue along Leisure Drive.

- *Leisure Drive left turn in can only be handled by large car at very low speed. A car with trailer or small fixed wheel base truck should be able to access the site.*
- *Pedestrian access is hazardous due to complex vehicle movement.*

- *Fraser Drive requires two through lanes in addition to a left turn slip lane. The submitted plan only shows one through lane.*
- *Access arrangements are complex due to inflexibility of the centre shape.*

The applicant has attempted to provide revised plans to Council's requirements however the site is unable to be designed to meet the traffic requirements due to lot size and shape. The site was never intended to support a complex of this size and the impact of this on the intersection of Leisure and Fraser Drives is considered to be unacceptable. As previously stated in this report the proponents consultants under estimated the traffic volumes of Fraser Drive and used 16000 vehicles per day instead of the 24000 vehicles per day which likely to be shortly released in this location.

The size and location of the delivery bays will result in delivery vehicles reversing into the site.

While the site may be able to accommodate this movement potential future traffic impacts on Leisure Drive and the intersection will arise.

This highlights the limited area of the site for the proposed development.

A further impact of the proposal may be experienced in the local roads within Flame Tree Park Estate by vehicles manoeuvring through the roads to locate alternate routes or parking instead of accessing the site. Confusion with pedestrians and vehicles and the impractical nature of access are elements of the proposal that may make it undesirable from an amenity perspective in the locality. The proposal is not able to be supported due to unacceptable impacts on the local road network.

Residential Amenity Impact

Commercial development generally requires adequate buffering and setbacks from residential areas to prevent nuisance impacts generated by noise, odour and visual amenity. Typically when planning on the location for shopping centres these factors are considered by providing adequate area so that the use can provide substantial landscape buffers and setbacks to reduce impacts on residential amenity.

The applicant has supported the application with an acoustic report however with a setback of five metres to the south and an approximate setback of one metre to the west is not considered adequate. Solutions to the noise impacts were provided in a noise impact assessment, however, the solutions in part rely on management to control potential impacts.

The vacant lot to the west will abut the primary loading bay and only be afforded a one metre separation and acoustic fence. With the intended use of that lot being medium density residential it is considered that the impact on the future residents of that site is unacceptable. Noise odours and disturbance from commercial activities will reduce residential amenity and potentially result in neighbourhood disputes.

Other impacts to residential amenity will be experienced by properties opposite the Leisure Drive entry/exit. Vehicle lights and vehicle noise will be experienced at a level higher than the intended use of the site, ie. medium density housing.

The scale of the commercial use in the Flame Tree Park Estate is also considered to raise impacts to the residential amenity with the Gross Floor Area increasing beyond the intended service station and shops scale. A purpose planned site would incorporate lot shape and dimensions to reduce residential amenity impacts rather than always being an under designed site.

For residential amenity reasons the proposal is not supported.

Socio-Economic Impact

To assist in relation to this component of the application expert advice was sought from Core Economics. A copy of this advice is attached to this report. The proposal is not considered to be formulated with strong economic grounds and accordingly is unable to be supported due to the likely impacts to be generated in the area and Tweed as a whole.

- The Primary Trade Area is considered to be too large, resulting in proportionally lower market shares.*
- No evidence is submitted to support the assertion that customers would rather utilise services of a neighbourhood centre rather than visit a large regional shopping centre.*
- No evidence is submitted that the Bi-Lo supermarket is overtrading.*
- Statistical information provided is not at a collector district level and errors in information cannot be explained.*
- Errors in population size and household income could be material in considering impact and viability.*
- Market share calculations between centres raises inconsistencies, assumptions and factual errors.*

It is noted that Council received a number of objections to the proposal on this ground and that the applicants response and use of the 'Pro-rata Market Share Approach' provides no justification to support the proposal. Council cannot rely on the proponents first or second report or the primary conclusion that there is sufficient need for the centre.

(c) Suitability of the site for the development

Acid Sulphate Soils

The subject land has been filled during the construction of the Flame Tree Park Estate and consequently the proposal is unlikely to impact on Acid Sulfate Soils. No detailed assessment at this point is required.

Flooding

The subject land has been filled to comply with Council's requirements.

Environmental, Noise and Odour Impacts

The proximity of loading bays and garbage disposal areas on the proposal to adjoining residences is considered to be of concern. There is the potential that the proposal will result in amenity and nuisance impacts to local residents. The applicant submitted a noise impact assessment that provides solutions to some of the impacts, however, it is noted that these rely on management to ensure implementation. The potential for complaints and enforcement on this site would be high due to the proximity to residential areas.

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

The Development Application was publicly notified for a fortnight in accordance with Council's Notification Policy. During this period a number of submissions were received raising a range of issues in relation to the proposal. The following table identifies the issues and provides comment in relation to the submissions received.

Issue	Comment	Assessment
Change in land use	Concern was raised that the whole of the area was to be of a residential land use.	The applicant contends that the proposed development is to amend Development Control Plan No. 3 and is an identified need for the local area. It is considered that the proposed amendment to the land use in the area is unacceptable.
Traffic	Concern was raised that the Leisure Drive and Fraser Drive is an important intersection and by increasing the number of traffic movements through this intersection the proposed development will create traffic congestion	The applicant has submitted that the detailed Traffic Impact Assessment for the proposal justifies the application and that both Fraser Drive and Leisure Drive have the capacity to cater for the proposed development without impacting on the functioning of the traffic network. Additionally the proposed development will reduce the impact on the local road

		<p>network in other areas of the region due to the convenient location of the proposed retail facilities.</p> <p>Council's Traffic and Design Engineers do not support the proposal for a range of traffic impacts. This is considered to be an unacceptable impact.</p>
Amenity	<p>Concern was raised that the nature and scale of the proposed development will result in noise, nuisance from lighting odour and traffic congestion which will impact on the residential amenity of the area.</p>	<p>The applicant has submitted that the proposed design has responded to the potential impacts on residential environment through the inclusion of additional built structures and landscaping. Significant consultation has been undertaken with the major landholders of the adjoining site.</p> <p>The nature of the use is such that impacts will arise and these are unacceptable to the current and future residents in the locality.</p>
Carparking/Loading Bays	<p>Concern was raised that the impact of the proposal on the adjoining residential amenity due to the actual loading and unloading of vehicles as well as lights of vehicles moving to and from the site and the noise of vehicles moving to and from the site.</p>	<p>The applicant contends that the proposed development has been designed with regard to the residential environment.</p> <p>The design is inadequate and does not provide adequate separation or buffering. The report details these issues further.</p>
Design	<p>Concern was raised that the air-conditioning stacks for the proposed supermarket and other roof intrusions will be unsightly and impact on the amenity of the adjoining developments including increasing overshadowing.</p>	<p>The applicant contends that by negotiating with adjoining property owners this concern has been resolved.</p> <p>Location of air-conditioning stacks are only one feature of the design that needed modifying. The amenity to residents is impacted on due to lack of buffering and unsightly nature of loading dock with this type of development.</p>
Residential Amenity	<p>Concern was raised that the residential amenity in the area will be reduced due to the acoustic fencing closing in the adjoining residential development. Residential amenity will also be reduced due to the separation and distance of the development from the adjoining residential units. This and landscaping was raised as an issue of concern for reducing the</p>	<p>The applicant has submitted that by negotiating with the adjoining landowner suitable solutions to these issues have been achieved and as such this issue is no longer requiring further assessment.</p> <p>Solutions may have been resolved with current owners however the standard being achieved on the development site will impact on the residential amenity of future owners.</p>

	<i>breezes into the adjoining unit development and also increasing the amount of overshadowing on adjoining units due to the dense landscaping thereby reducing access to the northern light.</i>	
<i>Crime Prevention</i>	<i>Concern was raised that pedestrian access from the site will provide a criminal route out of the site, that the area is unsafe at night and that the pedestrian access route will filter criminal activity into the adjoining residential area.</i>	<p><i>The applicant has submitted that the intention of the pedestrian access is encourage walk ability to the centre and therefore increase pedestrian access from Yarra Close to the development. The applicant has submitted that the provision of the access will provide:</i></p> <ul style="list-style-type: none"> <i>• Enhances casual surveillance opportunities and sightlines between the centre and Yarra Close being visible from Fraser Drive.</i> <i>• The design defines ownership and intended use of the space ensuring that the use of the space is clear and illegitimate use are obvious and therefore less likely.</i> <i>• Provision of lighting will increase the perception of safety and deter crime.</i> <p><i>In the event that the development could overcome all other inadequacies this matter would be referred to NSW Police for expert comment and design.</i></p>
<i>Inconsistent with DCP 3</i>	<i>Concern was raised that the proposed development is inconsistent with the numerous design standards relating to the site and its' designation as a neighbourhood business including the scale (service station and shop), access, setbacks, landscaping, parking location and provision of a "public area". In addition to these inconsistencies, the proposal is increasing the designated neighbourhood business area by approximately 6400m² or 130% of adjacent land currently designated as Residential A on the structure plan. This increase of scale will remove the intended neighbourhood function of the site, will consume residential</i>	<p><i>The applicant has submitted and articulated in their application that consent is required to be given to the proposal as it's larger than that described in DCP 3 and applicant contends that the proposal is important to secure an appropriately sized retail development to service the community. The applicant submits that the planning report demonstrates the need for the development and that the corresponding impacts could be mitigated.</i></p> <p><i>The proposal does not meet requirements of DCP3. This is addressed in this report.</i></p>

	<i>land and is likely adversely affect the residential amenity of the surrounding properties.</i>	
<i>Retail Strategy and Premature Development</i>	<i>Concern was raised that as the Shire wide Retail & Centres Strategy has not yet been made public, the Development Application cannot be properly assessed in relation to that policy and its' structure. The proposed development seeks to precede a proper planning practice and it is considered that in the absence of an adopted Tweed Shire Retail and Centres Strategy and amended to Development Control Plan No. 3, the proposed development will undermine the established and intended retail hierarchy of the area and create a significant long term social and economic problem for the community to endure in the form of poorly located isolated retail floor space.</i>	<i>The applicant has submitted that a number of areas have been justified in relation to the proposal. Economic impact assessment has been provided and the suitability of the site has been identified. Council's Strategic Planning Unit have advised that any amendment to DCP3 would need to have regard to the Retail Strategy.</i>
<i>Economic Impacts</i>	<i>Concern was raised that the proposal would damage the legitimate existing and proposed retail facilities in the locality and to the retail network as a whole. Concern was raised that the economic impact assessment which forms part of the application is found to be inaccurate and provides no justification whatsoever for the development proposed. The submission identifies a number of areas of inconsistencies and highlights where the economic impact analysis is flawed based on the statistics and information that has been gathered and misconstrued.</i>	<i>The applicant has provided a detailed response to all of the areas identified as being flawed. This comprehensive comment is summarised and highlighted within the assessment contained within this report. Council engaged expert advice to assist in the assessment of this issue. For economic reasons the proposal is not supported.</i>
<i>Inconsistency with LEP</i>	<i>Concern was raised as the proposed development is considered to be inconsistent with the zone objectives as the scale of the development exceeds beyond the neighbourhood convenience as detailed in site specific guidelines contained in DCP 3. Furthermore, the proposal will consume approved residential land. Development Consent K99/165 being part Stage 4 of</i>	<i>The applicant has submitted that the primary objective of the zone has been complied with in relation to the proposed development and that the proposal meets the secondary objective to provide for non-residential development. The applicant submits that the proposal provides an opportunity for the creation of a retail centre that serves the needs of the local community. The applicant also submits that the economic needs</i>

	<p><i>Flame Tree Park which is also directly inconsistent with the detailed structure plan and guidelines in DCP 3. Concern was also raised that Clause 17 of Tweed LEP being socio-economic impact has not been satisfied and in fact that the proposed economic impact assessment does not deal with social issues and does not include any community consultation. It is inadequate and not valid in relation to satisfying the requirements of Clause 17 and in the absence of this information, Council could not properly assess this application.</i></p>	<p><i>assessment highlights the requirement for such a facility and level of service for the residences in the expanding urban environment and to this end the applicant contends that the proposal is consistent with the LEP.</i></p> <p><i>The proposal is not supported for statutory reasons of non compliance with the TLEP detailed in this report.</i></p>
<p><i>Inconsistency with REP</i></p>	<p><i>Concern was raised that the proposed development would create a new shopping centre in isolation from the existing retail centres and that this is inconsistent with Clause 47 of the REP. The creation of an additional isolated shopping centre such as that proposed is likely to create a number of serious social and economic problems for the community. Insufficient information has been provided by the applicant in this regard for Council to properly assess the impacts.</i></p>	<p><i>The applicant has submitted that Clause 46 of the REP in relation to commercial and industrial development intends to encourage an adequate supply of zoned land located where there are planned growth centre. The economic impact assessment clearly identifies that within Banora area that existing and proposed commercial facilities are undersupplied for current and future residents. Additionally, the applicant contends that the site is suitable for commercial development given its' designation under DCP 3 and that the proposal therefore complies with the North Coast REP.</i></p> <p><i>The proposal is not supported for statutory reasons of non compliance with the REP detailed in this report.</i></p>

(e) Public interest

The proposal is not considered to achieve the standard of development expected by the community. The proposal would result in unacceptable impacts to: -

- *Residential amenity of the local neighbourhood*
- *Traffic functioning of local road network*
- *Economies of the commercial centres existing and approved in the Tweed*

By reducing the standard expected by development in Tweed Shire this site would be characterised by: -

- *Lack of accessibility from road network*
- *Complicated entry exit design for vehicles and pedestrians*
- *Inadequate supply of car parking*
- *Lack of area for expanded demand by vehicle usage and parking*
- *Unacceptable residential impacts due to location of loading bay and waste services*

Rather than being a retail development of a high standard that the community can reasonably expect the site would be overdeveloped and create an undesirable amenity impact to a high standard residential living area.

For the reasons detailed above and contained in this report the proposal is not considered to be in the public interest.

OPTIONS:

1. *Refuse the proposed development in accordance with the recommendation.*
2. *Request the applicant to redesign a proposal to only apply to the land identified as a Neighbourhood Centre under Development Control Plan No.3 - Banora Point West Tweed Heads South and submit a new development application accordingly.*
3. *If Council is of a view to support the proposal a recommendation to amend DCP3 to redesignate the land to Neighbourhood Centre and amend relevant development criteria in DCP3 would be required.*

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

In the event that the applicant is not satisfied with the determination of this application they may appeal the decision in the NSW Land and Environment Court.

POLICY IMPLICATIONS:

The proposed development is not in accordance with a number of Council's policies. The applicant did request to amend Development Control Plan No.3 - Banora Point West Tweed Heads South to include all lands identified with the application for commercial purposes.

This would require an amendment to the map under the DCP that designates land uses in the area. The proposed development however is not considered to warrant an amendment under DCP 3 and as such the submission is not supported.

In considering the proposal it is noted that it would be premature to proceed to favourably determine the application without the necessary advertising and public consultation required under the Environmental Planning and Assessment Act 1979, given the scale of the variation to the DCP being sought.

CONCLUSION:

The proposed development has been assessed by Council's Technical Officers and further information and representations by the proponent have been considered. The difficulties of the site have not been able to be resolved in the design of the retail shopping centre.

Development of shopping centres in the Tweed should achieve a high standard and in themselves not create unacceptable impacts. It is considered that Council's standards should not be varied to provide a reduced standard of development. Accordingly the proposal is not supported for reasons contained in this report.

UNDER SEPARATE COVER:

1. *Report by Core Economics dated 20th September 2004 being the Banora Point Shopping Centre Application Review (DW 1101830)"*

CONCLUSION:

The conclusions reached in the assessment prepared for the Council report of 10 October 2004 remain valid and given the applicants request as set out in their letter of 21 March 2005, the development should be refused.

UNDER SEPARATE COVER:

Nil.

2 [PE] Development Application DA04/1337 for a Detached 2 Storey Dual Occupancy & 1 x Swimming Pool at Lot 12 Sec 3 DP 28871, No. 14 Pacific Drive, Banora Point

ORIGIN:

Development Assessment

FILE NO: DA04/1337 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application for the erection of a detached dual occupancy and pool at no. 14 Pacific Drive, Banora Point. The proposed dual occupancy comprises two, two storey dwellings.

The proposed development was notified to surrounding properties for a period of two weeks. During this period four written submissions were received. The main issues raised within the submissions included loss of privacy and amenity, views, character and streetscape, overdevelopment of the site and stormwater management.

The issues raised in the public submissions have been assessed in this report. It is concluded that the issues raised do not warrant the amendment or refusal of the application. This report finds the proposal on merit is satisfactory and as such is recommended for approval.

RECOMMENDATION:

That Development Application DA04/1337 for a detached 2 storey dual occupancy & 1 x swimming pool at Lot 12 Sec 3 DP 28871, No. 14 Pacific Drive, Banora Point be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 147-04 House A - Sheet Nos. 1 -7 (as amended in red) & 147-04 House B - Sheet Nos 2 - 7 prepared by Golden Edge Homes and dated 20/09/04, 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.
5. All windows within the second storey ensuite of House A are to be frosted to ensure maintenance of privacy to the residents of House A and adjoining residents. [GEN0150]
6. The finished floor level of both units shall not exceed 400mm above the existing ground level. [GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. 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: S94 Plan No. 4 (Version 4.0) Sector2_4	\$1,684
b.	Open Space (Structured): S94 Plan No. 5	\$240
c.	Open Space (Casual): S94 Plan No. 5	\$51
d.	Shirewide Library Facilities: S94 Plan No. 11	\$212
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$71
f.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$87
g.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$178.34
h.	Cycleways S94 Plan No. 22	\$50
i.	Regional Open Space (Structured) S94 Plan No. 26	\$361
j.	Regional Open Space (Casual) S94 Plan No. 26	\$67

8. 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. [PCC0050/PSC0005]

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

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

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

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

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

- [PCC0070/PSC0004]
9. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[PCC0190]

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

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

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

[PCC0240]

11. All roof waters are to be disposed of through properly jointed pipes to the street gutter, inter-allotment drainage, or elsewhere if so directed in the conditions of consent. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZ3500.3.2. Note: A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.

[PCC0350]

PRIOR TO COMMENCEMENT OF WORK

12. 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 than 900mm to the boundary where the overall height at any point exceeds 500mm.

[PCW0040]

13. 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]

14. 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
 - © if that is not practicable, any other sewage management facility approved by the council.

[PCW0060]

15. **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.

16. 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. [PCW0070]

[PCW0090]

17. Prior to commencement of any works on the site all required plumbing and drainage inspection fees are to be submitted to Council. [PCW0200]

[PCW0200]

18. 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]

[PCW0210]

19. 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]

20. 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]

DURING CONSTRUCTION

21. 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]
22. The provision of 4 off street car parking spaces. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.
- [DUR0050]
23. 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]
24. 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]
25. 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]
26. 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]
27. 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 Services. Twenty four (24) hours

notice is to be given to Council's Engineering Services 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]

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

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

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

[DUR0730]

29. 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]

30. 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]

31. 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]

32. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.

[DUR0920]

33. The burning of builders waste on site by open fire is prohibited.

[DUR0940]

34. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed.

[DUR0950]

35. 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]

36. 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]
37. 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]
38. Area below the spa is to be graded, drained and ventilated.
- [DUR1060]
39. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
- [DUR1090]
40. 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]
41. The finished floor level of the building should finish not less than 225mm above finished ground level.
- [DUR1150]
42. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.
- [DUR1160]
43. 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]
44. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1210]
45. Landscaping of the site shall be carried out in accordance with the submitted landscaping plans prepared by Greenhort design & management. The landscaping to be completed prior to occupation of the building, to the satisfaction of the Director, Development Services.
- [DUR1230]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

46. 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]
47. 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]
48. 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]

49. 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]

USE

50. The use being restricted to the floor area designated on the approved plan.

[USE0010]

51. 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]

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

[USE0110]

53. All trade materials, product and plant to be kept within confines of the building at all times.

[USE0120]

54. 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]

REPORT:

Applicant: Golden Edge Homes Pty Ltd
Owner: Knight Enterprises (Qld) Pty Ltd
Location: Lot 12 Section 3 DP 28871 No. 14 Pacific Drive, Banora Point
Zoning: 2(a) Low Density Residential
Cost: \$824,480.00

BACKGROUND:

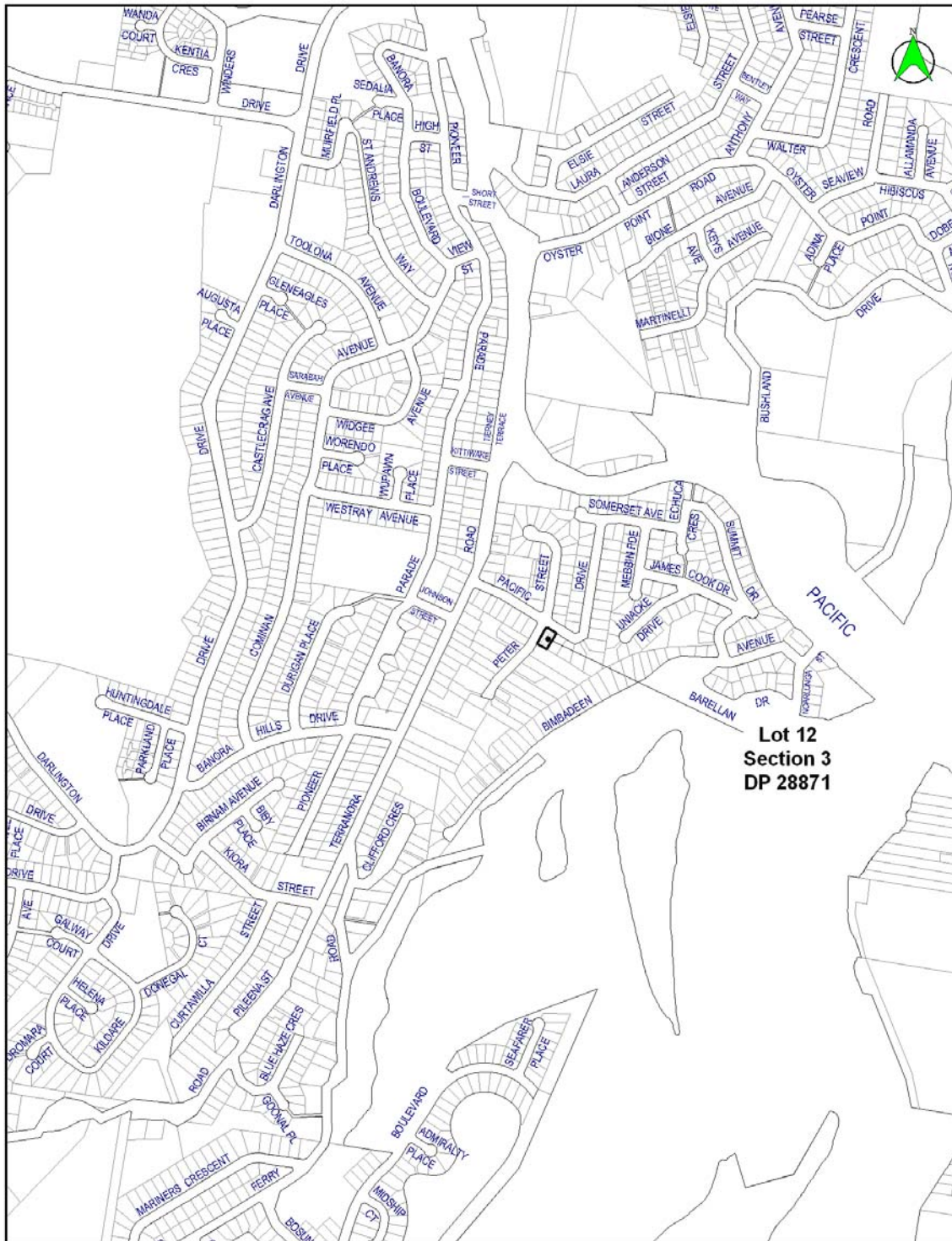
Council is in receipt of a development application for the erection of a detached dual occupancy and pool at no. 14 Pacific Drive, Banora Point. The proposed dual occupancy comprises two, two storey dwellings consisting of three bedrooms, bathroom and ensuite, walk-in-robe, gallery, kitchen, living, dining and study areas within both House A and House B.


The subject land is currently vacant and has recently been filled in accordance with approval DA04/0414, providing the site with two staggered house pads. The northern pad (House B) has a finished ground level of RL46.00m AHD and the southern pad (House A) is RL47.6m AHD.

The proposed development was notified to surrounding properties for a period of two weeks. During this period four written submissions were received. The main issues raised within the submissions-included loss of privacy and amenity, views, character and streetscape, overdevelopment of the site and stormwater management.

The issues raised by the proposal have been assessed in full and it is considered that on merit the proposal warrants approval.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2005 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Tel: (02) 6670 2409 Murwillumbah, NSW, 2404 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i> Lot 12 Section 3 DP 28871 No. 14 Pacific Drive, Banora Point</p>	<p>STRATEGIC PLANNING UNIT  Site Plan</p>
<p>File: N:\MapInfo 7...A4P Site Plan.Wor</p>	<p>Author: J.Batchelor</p>	<p>Date: 30/Mar/2005 Scale: 1:10,000 Sheet: 1 of 1</p>

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

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

Tweed Local Environmental Plan 2000

Clause 11 - The subject land is zoned 2(a) – Low Density Residential under the provisions of the Tweed Local Environmental Plan 2000. The objectives of the 2(a) zones are:

- To provide for and maintain a low-density residential environment with a predominantly detached housing character and amenity.

The proposed dual occupancy is defined as multi-dwelling housing under the TLEP 2000 and permissible with development consent in the 2(a) zone. The subject application satisfies the density provisions for multi dwelling housing in the 2(a) zone and will contribute to the diversity of housing choice and design in the locality. The proposal is therefore considered to satisfy the objectives of the 2(a) zone.

Clause 15 of the TLEP requires Council to ensure adequacy of services prior to determining the application. All essential services are currently provided to the subject site.

Clause 16 of the TLEP requires Council to ensure that the height and scale of development is appropriate to the site and the surrounding built and natural environment. Under the TLEP Height of Buildings Map the site is identified within the 3-storey height of restriction. The proposal comprises 2 storey buildings. The proposal complies with the provision of clause 16.

Clause 17 of the TLEP requires Council to ensure proper consideration of development that may have a significant social or economic impact. The proposal is not considered likely to generate any significant social or economic impacts. Further assessment is not considered warranted.

Clause 51A of the TLEP requires Council to ensure appropriate density of multi-dwelling housing in the 2(a) Low Density Residential zone. Within the 2(a) zone, density for multi-dwelling housing is not to exceed one dwelling per 450 square metres of site area. The subject land measures 974m² and involves two dwellings, equalling 1 dwelling per 487m², therefore attaining the requirements of Clause 51A.

North Coast Regional Environmental Plan 1988

Clause 32B of NCREP applies as the subject land is located within the NSW Coastal Policy. The proposal will not create any overshadowing of beaches or waterfront open space or impede public access to the foreshore area, nor does the proposal contradict the strategic aims and objectives of The New South

Wales Coast Government Policy, The Coastline Management Manual or, The North Coast: Design Guidelines.

Clause 43 of NCREP requires density of development to be maximised without impacting on the environment. The proposed density is considered to be a reasonable response to the land use character of the area and will not result in the creation of any adverse physical impacts upon the locality. Further, the existing road widths are not excessive for the function of the proposal and a detailed sedimentation and erosion control plan will be enforced in relation to construction works.

State Environmental Planning Policies

State Environmental Planning Policy No. 71 – Coastal Protection

The subject land is affected by SEPP 71 – Coastal Protection. The proposal involves the erection of a detached dual occupancy at 14 Pacific Drive, Banora Point. The proposal will not impede public access to the foreshore, cause overshadowing to the foreshore or make any significant negative impacts that may conflict with the criteria contained in clause 2 and 8 of SEPP 71. The proposal complies with the provisions of SEPP 71.

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

No draft planning instruments apply to the proposal.

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

Development Control Plan No. 2 – Access and Parking Code

DCP 2 contains Council's provisions for access and parking, with the objective of ensuring the provision of safe, convenient and equitable access to developed land for pedestrians, vehicles and persons using vehicles, bicycles and public transport.

The following table details the compliance of the proposed development with the on-site car-parking provisions contained in DCP 2:

Standard	Requirement	Proposal	Satisfactory
On Site Car Parking	2 spaces per dwelling	4 spaces in total	YES

The proposed development proposes 4 onsite parking spaces in the form of two double garages. Furthermore, both driveway areas provide the possibility of providing additional onsite parking spaces in a stacked parking arrangement.

In regard to the proposed parking layout the development is considered to comply with the objectives of DCP 2.

Development Control Plan No.6 – Multi Dwelling Housing

The following table assess the proposed development in relation to the provisions of the DCP:

Standard	Requirement	Proposal	Complies
Floor Space Ratio	0.5:1 (487.00m ²)	0.49:1 (481.24m ²)	YES
Minimum Landscaped Area	30% site area (292.2m ²)	40.6% site area (396.8m ²)	YES
Setbacks from street boundary	Primary frontage 6m	>6m to main wall	YES
Setbacks	900mm in accordance with BCA	>900mm	YES
<u>Streetscape</u>	The maximum width of the garages should be 50% of the frontage width.	Frontage to Peter Street: 38.5m 50% of frontage: 19.25m Garage width: 13m	YES
Streetscape	Garages should be setback behind the front façade of the building.	See Comment Below	NO*
Building Envelope	45° from 3.5m high at the side and rear boundary (excluding eaves and the like)	Generally Complies	YES
<u>Minimum Private Open Space</u>	20% of site area (194.8m ² = 97.4m ² per dwelling) with minimum dimension of 3m	Unit 1 = 170.66m ² Unit 2 = 137.44m ²	YES
	One part min 25m ² with min dimension of 4m	>25m ² & min. dimension of 4m	YES

NO* - See Assessment Below

Streetscape

The site is identified as 14 Pacific Drive. The site is a corner block and for the purposes of this assessment the Peter Street frontage is considered the 'Primary Frontage'. Vehicle access for both units is proposed from Peter Street, with Peter Street being the larger frontage of the two. Accordingly, Pacific Parade represents the 'Secondary Frontage'.

The subject application is considered generally consistent with the streetscape provisions detailed within DCP 6, excluding Section 3.2.1, acceptable solution A5. Acceptable solution A5 states that carports and garages should be set back behind the front façade of the building. The proposal involves the positioning of a double garage approximately 2.6m in front of the proposed front façade for Dwelling B and 1m in front of the proposed front façade for Dwelling A. This is not inconsistent with many dwelling designs evident in the locality.

The overall objective of Section 3.2.1 Streetscape is to ensure that new development enhances and makes a positive contribution to the character of existing streetscapes or desired future character of the area. The subject lot includes a generous 38.5m frontage to Peter Street and is considered to comply with all other applicable streetscape, setback and building appearance requirements detailed within DCP 6.

The subject application includes a detailed landscaping plan, incorporating extensive amounts of landscaping, particularly along the Peter Street frontage. The proposed landscaping, combining with highly articulated fencing, is seen to significantly soften appearance of the development from the Peter Street streetscape and lessen the visual impact of the proposed garage positioning.

This residential design incorporates garages behind the façade of the building is considered to significantly reduce the functionality of the dwellings. Whilst it could be argued that the subject land is therefore not suitable for dual occupancy development, the design aspects of the proposal including the proposed landscaping, fencing design and distribution of building bulk are seen make a positive contribution to the Peter Street streetscape. The proposal therefore is considered to satisfy the overall streetscape objectives within DCP 6 and warrant approval in its current form.

Summary

In all other aspects the proposed multi dwelling housing development is considered to have adequately considered and addressed the objectives and acceptable solutions contained within DCP 6.

Development Control Plan No.39 – Energy Efficient Housing

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

Standard	Requirement	Proposal	Complies
Unit Energy rating	3.5 stars minimum	3.5 stars	YES

The proposal is therefore considered to satisfy the requirements of DCP 39.

Development Control Plan No.42 – Notification

The development application was notified to surrounding properties for a period of two weeks. During this period four written submissions were received. The main issues raised within the submissions included loss of privacy and amenity, views, character and streetscape, overdevelopment of the site and stormwater management. The issues raised are addressed further in this report.

Development Control Plan No. 44 – Dual Occupancy Controls.

The subject land was not created as part of a subdivision, which specifically nominated dual occupancy lots, as such, the suitability of the subject lot for dual occupancy has been assessed against the criteria of Section 2.2(b) of DCP 44. The subject land is over 900m² in site area, is not of battleaxe, or irregular shape, does not a large circular frontages and the proposal is seen to generally comply with the provisions of DCP 6, therefore satisfying the requirements of Section 2.2(b) and the provisions of DCP 44.

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

NSW Coastal Policy

The proposed site is located within the area covered by the Government Coastal Policy, and has been assessed with regard to the objectives of this policy. The Government Coastal Policy contains a strategic approach to help, amongst other goals, protect, rehabilitate and improve the natural environment covered by the Coastal Policy. It is not considered that the proposed dual occupancy contradicts the objectives of the Government Coastal Policy.

(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

Context & Setting

The subject site and surrounding allotments are currently zoned 2(a) Low Density Residential under the TLEP 2000, with the area primarily expressing a detached residential development character, in-line with the objectives of the zone. Whilst development is primarily of a detached nature, a number of differing lots sizes and building forms are present within the immediate vicinity.

The majority of lots along Pacific Drive are generally of a regular shape and are relatively similar in terms of lot layout and size. Peter Street however generally contains larger, deeper lots. Accordingly, the majority of housing developments along Peter Street incorporate larger building setbacks, with a variety of traditional and to coastal building designs, a number of styles and building heights ranging from single to three storeys. Pacific Drive however,

generally contains single and two storey dwellings found traditionally in established residential areas.

Whilst the area does present an established context and setting, a number of recently approved dwellings in the vicinity has initiated the start of a progressive change to the streetscape, context and setting of the area. The proposed dual occupancy is considered enhance this progressive change and make a positive contribution to the context and setting of the site and its surrounds.

(c) Suitability of the site for the development

Suitability of the Lot for Dual Occupancy Development

The subject site has a land area of 976m² and is of a regular shape. The topography of the site is reasonably flat with Council approval issued for earthworks and a retaining wall (DA04/0414), which provided for two flat building pads. Surrounding topography slopes from west (high) to east (low), allowing additional opportunities for view sharing to the Pacific Ocean (as viewed to the northeast, panning around to the east) and Kingscliff amongst residents. The site enjoys a 24-metre frontage to Pacific Drive and is approximately 38.5 metres deep (along Peter Street). Neighbouring land comprises primarily of single dwellings, with variant building heights between 1 and 3 storeys and architectural styles within the vicinity. Council's GIS system indicates that the lot is not affected by ASS, is not considered bushfire prone or possess any other significant environmental constraints.

The site is considered suitable for dual occupancy development with the land possessing limited hazards and limitations in terms of topography, lot size, shape, layout and surrounding development.

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

The development application was notified to surrounding properties for a period of two weeks. During this period four written submissions were received. The main issues raised are discussed as follows:

Issue: Loss of Privacy - An objection was received detailing concern that the proposed development would considerably detract from the privacy levels of residents down the eastern slope.

Comment

The proposed development has the potential to impact on the privacy of the eastern and south-eastern adjoining properties. Proposed 'House A' is positioned on the raised of the two building pads and due to it's siting on the lot in reference to adjoining properties is the most likely to generate privacy and overlooking concerns.

House A involves family, living, study, kitchen, garage and laundry rooms on the ground floor. The proposal involves a 1800mm dividing fence along the eastern and southern boundaries, as such loss of privacy and overlooking concerns are not considered to be significant at the ground floor level.

At the second storey level the proposal involves three bedrooms, two bathrooms, balcony and a gallery, with Bedroom 1, Ensuite and the Balcony (solely accessed through Bedroom 1) viewed from the eastern elevation of the dwelling.

As the areas most likely to generate overlooking and privacy concerns are not considered to be entertaining or main living areas, the key concern areas are not considered high traffic areas and would not create an unreasonable level of use, or overlooking. The windows on the eastern elevation of the proposed ensuite are to be frosted, limiting the opportunity for loss of privacy for both existing residents, and future residents of Dwelling A. This requirement has been enforced by a condition of development consent. As the proposed second storey balcony is accessed solely off Bedroom 1, its use is considered to be largely private as opposed to a key entertaining area, limiting potential loss of privacy concerns to adjoining properties.

In addition, the proposed landscaping plan involves the use of Foxtail Palms in the south-eastern corner of the lot and the to the east of the proposed balcony to provide screening between the subject dwelling and neighbouring properties. It is acknowledged that in time these plantings will mature to provide a greater level of privacy.

It should be recognised that due to the topography of the land within the immediate vicinity sloping away from west to east that overlooking and loss of privacy concerns are likely to occur with the majority of permissible developments within the area. The proposal, whilst magnifying potential concerns by utilising a second storey component has displayed due consideration to eastern and south-eastern properties by incorporating sufficient setbacks to the eastern boundary, minimal usage rooms within the second storey component and specific placement of landscaping to provide screening between the proposal and adjoining properties. Maintenance of privacy to adjoining properties is considered to be of a satisfactory level and refusal of the application on this issue not considered warranted.

Issue: Loss of Street Character and Streetscape - An objection was received detailing concern that the proposal would detract from the existing character of Peter Street.

Comment

As discussed earlier within this report, Pacific Drive/ Peter Street accommodates various lot sizes and layouts.

Whilst the area currently presents an established streetscape and character, several recent developments in the area have introduced new architectural designs and elements, triggering a progressive change to the existing character and streetscape.

The subject application is considered to incorporate positive elements of urban residential design, through use of appropriate building form, design, distribution of building bulk and extensive use of landscaping, enhancing the progression of the Pacific Drive/ Peter Street streetscape and character.

In light of the variety of the existing streetscape and character of the area and the positive design characteristics of the proposal are considered satisfactory.

Issue: Overdevelopment of the Site - An objection was received detailing concern that the proposal, given it's visual prominence on the Pacific Drive/Peter Street intersection, the proposal would be viewed as excessive in terms of building bulk and an overdevelopment of the site.

Comment

The Tweed LEP 2000, and DCP 6 contain prescriptive provisions to enable the control of density for multi-dwelling development, particularly within the 2(a) zone.

Under the provisions of the Tweed LEP 2000, within the 2(a) zone, density for multi-dwelling housing is not to exceed one dwelling per 450 square metres of site area. The subject land measures 974m² and involves two dwelling, equalling 1 dwelling per 487m², therefore satisfying the requirements of the Tweed LEP 2000.

The provisions of DCP 6 - Section 3.1.3 require all multi dwelling housing development comply with a maximum floor space ratio of 0.5:1. The subject proposal involves a floor space ratio of 0.49:1, and as such is considered to satisfy the provisions of DCP 6.

As the proposal is seen to meet the relevant density requirements detailed within the Tweed LEP 2000 and DCP 6, the proposal is not considered to warrant refusal on this issue.

Issue: Loss of Views - Objections were received detailing concern regarding loss of views and urban view lines from adjoining properties and from Pacific Drive.

Comment

The subject site and a number of adjoining properties currently enjoy vistas of the Pacific Ocean to the northeast, the Kingscliff skyline to the east-northeast and the Tweed River to the east.

Whilst the proposed development will potentially reduce easterly and east - north-easterly views from 12 Pacific Drive, north-easterly views will remain largely unaffected. The views currently obtained from 12 Pacific Drive are obtained from internal living areas, with no formal outdoor living areas positioned along eastern elevation of the dwelling.

The proposal has been assessed against the building envelope requirements established within DCP 6 and is considered satisfactory in this regard. View corridors have been incorporated within the proposal, with a minimum 4.5m separation between House A and B at a ground floor level and a minimum 6m separation at the second storey level, maintaining eastern views to the Tweed River. The second storey component of House B stepped in from the first floor footprint to allow additional maintenance of north-eastern views to the Pacific Ocean.

Whilst it is acknowledged that some view loss will be experienced, this development does allow for some view sharing opportunities and maintenance of view corridors. The properties likely to experience loss of views as a result of the proposal are elevated in comparison to the subject property, offering the ability to re-gain much of the views lost should the lots be re-developed or an additional storey constructed.

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 restrictions and satisfying Council that the application has had adequate regard for the amenity of adjoining property in terms of shadow, privacy and general amenity. Therefore it is considered the issue of loss of views does not warrant refusal of the application.

Issue: Stormwater Management - An objection was received detailing concern with regards to the amount of hardstand areas included within the proposal and the stormwater impacts resulting from the proposal.

Comment

Generally, the subject application is seen to improve the stormwater management for the site. The subject land is currently vacant and has been recently filled. The proposal will formalise the catchment of stormwater from the site and its disposal into Council's appropriate stormwater infrastructure, reducing the effects of stormwater to adjoining properties. Refusal of the application on this basis is not considered warranted.

Issue: Errors in the application - An objection was received detailing concern that the submitted application made extensive reference to a single dwelling as opposed to a dual occupancy. Concern was also raised that no reference was made within the application to previous earthworks approvals.

Comment

This issue has been identified with the applicant submitting an amended estimated cost and further clarification to resolve these concerns. Further detail regarding the previous earthworks approval was included with the original submission of the application, however, this was not included within the exhibition material available to the public. As such, it is considered that this issue has been resolved and refusal of the application on this basis is not warranted.

(e) Public interest

Although the proposal received four submissions from local residents during the two-week notification period, the proposed development is not considered to undermine the general public interest in the locality, and is considered to have a wider public interest by providing a variety of housing options in the locality.

OPTIONS:

1. Approve the application in accordance with the recommendation and conditions of consent herein.
2. Refuse the application and provide applicable reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposal has been thoroughly investigated and is considered to be suitable to the site; unlikely to cause any significant negative impacts to the surrounding built and natural environment and meets all of Council's applicable requirements within the TLEP and relevant DCPs. The application has been assessed by Council's technical officers; with no objections being raised subject to the attached conditions of development consent. The proposed detached dual occupancy is therefore considered to warrant approval.

UNDER SEPARATE COVER:

Nil.

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3 [PE] Amendment to Tweed Local Environmental Plan 2000

ORIGIN:

Strategic Town Planning

FILE NO: GT1/LEP/2000 Pt2

SUMMARY OF REPORT:

The Engineering and 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 not anticipated 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 main provisions of the LEP that would require amendment for this objective to be achieved are:

- acid sulfate 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 Council: -

1. 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; and an amendment to Development Control Plan No 40 - Exempt and Complying Development.

REPORT:

The Engineering and 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 sulfate 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" or "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 sulfate 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 Sulfate 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

b. Amend DCP 40 Clause 2.2 (j) (vi) as follows:

Add the words “unless such work is undertaken by or on behalf of Council for the provision of public services and in accordance with an Acid Sulfate Soil Management Plan” to the end of Clause 2.2 (j) (vi) so that the essence of the section reads as follows:

2.2 Exempt development does not apply to:

(j) development that:

- (vi) includes works that require development consent for the purpose of Clause 35 of Tweed Local Environmental Plan 2000 relating to acid soils unless such work is undertaken by or on behalf of Council for the provision of public services or public infrastructure and the works are in accordance with an Acid Sulfate Soil Management Plan approved by the Director of Planning & Environment;

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 undertakings, 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 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 Department of Land and Water Conservation of any work for the purposes of soil conservation, irrigation, afforestation, reforestation, flood mitigation, water conservation or river improvement in pursuance of the provisions of the *Water Act 1912*, the *Irrigation Act 1912*, the *Farm Water Supplies Act 1946* or the *Rivers and Foreshores Improvement Act 1948*, except:
- (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:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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4 [PE] Amendment to Section 94 Contribution Plan No 6 - Street Trees

ORIGIN:

Strategic Town Planning

FILE NO: GT1/S94/6

SUMMARY OF REPORT:

Section 94 Contribution Plan No 6 Street Trees requires amending to accommodate an increase in the cost of the trees and establishment costs. It is proposed to use mature trees (at least 1.5 metres in height) as they have a better chance of survival in new estates and to introduce a five year establishment period for the trees. As a result the total cost for the purchase, planting and establishment of each tree has increased from \$19.50 to \$135.

The new levy rate per lot for two trees is \$297 (currently \$42.90).

RECOMMENDATION:

That Council endorses draft Amendment of Section 94 Contribution Plan No 6 – Street Trees to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

REPORT:

Section 94 Contribution Plan No 6 Street Trees requires amending to accommodate an increase in the cost of the trees and establishment costs. It is proposed to use mature trees (at least 1.5 metres in height) as they have a better chance of survival in new estates and to introduce a five year establishment period for the trees. As a result the total cost for the purchase, planting and establishment of each tree has increased from \$19.50 to \$135.

The new levy rate per lot for two trees is \$297 (currently \$42.90).

Draft Amendment of Section 94 Contribution Plan No 6 – Street Trees will require public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

5 [PE] Amendment to Section 94 Contribution Plan No 7 - West Kingscliff

ORIGIN:

Strategic Town Planning

FILE NO: GT1/S94/7

SUMMARY OF REPORT:

Section 94 Contribution Plan No 7 - West Kingscliff for structured open space and drainage requires amending for the following reasons:

- The cost of the structured open space land to be purchased has increased to \$250,000 per ha. The current rate is \$65,922 per ha.
- The amount of structured open space has been revised down to 8.8ha from 9.8ha in line with the projected population of the development area.
- The cost of the amenities blocks to service the ovals has increased.
- Car parking to service the ovals was not included in the original plan. 140 car spaces have been included.
- The cost of the drainage works has increased, principally due to the increase in the value of land per hectare (from \$200,000 per ha to \$500,000 per ha). The costs of the work required has also increased.

As a consequence, the contribution rate for:

- The structured open space increases from \$429 per single residential lot to \$2,354 per lot and the medium density rate has increased from \$280 per lot to \$1,539 per lot.
- Drainage increases from \$16,070 to \$32,708 per ha.

RECOMMENDATION:

That Council endorses draft Amendment of Section 94 Contribution Plan No 7 – West Kingscliff to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

REPORT:

Section 94 Contribution Plan No 7 - West Kingscliff for structured open space and drainage requires amending for the following reasons:

- The cost of the structured open space land to be purchased has increased to \$250,000 per ha. The current rate is \$65,922 per ha.
- The amount of structured open space has been revised down to 8.8ha from 9.8ha in line with the projected population of the development area.
- The cost of the amenities blocks to service the ovals has increased.
- Car parking to service the ovals was not included in the original plan. 140 car spaces have been included.
- The cost of the drainage works has increased, principally due to the increase in the value of land per hectare (from \$200,000 per ha to \$500,000 per ha). The costs of the work required has also increased.

As a consequence, the contribution rate for:

- The structured open space increases from \$429 per single residential lot to \$2,354 per lot and the medium density rate has increased from \$280 per lot to \$1,539 per lot.
- Drainage increases from \$16,070 to \$32,708 per ha.

Draft Amendment of Section 94 Contribution Plan No 7 – West Kingscliff is required to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

6 [PE] Amendment to Section 94 Contribution Plan No 10 - Cobaki Lakes

ORIGIN:

Strategic Town Planning

FILE NO: GT1/S94/10

SUMMARY OF REPORT:

Section 94 Contribution Plan No 10 – Cobaki Lakes requires amending for the following reasons:

- Deletion of the second stage extension to the youth facilities (100m²) as it is considered that the proposed first stage area of 400m² is of sufficient size to meet the needs of the future population;
- The lot threshold stages of 1,000, 3,000 and 4,000 lots for the construction of the community centre has been reduced to the 1,000 and 4,000 lot threshold;
- The estimated costs to construct all the community facility buildings has been increased from \$1,196,000 (2002 prices) to \$1,915,000 to reflect the current building costs.
- \$40,000 towards furnishings and equipment for the community centre which was not included in the original work program.

The new contribution rates are as follows:

Single residential:	\$391 (currently \$244)
Medium density residential:	\$256 (currently \$160)

RECOMMENDATION:

That Council endorses draft Amendment of Section 94 Contribution Plan No 10 – Cobaki Lakes be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

REPORT:

Section 94 Contribution Plan No 10 – Cobaki Lakes requires amending for the following reasons:

- Deletion of the second stage extension to the youth facilities (100m²) as it is considered that the proposed first stage area of 400m² is of sufficient size to meet the needs of the future population;
- The lot threshold stages of 1,000, 3,000 and 4,000 lots for the construction of the community centre has been reduced to the 1,000 and 4,000 lot threshold;
- The estimated costs to construct all the community facility buildings has been increased from \$1,196,000 (2002 prices) to \$1,915,000 to reflect the current building costs.
- \$40,000 towards furnishings and equipment for the community centre which was not included in the original work program.

The new contribution rates are as follows:

Single residential:	\$391 (currently \$244)
Medium density residential:	\$256 (currently \$160)

Draft Amendment of Section 94 Contribution Plan No 10 is required to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

7 [PE] Amendment to Section 94 Contribution Plan No 12 - Bus Shelters

ORIGIN:

Strategic Town Planning

FILE NO: GT1/S94/12

SUMMARY OF REPORT:

Section 94 Contribution Plan No 12 Bus Shelters requires amending to accommodate an increase in the cost of bus shelters. The cost of each shelter has increased from \$6,000 to \$7,300.

The new levy rates are:

- Single residential lot: \$27 (currently \$23)
- Medium density lot: \$16 (currently \$18)

RECOMMENDATION:

That Council endorses draft Amendment of Section 94 Contribution Plan No 12 - Bus Shelters be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

REPORT:

Section 94 Contribution Plan No 12 Bus Shelters requires amending to accommodate an increase in the cost of bus shelters. The cost of each shelter has increased from \$6,000 to \$7,300.

The new levy rates are:

- Single residential lot: \$27 (currently \$23)
- Medium density lot: \$16 (currently \$18)

Draft Amendment of Section 94 Contribution Plan No 12 - Bus Shelters is required to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

8 [PE] Amendment to Section 94 Contribution Plan No 13 - Cemeteries

ORIGIN:

Strategic Town Planning

FILE NO: GT1/S94/13

SUMMARY OF REPORT:

Following the opening and operation of The Tweed Valley Cemetery it has been identified that additional equipment and further site works are required.

Off-road transport vehicles are needed due to the distance from the car park to some burial sites. These are necessary especially in wet weather where the hearse cannot travel over the lawn areas. A small excavator and a dumpster are required to maximise the number of gravesites per benched area as per the cemetery design.

Section 94 Contribution Plan No 13 - Cemeteries requires amending to include the following additional items:

- Small excavator: \$100,000
- Off-road coffin transport vehicle: \$10,000
- Off-road elderly transport vehicle: \$18,000
- Site-works: \$100,000
- Self propelled dumpster: \$40,000
- An increase in the contribution rate:
 - Single lot rate: \$131 (currently \$126)
 - Medium density rate: \$90 (currently \$87)

RECOMMENDATION:

That Council endorses draft Amendment of Section 94 Contribution Plan No 13 - Cemeteries to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

REPORT:

Following the opening and operation of The Tweed Valley Cemetery it has been identified that additional equipment and further site works are required.

Off-road transport vehicles are needed due to the distance from the car park to some burial sites. These are necessary especially in wet weather where the hearse cannot travel over the lawn areas. A small excavator and a dumpster are required to maximise the number of gravesites per benched area as per the cemetery design.

In summary, Section 94 Contribution Plan No 13 - Cemeteries requires amending to include the following additional items:

- Small excavator: \$100,000
- Off-road coffin transport vehicle: \$10,000
- Off-road elderly transport vehicle: \$18,000
- Site-works: \$100,000
- Self propelled dumpster: \$40,000
- An increase in the contribution rate:
 - Single lot rate: \$131 (currently \$126)
 - Medium density rate: \$90 (currently \$87)

Draft Amendment of Section 94 Contribution Plan No 13 is required to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

9 [PE] Amendment to Section 94 Contribution Plan No 16 - Emergency Facilities (Surf Lifesaving)

ORIGIN:

Strategic Town Planning

FILE NO: GT1/S94/16

SUMMARY OF REPORT:

Section 94 Contribution Plan No 16 Emergency Facilities (Surf Lifesaving) requires amending for the following reasons:

- An increase in equipment and facility costs;
- Deletion of the amenities/first aid facilities/storage upgrade at Cabarita Beach as these facilities will be included in the proposed new Cabarita Beach clubhouse;

As a consequence, the contribution levy for the remainder of the Shire is as follows:

Per residential lot: \$207 (currently \$215)

Per medium density lot: \$136 (currently \$141).

The levy rate for the Kingscliff South development area (Casuarina, SALT etc), which has a separate rate to the remainder of the Shire, remains the same.

RECOMMENDATION:

That Council endorses draft Amendment of Section 94 Contribution Plan No 16 – Emergency Facilities (Surf Lifesaving) to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

REPORT:

Section 94 Contribution Plan No 16 Emergency Facilities (Surf Lifesaving) requires amending for the following reasons:

- An increase in equipment and facility costs;
- Deletion of the amenities/first aid facilities/storage upgrade at Cabarita Beach as these facilities will be included in the proposed new Cabarita Beach clubhouse;

As a consequence, the contribution levy for the remainder of the Shire is as follows:

Per residential lot: \$207 (currently \$215)

Per medium density lot: \$136 (currently \$141).

The levy rate for the Kingscliff South development area (Casuarina, SALT etc), which has a separate rate to the remainder of the Shire, remains the same.

Draft Amendment of Section 94 Contribution Plan No 16 – Emergency Facilities (Surf Lifesaving) is required to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

10 [PE] Amendment to Section 94 Contribution Plan No 22 - Cycleways

ORIGIN:

Strategic Town Planning

FILE NO: GT1/S94/22

SUMMARY OF REPORT:

Section 94 Contribution Plan No 22 – Cycleways requires amending for the following reasons:

- An increase in the cost of constructing cycleways from \$28 to \$47 per metre;
- The estimated population growth for the remaining period of the plan (2005-2020) has been reduced from 2,550 people per year to 2,000 people per year in the light of population projections undertaken recently for the Shire.

As a consequence, there is an increase in the contribution rates:

- Single residential lot: \$352 (currently \$160)
- Medium density residential: \$230 (currently \$105)
- Tourist accommodation: \$136 per bed (currently \$62).

RECOMMENDATION:

That Council endorses draft Amendment of Section 94 Contribution Plan No 22 - Cycleways to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

REPORT:

Section 94 Contribution Plan No 22 – Cycleways requires amending for the following reasons:

- An increase in the cost of constructing cycleways from \$28 to \$47 per metre;
- The estimated population growth for the remaining period of the plan (2005-2020) has been reduced from 2,550 people per year to 2,000 people per year in the light of population projections undertaken recently for the Shire.

As a consequence, there is an increase in the contribution rates:

- Single residential lot: \$352 (currently \$160)
- Medium density residential: \$230 (currently \$105)
- Tourist accommodation: \$136 per bed (currently \$62).

Draft Amendment of Section 94 Contribution Plan No 22 - Cycleways will require public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

11 [PE] Amendment to Section 94 Contribution Plan No 25 - SALT

ORIGIN:

Strategic Town Planning

FILE NO: GT1/S94/25

SUMMARY OF REPORT:

Section 94 Contribution Plan No 25 – SALT requires amending. A valuation has been undertaken of land at the SALT development. The value of land in this location is \$2.3M/ha. This valuation was undertaken in the event that for the remaining development there is additional passive open space required. Council may decide that a contribution for the additional passive open space is more appropriate than dedication and therefore any contribution should reflect current land values.

This valuation is to be included in the amended contribution plan, as the current plan does not have a valuation because all land has been dedicated to date.

RECOMMENDATION:

That Council endorses draft Amendment of Section 94 Contribution Plan No 25 - SALT to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

REPORT:

Section 94 Contribution Plan No 25 – SALT requires amending. A valuation has been undertaken of land at the SALT development. The value of land is \$2.3m/ha. This valuation was undertaken in the event that for the remaining development there is additional passive open space required over and above a current credit on this open space that the development has acquired to date. Council may decide that a contribution for the remaining passive open space is more appropriate than dedication.

This valuation is to be included in the amended contribution plan, as the current plan does not have a valuation as all land has been dedicated to date.

Draft Amendment of Section 94 Contribution Plan No 25 - SALT is required to be placed on public exhibition for 28 days in accordance with Clause 28(a) of the Environmental Planning and Assessment Regulations.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

12 [PE] Development Application DA04/1527 for a construction of facilities for the breeding and growing of Moreton Bay Bugs (DIPNR Development Application DA-282-11-2004-l) at Various Lots - Chinderah

ORIGIN:

Development Assessment

FILE NO: DA04/1527 Pt2

SUMMARY OF REPORT:

The Department of Infrastructure, Planning and Natural Resources (DIPNR) has provided Council with a copy of a development proposal for reference and comment. The application seeks approval from the DIPNR for an aquaculture facility for the production of the Bay Lobster (*Thenus spp.*), known locally as Moreton Bay Bugs.

Under a Ministerial declaration made pursuant to Section 76A(7) of the Environmental Planning and Assessment Act 1979 on 3 September 1999, the subject development is defined as state significant, the Minister is the consent authority.

This report provides a review of the proposed activity and identifies potential impacts. The report also identifies information deficiencies in the application that DIPNR will need to address in their assessment of the application. Because of these issues it is not possible to provide draft conditions of approval at this point in time. Should DIPNR indicate likely approval of the project then draft conditions relative to Council's areas of interest could be provided.

RECOMMENDATION:

That Council: -

1. Provides the Department of Infrastructure, Planning and Natural Resources with a copy of this assessment and advise them that: -
 - (i) The Department will need to be satisfied that there is adequate information available to them to fully assess the application having regard to the "Issues for Consideration" section of the assessment.
 - (ii) Should the Department recommend approval of the application, Council will provide draft conditions of approval relating to its areas of interest.
2. Delegates to the Director, Planning and Environment, the authority to draft conditions of approval if required by the Department of Infrastructure, Planning and Natural Resources.

REPORT:

Applicant: Michael Dalton, Australian Bay Lobster Producers Pty Ltd
Owner: Mr Wayne J Evans, BCS Group Pty Ltd, Tweed Shire Council, Mrs Patricia C Phillips
Location: Lot 706 DP 1000580 No. 355 Tweed Valley Way, Chinderah, Lot 707 DP 1000580 9394 Tweed Valley Way, Chinderah, Lot 1 DP 227034 No. 163 Chinderah Road, Chinderah, Lot 1 DP 578962, Lot 1 DP 267742, Lot 708 DP 1000580, Lot 709 DP 1000580, Lot 710 DP 1000580 No. 355 Cudgen Road, Cudgen, Lot 128 DP 1039348 Elrond Drive, Kingscliff, Lot 32 DP 847319 Chinderah Road, Chinderah, Chinderah Road, Chinderah, Crescent Street, Cudgen, Marine Parade, Kingscliff, Beach Street, Kingscliff, Elrond Drive, Kingscliff, Reserve 1001008 Coast Road, Cabarita Beach
Zoning: Part 1(a) Rural, Part 1(b2) Agricultural Protection, Part 5(a) Special Uses (Drainage), Part 5(a) Special Uses (Sewage Treatment), Part 6(a) Open Space and part Uncoloured
Cost: \$18,029.850.00

BACKGROUND:

The Department of Infrastructure, Planning and Natural Resources (DIPNR) has provided Council with a copy of a development proposal for reference and comment.

The application seeks approval from the DIPNR for an aquaculture facility for the production of the Bay Lobster (*Thenus spp.*), known locally as Moreton Bay Bugs. The facility is based on water recirculation aquaculture technology and is housed within 'horticultural' type structures. The animals are housed in elevated plastic 'raceways'. No ground ponds are utilised for rearing or housing of the animals.

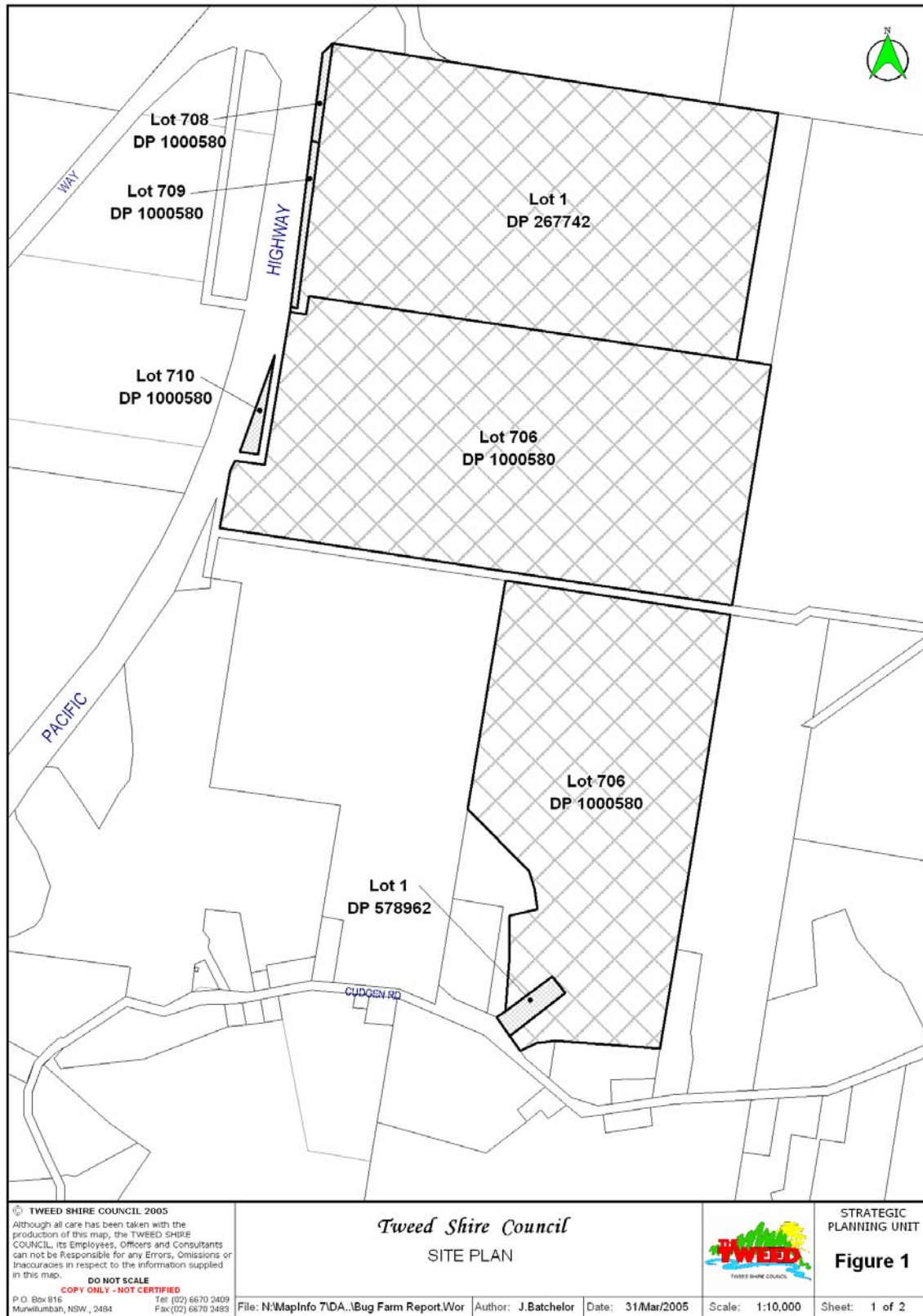
The development is proposed in three stages. The yearly production of animals in Stage 1 will be 1076 tonnes and will require a standing stock of approximately 400 tonnes of animals. Stage 1 development will occupy an approximate area of 15 hectares of the 148.5ha site comprising hatchery, grow out and processing facilities. The development is proposed to expand through the three stages to a production capacity of approximately 3228 tonnes per year, and will occupy approximately 45 hectares of the site in total.

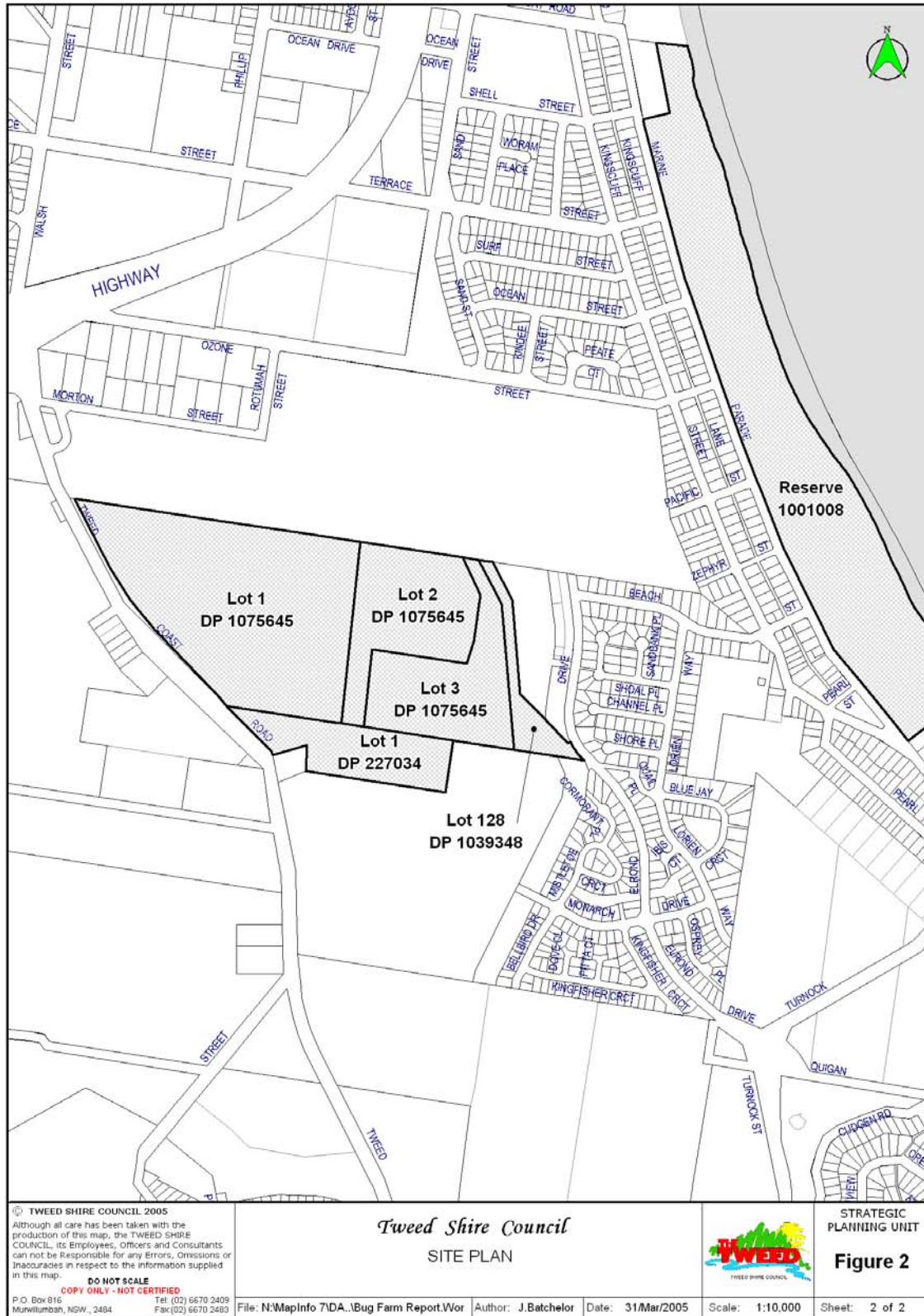
Seawater for the proposed aquaculture facility will be drawn from the Pacific Ocean. A pump station is proposed to be located within the 6(a) Open Space beach reserve site of the existing toilet block and car park adjacent to the Kingscliff Police Station. The intake pipeline will require directional drilling through the bedrock beneath the beach in order for the pipeline to extend out beyond the mean low watermark.

The seawater collected from the ocean will be conveyed to the aquaculture facility via a 150mm diameter plastic pipeline, which will be located within private and public land and road reserves of Marine Parade, Beach Street, Elrond Drive, an easement within the current Kingscliff Sewer Treatment Plant (STP), Chinderah Road, Crescent Road and

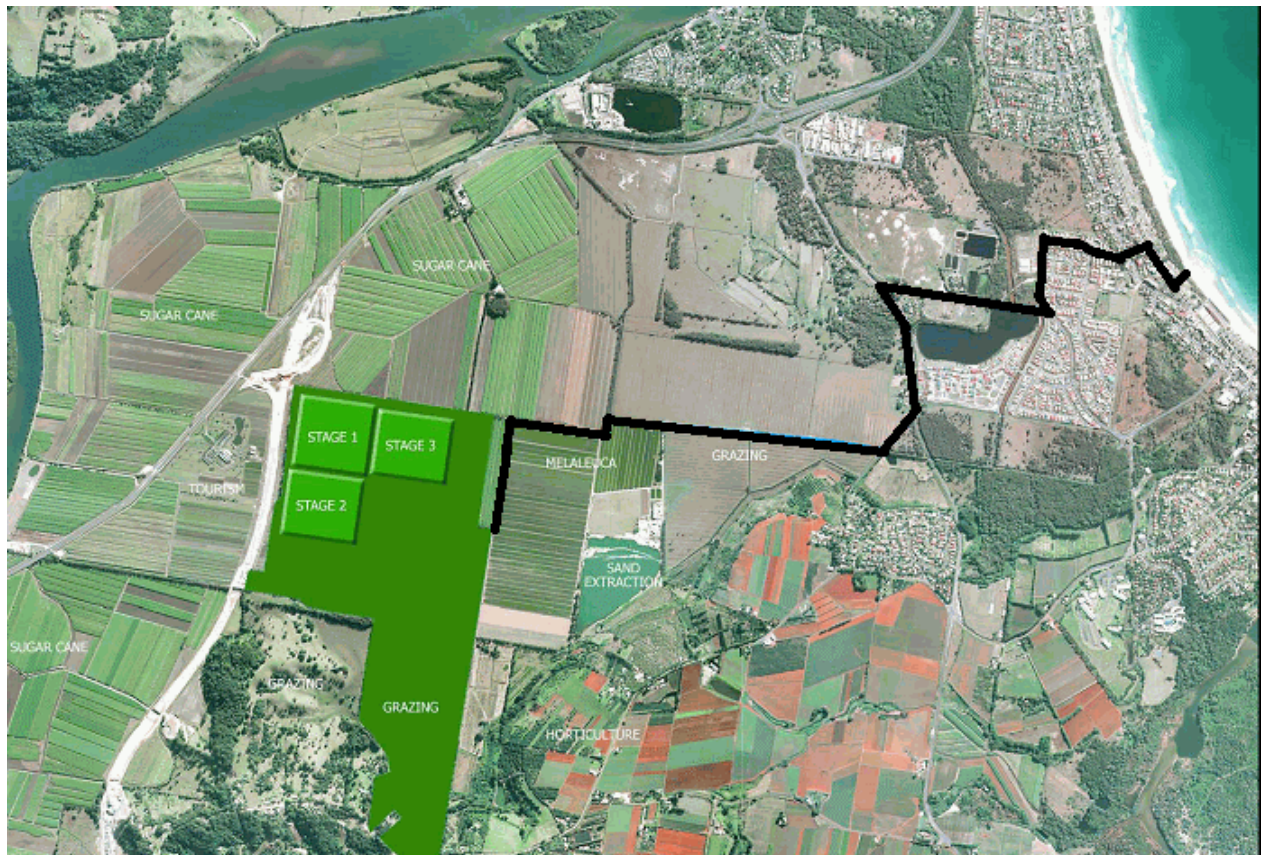
unnamed public roads running through to the site. The treated seawater will be returned to the Tweed River at Chinderah, via a common effluent line from the Kingscliff Sewage Treatment Plant.

SITE DIAGRAMS:





Aerial Photograph Illustrating Site Staging Works and Proposed Pipeline



The proposed aquaculture site is located on the south-eastern corner of the Pacific Highway interchange with Tweed Valley Way at Chinderah, approximately 11km south of Tweed Heads. The site is relatively low lying and incorporates levels varying across the site between RL0.4m AHD and RL1.4m AHD. The Statement of Environmental Effects, prepared by Planit Consulting Pty Ltd, states that the site has previously been utilised for the purposes of cane cultivation but is in the process of being converted to cattle farming. The site has its frontage to the Pacific Highway which is a national route and forms part of the national road network for motorists travelling from Brisbane to Sydney. The Tweed Valley Way is a more localised route and tourist drive for motorists travelling to Murwillumbah and other areas of northern New South Wales.

The site has formal access from Cudgen Road. The proposed development is seeking to gain access directly to the Tweed Valley Way / Pacific Highway Interchange (on-ramp and off-ramp loop), which will provide ready access to the Pacific Highway and Tweed Valley Way.

The surrounding land uses comprise largely open rural land that appears to be used primarily for sugar cane farming. A tourist development (Melaleuca Station) is located in the south-west area of the interchange between Tweed Valley Way and the Pacific Highway, and a sand mining operation (Tweed Turf and Sand) is located approximately 1km east of the site.

A Planning Focus Meeting was held between the DIPNR and the proponent on 19 July 2004. Subsequent to the meeting the DIPNR issued the requirements for the preparation of a Statement of Environmental Effects. The requirements included consideration of the following matters:

- Waste Generation;
- Fauna & Flora Impacts;
- Flooding Impacts;
- Geotechnical Impacts;
- Cultural Heritage Impacts;
- Socio Economic Impacts;
- Noise Impacts;
- Visual Impacts;
- Traffic Impacts; and
- Statutory Impacts.

PROPOSED BUILDING INFRASTRUCTURE

The processing building within Stage 1 will be one of the primary 'traditional' structures on site. It is assumed that the building will be constructed of concrete tilt panel or other like construction. Details of the building are very limited, with no internal layout plans or full architectural plans being provided. The building is identified as being 8.95m in height with the addition of a roof, which is estimated at approximately 1.8m in height. This building has a footprint of 1290m².

The proposed production buildings will incorporate an approximate height of 5.80m. These structures are enclosed by way of a lightweight structure similar to a greenhouse building (galvanised tubing covered by multi layer plastic fabric). The proposed structures will house the production raceways. Each greenhouse building has an internal layer of black plastic to maintain low light levels and has a white exterior to assist in reducing heat gain. An outer layer of green shade cloth will cover each of the production buildings. This is to reduce light glare and protect the plastic fabric from natural events, e.g. hail damage.

The dimensions of the structures are summarised as follows: -

1. Processing Building: 43m x 30m (1290m²)
2. Maintenance Workshop: 15m x 40m (600m²)
3. Office & Amenities: Approx 400m²
4. Grow-out Structures: 76.1m x 116m (8827.6m²)
5. Nursery Building: 135m x 53m (7155m²)
6. Larval Rearing Building: 105m x 35m (3675m²)
7. Race Assembly Building: 20m x 95m (1900m²)
8. Brood Stock & Laboratory: 53m x 20m (1060m²)

The structures detailed above have a combined footprint of 24,907.6m² having an average height of approximately 6metres.

PIPELINE & PUMP INFRASTRUCTURE

The proposed development incorporates the laying of pipelines within private and public road reserves from the beach in Kingscliff to the site. The proposed pipes will measure upward of 150mm in diameter and are of plastic construction. The proposed pipeline route will take the path of existing cleared and disturbed areas. The Statement of Environmental Effects identifies that no vegetation will be removed from *undisturbed* areas during the process of laying the proposed intake and return pipes.

It should be noted that the proposed pipeline route may require the physical attachment of the pipe to existing services crossing over an existing drain. The pipeline may be visible at this point, with the remainder being located beneath the ground surface.

The proposal incorporates the placement of a pump facility within either the existing public toilet site or car park opposite the Kingscliff Police Station. It is stated that the placement of the pump in this site may result in some structural alterations. However it is not clear what alterations would be required. The applicant contends that should alterations works be required that a separate application will be submitted, where required. However, it is considered that the proposed location and details of any necessary works and structures should be provided at this time, forming part of the present development application.

Approval to carry out geotechnical investigations of the area surrounding the public toilet, car park and adjacent beach has reportedly been previously granted by Council. Investigations have demonstrated the suitability of the site for the placement of a

pump well. The project proposes two (2) 150mm plastic pipelines laid within road reserves for the collection of fresh seawater. The pipes will connect to a concrete caisson placed vertically in the sand. Water supply pipes will extend seawards under the sand from the caisson at a shallow angle so that the ends of the pipes are below low tide level. It is anticipated that the pipes will be placed using directional drilling through the coffee rock that underlies the sand of Dreamtime Beach. The applicant contends that there would be no evidence of any pipe work from above ground. Seawater will migrate under gravity into the caisson where it will then be pumped from the caisson by submersible pumps into the supply pipelines.

It is not clear in the Statement of Environmental Effects (SoE) as to how far the pipe will extend into the Ocean at low tide. The pump and pipe cross section plan provided at Appendix C of the SoE is not clear, it would appear that the pipe only extends approximately 20-25 metres beyond the low tide mark. In addition it is not clear on what impacts upon marine habitat / life, sand movement (including scouring from backwash) or risk to beach users, in particular surfers, will occur as a result of having a submerged pipe. The SoE states that because the intake is below the level of the sand, the water entering the pipe will be essentially free of fouling organisms and it should not be necessary to undertake maintenance of the intake from the ocean end. However it appears that the end of the pipe, whilst submerged, is not subsurface. Clarification of these matters is required.

EARTHWORKS

Council's flood modelling predicts a flooding (Q100) level of around 3.6m AHD in this area. The Statement of Environmental Effects adopts a design flood level of 3.3m AHD .

The development proposal includes the filling of the development site and the construction of a bund wall to achieve a height of RL3.7m AHD. The bund wall in fact needs to be constructed to RL4.0m AHD based on Council's predicated flood level.

Stage 1 of the development requires 230,000 cubic metres of fill to construct the bench and surrounding bund wall. Importation of fill material is identified as being uneconomical and as such excavation of the site to an average RL.-2.5m AHD over an area of approximately 92,000m² is required. This will increase with later stages to an area of approximately 270,000m² . The earthworks are likely to result in an open water body system, e.g. a lake. The final use, management, rehabilitation and extent of this area is not known, further information is required.

In addition to the above, the bund could also impact on local stormwater drainage. An appropriate level of detail is not provided and as such it is not known if the footprint of bund will conflict with local stormwater drains. The borrow pit (excavation area) will form a permanent lake. The SEE does not provide any details of how the lake will interact with local stormwater drainage, it states simply in Section 5.8.4 "At no time would the excavation work interfere with the natural stormwater flow, as the "pool" would connect to existing inflow and outflow drainage." Further engineering detail is required.

The applicant states that the DIPNR has declared the winning of fill material as permissible because it is ancillary to the primary land-use, being aquaculture. The major

impact of the proposed earthworks is flooding. This is considered separately in this report.

Geotechnical investigations indicate groundwater was encountered at a relatively shallow depth, in particular the groundwater table may need to be locally drawn down in order to facilitate excavation. The report states that on completion of excavation, due to the sandy nature of the soils, the groundwater would be anticipated to return to equilibrium levels quite quickly. However, details of groundwater/aquifer (including time period) on Acid Sulfate Soils exposure, details on groundwater sampling to establish background quality and details of the control and management of slurry water from dredging operations is not sufficient. Additional information is required.

The submitted geotechnical report, including Acid Sulfate Soils assessment, the presence of and need for an ASS Management Plan. This plan could be provided prior to the issue of a construction certificate.

CONTAMINATED LAND

The land has previously been utilised for sugar cane cultivation, which is a potentially contaminating activity. The State of Environmental Effects provides insufficient detail on land contamination. Additional information is required in the form of a preliminary contaminated land investigation report.

FLOODING IMPACTS

Council's flood modelling predicts a Q100 level of around 3.6m AHD in this area. The Statement of Environmental Effects adopts a design flood level of 3.3m AHD and construction of a flood protection bund with 0.4m freeboard giving a bund level of 3.7m AHD.

The level of 3.3m is the design flood level for Chinderah. The subject location is upstream of Chinderah and has a predicted flood level 0.3m higher. The bund level will therefore need to be raised to 4.0m AHD to achieve the desired 0.4m freeboard above the Q100 year design flood for the site.

Flood Impacts of Proposal

The proponent has engaged WBM Oceanic Australia to assess Incremental and Cumulative flood impacts. The WBM report identifies the maximum impact in a 100 year flood* of a number of scenarios:

* This analysis has been done for a worst case incremental impact. It has assumed a Q100 river flood with a mean highwater spring tide ocean condition. The more familiar Q100 design flood assumes a Q100 river flood with an ocean storm surge of 2.6m, where the lower river is to some extent drowned and it yields the worst case maximum flood level. When an impact assessment is done with the lower ocean level condition, the maximum flood level is lower (as the lower river is not drowned) but the incremental "impact" of flood impacting development (filling) is maximised. This methodology is advised as being accepted as the convention for this type of analysis.

Scenario	Description	Impact on Q100 year Flood Levels
A	Impact of aquaculture with existing floodplain conditions	Levels elevated upstream (west) by 0.01 to 0.05m (10 to 50mm). The upstream affected land is generally cane fields west of the Yelgun/Chinderah Freeway and Melaleuca Station.
B	Impact of other possible filling development in the Chinderah, West Kingscliff and Oxley Cove areas. Includes filling all Chinderah, Chinderah industrial areas, West Kingscliff, sewerage treatment works sites and proposed rezoning upstream of Oxley Cove	Significant elevation of levels south and west of West Kingscliff (0.1 to 0.3m). Elevation of levels between Chinderah and Stotts Island of 0.05 to 0.10m. Elevation of levels Stotts Island to Tumbulgum of 0.01 to 0.05m
C	Impact of above plus aquaculture	Elevation of levels south and west of West Kingscliff is reduced compared to Scenario B. Slight increase in levels upstream to Stotts Island
D	Incremental impact aquaculture makes on C	Elevation of levels upstream to Stotts Island of 0.01 to 0.05m (mostly cane fields)

The increase in levels caused by the aquaculture proposal is quite limited and occurs on cane land upstream (west) of the site and at Melaleuca Station. Whilst the WBM report does not analyse inundation times, flood level increases of the order indicated in their report would not have any significant impact on time of inundation. The following is an extract from NSW Coastal Rivers Flood Plain Management Studies - Tweed Valley, Soros Longworth & McKenzie /Cameron McNamara, December 1980.

“5.3.3 Sugar Cane

.....Sugar cane can withstand periodic inundation with little or no ill effects providing drainage lines are adequate. There is little authoritative experimental work on sugar cane and flooding, but, local observation and experience indicate that, providing the post flood weather is not excessively hot, sugar cane can withstand about 3 days of inundation.”

Given the above the proposed aquaculture proposal should not cause any significant adverse flooding impacts on cane production on land upstream (west) of the site.

There is an impact of raising flood levels 10 – 50mm at Melaleuca Station in the Q100 maximum impact case, however this should not cause any significant increase in flood damages at this location.

Cumulative Flooding Impacts

The WBM report also analyses the flooding impacts of the proposed aquaculture development when combined with other possible flood impacting (filling) developments in the Chinderah area. This analysis indicates that the whilst the other possible developments will have a significant impact on flood levels immediately west of the Tweed Coast Road and south of West Kingscliff, the incremental impact of adding the aquaculture development is actually beneficial and reduces flood levels (immediately west of the Tweed Coast Road and south of West Kingscliff) and does not significantly raise flood levels upstream (west) of the aquaculture site. In the cumulative development scenario therefore the proposed aquaculture development should not cause any significant adverse flooding impacts.

Flooding Conclusion

1. The DIPNR is to be advised that the flood control bund is required to be 4.0m AHD (to provide 400mm freeboard in the Q100 flood)
2. The proposed aquaculture development does not have significant adverse flooding impact when looked at in isolation or when looked at in combination with other possible flood impacting (filling) developments in the locality.

STORMWATER QUALITY MANAGEMENT

Construction Phase

Service Pipelines - Daydream Beach - Site

The SoE identifies erosion and sedimentation as being one of the principal issues with this part of the project. Conditions of consent can address this issue. The pipeline will traverse public roads and Council's Kingscliff drain. A consent from Council under s138 of the Roads Act 1993 is required for all works in public road reserves. Stormwater quality management shall be required during all components of construction in accordance with TSC document Tweed Urban Stormwater Management Plan and Councils adopted Development Design and Construction Specifications.

Operational Phase

The following comments were provided by Council's Infrastructure Engineer: -

"It is proposed to bund the entire area which would therefore contain stormwater within the bunded area. The SoE 7.8.1 proposes internal capture of roof water within the bunded area and transfer to a roofed and sealed rainwater pond (within the bunded area) for freshwater reuse. Overflow is to be directed "over the bund walls, to lined spillways, and thence by open drains to connect to the existing

drainage canals. These site canals will be cleaned out and made efficient, and extended as necessary, to ensure adequate performance."

Other runoff within the bunded area (from roads, carparks, paths, landscaped areas etc "will be led to a series of collection pits, which in turn discharge through the bund via piping fitted with non-return flaps or valves. When an external flood rises and causes these to shut, a series of automatic flood pumps will be started, to pump the runoff over the bund, to spillways, to join the flood outside." The proposed development will increase the impervious area of the site and therefore increase stormwater runoff. The increase in runoff will be reduced by the reuse of roofwater. The application does not provide any indicative calculations of increase in runoff or of the capacity of the local drainage system to cope with any additional runoff. The SoE does not provide any details of the local stormwater drainage system to determine if the bund and lake (borrow pit) will have any impact on local drainage paths. The SoE does not provide any evidence that there is a lawful point of discharge for stormwater runoff from the site. If runoff is to be increased, concentrated or discharge at a location differing from the natural/existing situation, the provision of a lawful point of stormwater discharge of adequate capacity would be necessary. Further clarification and detail is required.

TRAFFIC

The development application was supplemented by a Traffic Impact Study undertaken by Traffic Planning Services Qld P/L. The study provides detail in relation to the first stage of development, final development, traffic projections to the year 2019 specific to the impact on various areas of the Tweed Valley Way / Pacific Highway interchange.

Austrroads Guide to Traffic Engineering Practice, Part 5 - Intersections at Grade provides detail in relation to the Geometric Design Standards of intersections. As detailed within the Traffic Impact Study (TIS) undertaken sight distances at all merging components of the interchange are acceptable. These include Stopping Sight Distance, Safe Intersection Sight Distance and entering Sight distance.

Concern is raised for some components of the impact the proposed development may have on other areas of the interchange in relation to geometry. These matters are identified as:

- **T Intersection From Site To Interchange - Left Turn Movement Into Site**
The posted traffic speed for south bound traffic in this area is 80km/h with advisory signage indicating 75km/h. As tabled in the Traffic Impact Study provided a left turn slip lane is recommended prior to the commencement of works on the site. Table 4.8.3 of the RTA document "Road Design Guide" identifies length of deceleration lane to be 75m including taper where the approach design speed is 80 km/h and an exit curve design speed of 40km/h is provided. The provision of this left turn treatment is recommended should the development proceed.
- **T Intersection From Site To Interchange - Right Turn Movement Into Site**
A sheltered right turn lane has been provided for access to the site from the interchange. Site inspections reveal a length of 74m has been provided (44m

storage bay and 30m taper). This length is considered adequate for the limited use of the access for farming activities however the additional traffic generation as a result of the proposed development shall require additional works. Table 4.8.3 of the RTA document "Road Design Guide" identifies length of deceleration lane to be 100m is required where the approach design speed is 75m and a vehicle is required to decelerate to a stop condition. The table also advises a maximum reduction to 70m may be acceptable. The current interchange overpass layout and bridge design may not allow the desirable standard to be met

- **Tweed Valley Way - U Turn Movement For North Bound Traffic**

On the southern approach to the interchange a turning area has been provided to allow vehicles to access the region to the north. The turning area is located within the posted 80km/h area of the interchange and incorporates a sheltered right turn lane of approximately 105m including taper. This standard meets with the RTA criteria however turning vehicles are entering a 100km/h zone. Consideration should be given to the impact of slow vehicles merging with traffic in this situation. Minimum consideration for a Design Prime Mover and Semi-trailer (19m) having a turning speed of 5 - 15km/h requires a desirable turning radius of 15m along the outside wheel track. The existing site conditions provide 18m however an acceleration lane is recommended to allow heavy vehicles to achieve a safe merging speed prior to be absorbed into the through traffic lane.

- **Access Road Construction Standard**

The existing access road to the site from the interchange has been constructed to a basic rural standard. The road formation consists of a bitumen sealed surface over a gravel pavement for approximately 15m from the interchange through traffic lane then a gravel pavement to the site. A width of 7m is provided between guard rails. The RTA document "Road Design Guide" identifies standards for two lane, two way rural roads within table 3.2-4. The tabled standard for an AADT of 150 - 500 is two lanes, each 3.0m wide. In addition a table 3.3-1 specifies a shoulder width of 1.0 - 1.5m shoulders and recommends 3.0m wide shoulders adjacent to barrier lines, where heavy vehicle volumes are high and at intersection layouts. This detail would indicate that a minimum formation of 12m is required within the intersection and tapering back to a minimum of 8m along the access road.

Councils traffic engineer has provided comment in regard to the road standard to be adopted within the various stages of the development, recommending the following condition:

"Access to the overpass bridge at the Tweed Valley Way interchange with the Pacific Highway is approved as the vehicular access point to the development for Stage 1. Prior to any future stages being constructed, a traffic assessment of the access intersection is to be undertaken by the applicant demonstrating if the intersection is performing within the criteria set under Austroads Guide to Traffic Engineering Practice. If the assessment concludes upgrading is required then such

upgrading must be constructed to the satisfaction of the RTA or alternative access to the Coast Road be constructed to the satisfaction of Tweed Shire Council prior to issue of a construction certificate for any future stage of development."

No further issues area raised in relation to access. DIPNR will need to ensure that the NSW Roads Traffic Authority will permit access through its land to the on / off ramp. In its letter of 10 March 2005 the RTA has indicated that access would be permitted until August 2005 after which access will be at the RTA's discretion. The RTA appears to be basing its assessment on the future availability of access to Crescent Street. DIPNR should be advised to ensure that, in accordance with the development application, access is secured via the RTA's land as proposed. Failure to secure permanent access should lead to full investigation and design of an alternative access.

In addition, The area between the local road and the Pacific Highway is currently used for stacking of bins associated with sugar cane harvesting, access would need to be clear of this area or an alternative hardstand area will need to be provided. This matter requires further consideration and detail.

WASTE MANAGEMENT

Office

These areas generate inert wastes of plastic, paper and cardboard from documents and packaging. These materials are stored on site after separation into recyclable and non-recyclable materials and removed on a weekly basis by a waste contractor.

Feed Waste

Feed represents the single largest input to the growing of Bay Lobster, amounting to approximately 7 tonnes per day in Stage 1. The leftover food and faeces generated from the consumed food add up to several hundred kilograms of wet waste per day. This material is removed from the raceways in the morning and stored in a refrigerated closed container for collection by a waste contractor for disposal to an offsite landfill.

The Statement of Environmental Effects identifies that certain solid wastes will be disposed of to landfill. However, details on the number and size of bins that will be used, and confirmation that site can be accessed and serviced by the waste contractor are not sufficient. Additional information is required.

BAY LOBSTER MORTALITIES

Like that of any livestock enterprise there is likely to be a level of mortality in the stock. Animals that are identified as mortalities are removed from raceways when the leftover feed is collected and are disposed of in the same manner. The applicant advises that alternative options for recycling are being investigated.

Diseased Stock

The modular design of the production facilities should assist in minimising and containing occurrences of infection. However, in the event that mass mortality does occur the infected animals will be euthanased in ice cold water, placed into strong bags (eg wool packs) within closed storage containers and transported by contractor to specialised off site land fills for disposal. Council's Stotts Creek Land fill (Leddies Creek Road, Eviron), being a lined landfill, may be an appropriate site for the disposal of Bay Lobster in the event of a mass mortality occurring. The DIPNR should be advised to ensure that a management plan is prepared that takes into account contingency plans for such eventualities. Prior agreement should be made with the receiving landfill operator prior to commencement of any production activities.

Amenities Waste/Canteen

Due to the relatively large number of staff, the shift nature of the work and lack of nearby food outlets, a canteen area for staff is proposed. This will involve food preparation activities and a servery and waste will be generated from each. The material will be mainly waste food and scraps from food preparation. The waste will be stored on site in closed containers and be disposed off on a daily basis with the solid wastes such as leftover feed. Details of the canteen and staff areas have not been provided. Additional information is required.

Toilets

The proposed development will employ approximately 200 staff by the time Stage 3 is established and the human waste generated must be removed from the site. A rising main from the waste storage tank to Council's Sewage Treatment Plant is proposed.

There is insufficient detail as to the provision of on site storage area, pumps and equipment. In particular it is not clear what separators are required on the canteen waste line or other wastewater sources. The DIPNR should request additional information from the applicant, requesting detailed drawings of this arrangement, particularly the location and capacity of holding tanks and other infrastructure, and clarifying whether they are flood free.

Seawater treatment plant sludge

In all of the different production areas (broodstock, larval rearing, nursery and grow out), water filtering equipment is continuously recirculating the seawater to and from the raceways. The organic material that is filtered from the seawater is collected in a drain system and directed to the seawater treatment system, where it is treated to flocculate and concentrate to produce a sludge of 5-10% solids. Because it is high in organic material and is not produced in particularly large volumes it is stored in a tank for collection by a waste contractor. Lime is added to the sludge to prevent bacterial action that could result in noxious odours.

Process Building Wash Water

The processing buildings main purpose is related to the preparation of feed for the Bay Lobster. This operation requires an environment that is of a food preparation standard. Washing down of equipment and floors at the end of each shift will be required. It is proposed that this water be added to the blackwater produced on site and sent via a rising main to the TSC Sewage Treatment Plant.

Council's Engineering Services Unit has reviewed the proposed development and raised no objection the disposal of waste waters to Council's existing and future infrastructure.

NOISE IMPACT

Richard Heggie Associates Pty Ltd have reported on the operational and construction noise emissions from the proposed development on the nearest residential receivers. The assessment was conducted in general accordance with the guidelines provided by the Department of Environment and Conservation (DEC), formerly the Environmental Protection Authority (EPA), Industrial Noise Policy and Environmental Noise Control Manual. It was concluded that the level of noise emission from the proposed ABLP Bay Lobster aquaculture development was satisfactory with respect to no specific noise control measures being required for the operation of the aquaculture facility, based on the advice that the refrigeration plant will be located within the processing building.

Council's Environment and Health Services Unit has assessed the application and raises no specific issues in this regard. It is noted however that a Construction and Operations Management Plan, which will address inter alia noise, would be required prior to commencement of operations.

VISUAL IMPACT

The proposed development will be located adjacent to the off-ramp of the Murwillumbah bypass on the new Pacific Highway, west of Chinderah road. It is located in a rural zoned area and the site itself and surrounding land are utilised either for cattle grazing or cultivation of *Melaleuca* or sugar cane. The land is substantially cleared of native vegetation and is relatively flat. The Statement of Environmental Effects states that small sections of the site can be viewed from balconies of selected properties in Cudgen on the Cudgen Plateau, but the majority of views towards the site are blocked by a spur to the west of Cudgen. A small number of rural properties on the northern side of Cudgen Road have clear views of the site, however, the closest residence is approximately 1.7 kilometres away. The site is partially visible from the new Pacific Highway and is overlooked by vehicles exiting to Tweed Valley Way.

The proposed development structures have a combined footprint of 24,907.6m² and have a height of approximately 6metres, with the processing building having an overall height in excess of 9metres. The structures will be further elevated by the filling of the site. It is considered that the visual impact of the site having regard to the proposed structures and modified land form will be radically altered from its present condition and will be visually more prominent from the Pacific Highway and Tweed Valley Way.

The application does not provide any architectural plans that would assist in determining the appearance and ultimate visual impact. The Pacific Highway and Tweed Valley Way

provide the primary means of vehicle access to the Shire for residents and tourists alike. Understanding the visual impact of the proposed structures is important to determining the impact upon the heritage of the Tweed. The DIPNR should be requested to seek adequate visual aids, either by plan or model, to assist in determining potential impacts.

AIR QUALITY

Odour

The Statement of Environmental Effects (Part 7.9.3) concludes that odour from the facility will not be significant. However, this does not appear to have been satisfactorily modelled. The DIPNR should be requested to seek an air quality report that is prepared by a suitably qualified person. It should adequately assesses / model potential odour impacts from the development.

FLORA AND FAUNA

Peter Parker Environmental Consultants conducted a detailed flora and fauna survey on the proposed site. The study included a detailed consideration of all habitat area within the subject site and the proposed pipeline route. The site was analysed by way of both desktop and physical assessment. It was found that both the site and the pipeline route are dominated by weeds and show signs of prior disturbance. The report concludes that the proposed development would not have an adverse or significant impact upon fauna and flora within the area.

The statutory assessment concluded that:

- no viable populations of threatened species were likely to be placed at risk of extinction by the proposal;
- the viability of endangered populations will not be significantly compromised;
- no regionally significant area of known habitat will be removed;
- no known habitat for threatened species will become isolated;
- no critical habitat will be affected;
- the proposed development is not a key threatening process and threatening processes are not likely to increase; and
- threatened fauna which may seasonally or opportunistically occur at the site are not at the extreme of their known geographical range.

ECONOMIC, EMPLOYMENT AND COMMERCIAL OPPORTUNITIES

The application documentation states that Australian Bay Lobster Producers Pty Ltd (ABLP) will provide the necessary infrastructure to produce through aquaculture approximately 1,000 tonnes of Bay Lobster products in Stage 1 growing through to approximately 3,000 tonnes in Stage 3. Funding of more than \$40M is committed to the development. Bay Lobster *Thenus spp.* locally known as Moreton Bay Bugs, a lobster species with good market acceptance and excellent eating qualities is the only lobster species in the world that is able to be produced commercially. The leading edge

technology developed to produce Bay Lobster is owned by ABLP and protected by international patent. Production is based on recirculation technology within a controlled environment. The processes involved in producing this highly desirable and exclusive product are environmentally benign and economically and environmentally sustainable. ABLP in its design of production and management systems has been working with Biological Farmers of Australia so that its products will be 'Certified Organic' once produced. ABLP will employ approximately 70 people and generate \$50M in export income in Stage 1 growing through to employing approximately 200 people and generating \$150M in export income at the completion of Stage 3. It is expected that the project will also further rural employment in the Tweed indirectly, as it will generate income and contribute to the growth of ancillary industries. The production facilities would also provide a potential for hatchery development to support

DIPNR should be requested to carefully consider the purported economic benefits to the Tweed region against the identified environmental impacts of the development.

IMPACT ON AGRICULTURAL LAND

The Statement of Environmental Effects concludes that the subject site is not prime agricultural land and is in the process of being converted from cane land to grazing land. Council has not received any public submissions from the DIPNR, in particular Council has not received, should one have been made, a copy of a submission from the Sugar Milling Cooperative. It is not possible to determine on the information provided the level of significance of the subject land as an agricultural resource, particularly for sugar cane. It is understood however that the site has been successfully utilised for cane farming for many years.

DIPNR should be requested to have due consideration to the potential impacts upon available agricultural, in particular suitable cane, land within the Tweed district should this site be set aside for other purposes. Particularly, the proximity to the Sugar Mill and the lands limited capability for land-use conflict should be considered.

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 proposed water supply pipeline runs through a number of properties and is located on land zoned 1(a) Rural, 1(b2) Agricultural Protection, 5(a) Drainage and 5(a) Sewage Treatment, 6(a) Open Space and through unzoned land. The proposed aquaculture facility is defined as an animal establishment pursuant to the provisions of Tweed Local Environmental Plan 2000.

The only works proposed within the 6(a) Open Space zone are water supply works associated with the pumping of water from the Pacific Ocean to the subject site. These works include the fitting of a pump facility within either the

existing public toilet facility or within the car park and the laying of pipe beneath the beach to the east and in to Marine Parade to the west.

Water Supply works are not separately defined within the Tweed LEP 2000. The application contends that the definition of a Public Utility Undertaking includes reference to water supply works and that the proposed works could fit within the definition. This is not concurred with. The proposed infrastructure is for commercial not public benefit. The proposed works are considered prohibited in the 6(a) Open Space zone.

The applicant is reliant upon the provisions of Clause 6 of Part 1 of State Planning Policy (SEPP) No.62 - Sustainable Aquaculture, which states that in the event of any inconsistency between the SEPP and any other environmental planning instrument (Tweed LEP 2000) SEPP 62 will prevail. In this regard, Clause 7 of Schedule 1 of the Policy, identifies zones where aquaculture is permitted or prohibited. The applicant contends that should the water supply works proposed to be carried out within the 6(a) zone be deemed to be 'Aquaculture', then it is pertinent to note that the 6(a) zoned lands are not identified as an area within which Aquaculture is prohibited. Accordingly, the permissibility of such works within the 6(a) zone pursuant to the policy overrides any prohibition contained within the Tweed Local Environmental Plan 2000. However, it is noted that Division 1 of Part 2 of Schedule 1, in relation to site location requirements, states that tank-based aquaculture is to be within areas zoned for rural purposes or zoned for industrial purposes. Whilst the development site generally meets with this criteria the land zoned 6(a) Open Space does not.

DIPNR should be requested to review the application against the provisions of the SEPP. In particular, the ability of the SEPP to permit development that is otherwise prohibited in another environmental planning instrument and whether the development applications non-compliance with the provisions of Division 1 of Part 2 of Schedule 1 is in itself permissible.

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

The plans provide for up to 25 car parking spaces to be provided onsite for stage 1. As the development increases in size up to Stage 3 additional car parking will be provided on-site to cater for increased staffing numbers. The aquaculture facility will operate 24 hours per day seven days a week with a minimum of three shifts per day planned. This totals approximately 200 staff employed at stage three. It is likely that approximately 60 – 70 staff will be engaged at each shift. Total car parking provided at this stage would number 75 spaces.

Under DCP No. 2 there is no specific requirement for an animal establishment. Council's Traffic and Transport Engineer has reviewed the application documentation and raised no issues with the level of on-site car parking. However, it is noted that little detail has been provided on parking

and manoeuvring areas. The DIPNR should be requested to seek a formal plan of parking that demonstrates compliance with the DCP.

- (a) (ii) **The Provisions of any Draft Environmental Planning Instruments**
- (a) (iii) **Development Control Plans (DCP's)**
- (a) (iv) **Any Matters Prescribed by the Regulations**
- (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**
- (c) **Suitability of the site for the development**
- (d) **Any submissions made in accordance with the Act or Regulations**
- (e) **Public interest**

As the consent authority for the proposed aquaculture facility DIPNR should be requested to have due consideration to all relevant matters under the Section 79C of the Environmental Planning and Assessment Act, 1979 and as referred to in (a) to (e) above.

ISSUES FOR CONSIDERATION

Having considered the above comments and assessment the following are the key issues that need to be considered by DIPNR in assessing the application.

1. The application should be reviewed against the provisions of SEPP 62. In particular, the ability of the SEPP to permit development that is otherwise prohibited in another environmental planning instrument, as it relates to the 6(a) Open Space zone, and whether the development applications non-compliance with the provisions of Division 1 of Part 2 of Schedule 1 is in itself permissible.
2. The bund level will need to be raised to 4.0m AHD to achieve the desired 0.4m freeboard above the Q100 year design flood for the site.
3. The application does not provide any indicative calculations of increase in runoff or of the capacity of the local drainage system to cope with the additional runoff. The SoE does not provide any evidence that there is a lawful point of discharge for stormwater runoff from the site. If runoff is to be increased, concentrated or discharged at a location differing from the natural/existing situation, the provision of a lawful point of discharge of adequate capacity would be necessary.
4. A preliminary contaminated land investigation report should be required.
5. Solid waste disposal needs to be further investigated given that the SoE indicates that certain solid wastes will be directed to landfill. The number and size bins that

will be used and confirmation that the site can be accessed and serviced by the contractor vehicles will need to be demonstrated.

6. Human effluent disposal - It is suggested that the number of employees (70 stage 1, 200 when all three stages operational) will generate a significant volume of wastewater. There are no details as to the provision of on site storage area or pumps etc. Questions remain as to what separators are required on canteen waste line or other wastewater sources. The applicant should provide detailed drawings of these arrangements, particularly the location and capacity of holding tanks and whether they are flood free.
7. Acid Sulfate Soils - Part 5.6 of the SoE should be referred to regarding the most upper 1m of material near the drain. The applicant should be requested to further assess this area including soil sampling and submit details for consideration. If ASS are detected an ASSMP will be required.
8. Part 8.2 of the geotechnical report indicates that an excavation to -2.5m AHD will be necessary for fill material (stage 1 – 230 000m³). Detailed plans of this proposal should be required. A permanent dam or open water body will result. Drawing No 1 under the geotechnical report indicates the location of the excavation. The proposed end use of this water body.
9. Part 8.2 states that “the groundwater table may need to be locally drawn down groundwater would be anticipated to return to equilibrium quickly”. The Applicant should be requested to model impacts on groundwater/aquifer and assess potential (time period) to expose ASS. Details of sampling of groundwater that has been undertaken to establish background quality should be provided. Details are also required of the control and management of slurry water from dredging operations.
10. Advice from the applicant should be sought as to whether additional fill will be required on the site and if so where will this be derived from and will it be free of ASS and contaminants.
11. Plans - The plans provided under Appendix D are considered to be inadequate to assess the development. The applicant should be requested to submit detailed plans of the development, including car parking areas, details of the extraction dam, staff and canteen areas, offices, amenities, stock processing areas, stock feed storage areas and human effluent storage tanks. Full architectural plans for all structures should be provided, including landscaping and works within the 6(a) Open Space Zone.
12. Part 5.3.6 of the SoE indicates that a processing plant will be required. Detailed plans of this plant room should be required to assess its suitability (food premise construction). This requirement is also applicable to the canteen kitchen (SoE 7.1.2).
13. Potable Water - The submission proposes (SoE) 7.8.1 that roof water will be ‘harvested’ and used to meet the needs of the operation. A water quality plan should be required for:

1. Storage tanks location/size etc and methods of preventing contamination etc, and
2. Details of the water quality monitoring (parameters and frequency) to be undertaken to determine whether the water is suitable for the proposed use.

It is necessary to demonstrate that the water will be suitable for the proposed use, and that ongoing monitoring of water will occur.

14. Odour - The SoE Part 7.9.3 addresses odour and concludes that odour from the facility will not be significant. However this does not appear to have been modelled. The applicant should be requested to have a report prepared by a suitably qualified person that assesses potential odour impacts from the development.
15. Construction and Operations Management Plan - A number of matters require clarification in a C & O MP. This may be two separate documents, and should address all aspects of the development including the following:

S & EC, ASS, Noise, hours of construction and operation, waste management, water quality sterilisation & monitoring, food control, water cycles in the facility, human effluent/wastewater collection and disposal, management of fill excavations, emergency management, collection and monitoring of potable water supply, stormwater management, disease control, quarantine etc.
16. Existing Title Restrictions - A review of Councils GIS system identifies a number of easements and ROW over the land. The applicant has tabled layout concepts of the development which impacts on these easements and ROW's. No detail has been included in the application as to how these shall be addressed. It is recommended that the applicant identify all restrictions and provide detail of extinguishments, alternatives etc.
17. The proposal incorporates the placement of a pump facility within either the existing public toilet site or car park opposite the Kingscliff Police Station. It is stated that the placement of the pump in this site may result in some structural alterations. However it is not clear what alterations would be required. The applicant contends that should alterations works be required that a separate application will be submitted, where required. However, it is considered that the proposed location and details of any necessary works and structures should be provided at this time, forming part of the present development application.
18. It is not clear in the Statement of Environmental Effects (SoE) as to how far the pipe will extend into the Ocean at low tide. The pump and pipe cross section plan provided at Appendix C of the SoE is not clear, it would appear that the pipe only extends approximately 20-25metres beyond the low tide mark. In addition it is not clear on what impacts upon marine habitat / life, sand movement (including scouring from backwash) or risk to beach users, in particular surfers, will occur as a result of having a submerged pipe. The SoE states that because the intake is below the level of the sand, the water entering the pipe will be essentially free of

fouling organisms and it should not be necessary to undertake maintenance of the intake from the ocean end. However It appears that the end of the pipe, whilst submerged, is not subsurface. Clarification of these matters is required.

19. The earthworks are likely to result in an open water body system, e.g. a lake. The final use, management, rehabilitation and extent of this area is not known, further information should be requested.
20. DIPNR should ensure that, in accordance with the development application, access is secured via the RTA's land as proposed. Failure to secure permanent access should lead to full investigation and design of an alternative access.
21. The area between the local road and the Pacific Highway is currently used for stacking of bins associated with sugar cane harvesting, access would need to be clear of this area or an alternative hardstand area will need to be provided. This matter requires further consideration and detail.
22. The application does not provide any architectural plans that would assist in determining the appearance and ultimate visual impact. The Pacific Highway and Tweed Valley Way provide the primary means of vehicle access to the Shire for residents and tourists alike. Understanding the visual impact of the proposed structures is important to determining the impact upon the heritage of the Tweed. The DIPNR should seek adequate visual aids, either by plan or model, to assist in determining potential impacts.
23. DIPNR should carefully consider the identified economic benefits by the applicant to the Tweed region against the identified environmental impacts of the development.
24. DIPNR should give due consideration to the potential impacts upon available agricultural, in particular suitable cane land within the Tweed district should this site be set aside for this purpose.
25. DIPNR should request a formal plan of parking that demonstrates compliance with the provisions of Council's DCP No.6.
26. As the consent authority for the proposed aquaculture facility DIPNR should have due consideration to all relevant matters under the Section 79C of the Environmental Planning and Assessment Act, 1979.

OPTIONS:

1. Advise the Department of Infrastructure, Planning and Natural Resources that Council is not in a position to finalise its assessment comments and conditions on the information provided and refer a copy of this report to the Department with a request that when adequate information is received that it be referred back to Council for review and comment.

2. Advise the Department of Infrastructure, Planning and Natural Resources of the issues and additional information requirements as set out in this report that they should obtain in their assessment of the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Having regard to the matters raised in this report it is considered that DIPNR should be provided with a copy of this report with the advice that they will need to be satisfied that there is adequate information available to them to assess the application particularly having regard to the "Issues for Consideration" section of the agenda item.

UNDER SEPARATE COVER:

Nil.

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REPORTS FROM EXECUTIVE MANAGER - OFFICE OF THE GENERAL MANAGER

13 [OGM] Second Round Donations 2004/2005 - Festivals Policy

ORIGIN:

Governance

SUMMARY OF REPORT:

Tweed Shire Council recognises a need to assist non-profit community groups and organisations and individuals who are interested in and working towards the enhancement and the well being of its residents and the Shire, through the promotion of appropriate festivals.

Further to the adoption of Council's Policy on Festivals, applications were sought for the second round of funding and are now submitted for Council's determination.

RECOMMENDATION:

That Council endorses the second round donations for 2004/2005 under the Festivals Policy as determined.

REPORT:

Council, at its meeting held on 21 April 1999, adopted the Festivals Policy. As a result of the Policy, the first round of applications for 2004/2005 were resolved by Council at its meeting on 15 September 2004 and are documented for Council's information.

The following application criteria is used to determine applications:

- No financial assistance will be given to privately owned businesses/companies.
- Organisations must be Tweed based or the funds are to be used on a service or activity for Tweed.
- No financial assistance will be given to Government Departments or agencies or for support of Government owned facilities.
- No financial assistance will be given to sporting organisations as these organisations have ample other avenues for financial assistance.
- The funds are not to be used for a social activity for members of the organisation exclusively.

Second round applications have been received as follows, with the following funds available for distribution.

The 2004/2005 Budget allocation for festivals is \$33,990.00, of which \$17,000.00 (net) has already been distributed, which leaves a balance of \$16,990.00 available for second round funding.

Applicant	Amount Requested	Purpose
1. Cabarita Beach SLSC	\$2,000.00	To fund the running costs of the annual Tweed Coast Raft Race & Family Picnic Day.
2. Mooball & District Movers	\$2,000.00	To assist in the running of the Tour de Tweed.
3. Wintersun Festival Association	\$7,500.00	To assist in the running of the 2005 Wintersun Festival
4. Wollumbin Dreaming Inc	\$6,000.00	To assist in the running of the 2005 Wollumbin Festival
5. Speed on Tweed Pty Ltd	\$4,500.00	To assist with the running of the 2005 Speed on Tweed event
6. Murwillumbah Community Centre	\$1,000.00	To assist with the organisation of Harmony Day on 20 March 2005
7. Tyalgum Festival Committee Inc	\$4,000.00	To assist with the organisation of the Tyalgum Festival of Classical Music
8. Kingscliff & District Chamber of Commerce	Undisclosed	To assist with the running of the 2005 Kingscliff Art, Food & All That Jazz Festival.
TOTAL	\$27,000.00	

In the first round of the 2004/2005 Budget for Festivals, funds were distributed as follows:

Festival	Allocation	Date Held/Proposed to be Held	Reported to Council
Greenback Tailor Fishing Competition	(\$2,500.00)	Returned funds - event cancelled.	
Tweed Coast Outriggers	\$2,000.00	May 2005	TBA
Tweed Shire Senior Citizens' Week	\$4,500.00	March 2005	TBA
Tweed Valley Banana Festival & Harvest Week	\$8,500.00	Sept 2004	
Tyalgum Diggers Sports	\$2,000.00	July 2005	TBA
NET TOTAL	\$17,000.00		

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

2004/2005 Budget allocation for Festivals is \$33,990.00.
Expenditure to date for 2004/2005 is \$19,500.00.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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14 [OGM] Second Round Donations 2004/2005 - Donations Policy

ORIGIN:

Governance

SUMMARY OF REPORT:

Tweed Shire Council recognises a need to assist non-profit community groups, organisations and individuals who are interested in and working towards the enhancement and the well being of its residents and the Shire.

Therefore, second round applications for financial assistance under Council's Donation Policy were sought and are now submitted for Council's determination.

RECOMMENDATION:

That Council endorses the second round donations for 2004/2005 under the Donations Policy as determined.

REPORT:

Council at its meeting held on 17 March 1999 adopted the Donations Policy. As a result of the Policy the second round of applications for 2004/2005 have been received and are now documented for Council's consideration.

The following application criteria is used to determine applications:

- No financial assistance will be given to privately owned businesses/companies.
- Organisations must be Tweed based or the funds are to be used on a service or activity for Tweed.
- No financial assistance will be given to Government Departments or agencies or for support of Government owned facilities.
- No financial assistance will be given to sporting organisations as these organisations have ample other avenues for financial assistance.
- The funds are not to be used for a social activity for members of the organisation exclusively.

Council at its meeting of Wednesday 6 October 2004 resolved to form a Working Group consisting of Councillors Bell and Carroll and the Acting General Manager to bring forward to Council a recommendation of the allocation of funds to applicants. It was decided by the Working Group that application that fell within the following criteria would not be eligible for a donation.

- Preschools.
- Priority to organisations that have no other source of funding from – State, Council, Local Businesses eg. Registered Clubs.
- Low priority where previous In-Kind/Cash support from Council.
- Elimination of Service Clubs – ability to raise their own funds.
- Elimination of funding to Council owned assets.
- Churches/Religious based Groups.
- Other Government agency functions.
- Residents Associations.
- Sporting Groups.

	Applicant	Donation Requested	Purpose
1	Bilambil Community Preschool Inc	\$1,500.00	to build new outside playground equipment for the preschool.
2	Blind & Vision Impaired Support Group Far North Coast Inc	\$1,500.00	to improve the well-being of the blind and visually impaired residents of the Shire.
3	Camp Quality Northern NSW	\$2,000.00	to assist with funding of camps for local children living with cancer.
4	CERRA Advisory Committees	\$1,000.00	to subscribe to the first run printing of "Remnants of Gondwana".
5	Cooloon Childrens Centre Inc	\$1,500.00	to cover costs associated with the 2005 Kids Festival.
6	Cudgen Progress Association	\$500.00	to purchase and install bronze pledges at the Cudgen War Memorial
7	Fingal Head School	\$2,000.00	to assist in the organisation of a Community Ball.
8	Friends of the Pound	\$2,000.00	for the desexing of rescued animals and providing an education for pet owners of the Shire.
9	Gold Coast Tweed District Bowls Association	\$1,100.00	to help offset the costs associated with Gold Coast-Tweed Winter Carnival
10	Grandparents Assisting Grandchildren Support Inc	\$2,000.00	to assist in covering public liability insurance costs.
11	JCI Tweed Valley	\$2,000.00	to assist in the promotion of the JCI Tweed Valley organisation.
12	Kingscliff Lions Club Inc	\$1,000.00	to assist in providing professional entertainment for the 2005 Carols by Candlelight.
13	Kunghur Community Preschool	\$2,000.00	to update children's outdoor equipment at the preschool.
14	Mt Warning Community Preschool Inc	\$2,000.00	for improvements to playground and repairs to some equipment.
15	Murwillumbah Meals on Wheels Services Inc	\$1,500.00	to assist in purchasing a new freezer for the storage of meals.
16	Murwillumbah Quilters	\$1,645.60	for the purchase of sixteen (16) quilt stands.

	Applicant	Donation Requested	Purpose
17	Murwillumbah Uniting Church Preschool Inc	\$800.00	to assist with the construction of a concrete base for a storage shed.
18	Northern Rivers Area Health Services	0.00	to assist in providing advisory signage in the hospital precinct at Tweed Heads.
19	Pippies Early Childhood Centre	\$2,000.00	to purchase new facilities for the Centre.
20	Possums Community Preschool	\$2,000.00	to assist with the repair of kitchen and benches in line with OH&S requirements.
21	Rosellas Community Preschool	\$2,000.00	to assist with costs associated with repairs to the roof of the Preschool.
22	Surfrider Foundation	\$2,000.00	to assist in the formulation of an environmental educational package.
23	The Family Centre Community Projects Inc.	\$2,000.00	to update and print a men's resource booklet for 2005/2006.
24	Tsunami Judo Club	\$1,500.00	to assist with costs associated with the 2005 Australian Kodokan Judo Championships.
25	Tweed Heads Pallative Support Inc	\$2,300.00	for the training and education of volunteers in the 2005 year.
26	Tweed Shire Family Day Care	\$2,000.00	to purchase ancillary equipment for the Administration/Playgroup facility
27	Tweed Shire Vacation Care	\$1,000.00	to purchase 50 swim shirts for the protection of children and staff at swimming and beach activities.
28	Twin Towns Family History Group Inc	\$1,910.00	to purchase NSW archive Kit items.
29	Twin Towns Friends Association Inc.	\$2,000.00	to assist with every day running costs of the Association
30	Twin Towns Playgroup	\$1,500.00	for the upgrade of security of the buildings and provision of screen to windows.
31	Uki Hall Public Hall & Recreation Reserve Trust	\$2,000.00	to restore and repolish the flooring of Uki Hall.
	TOTAL	\$50,255.60	

The approximate amount requested for the second round of donations for 2004/2005 is \$48,655.60, plus an undisclosed amount from the Northern Rivers Area Health Service.

Under the Council's Donations Policy the following amounts were distributed in the first round of applications.

Arthritis Foundation	\$200.00
Burringbar School of Arts	\$1,000.00
Burringbar Village Arts Centre	\$500.00
Caldera Environment Centre Inc.	\$1,000.00
Kids in Need	\$1,500.00
Murwillumbah Musicians Club	*(\$1,000.00)
Pottsville Community Association Inc.	\$450.00
Tweed Combined Country Halls Association Inc.	\$1,000.00
Tweed District Safety House	\$1,500.00
Tweed Parkinson Support Group	\$500.00
Twin Towns & District Garden Club Inc.	\$410.00
Tyalgum Literary Institute	\$1,000.00
Uki Village & District Residents Associations Inc.	\$700.00
TOTAL	\$9,760.00

*It should be noted that the funds provided to the Murwillumbah Musicians Club were returned due to the event being cancelled.

The 2004/2005 Budget allocation for donations is \$20,000.00 of this amount \$9,760.00 has already been allocated, leaving \$10,240.00 available for distribution in the second round.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

2004/2005 Budget allocation for donations is \$20,000.00.
Expenditure to date is \$9,760.00

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

15 [OGM] 2005 National Local Roads and Transport Congress

ORIGIN:

Governance

SUMMARY OF REPORT:

The 2005 National Local Roads and Transport Congress, titled "Unifying Local Government's Transport Agenda" will be held in Launceston, Tasmania during the period 3 to 5 July, 2005.

An excellent program of speakers have been attracted to the Congress, which comes right at the end of the first Roads to Recovery Program and the commencement of the second. It also comes at the start of AusLink, the Australian Government's flagship land transport infrastructure program.

Registration, travel and accommodation costs will amount to approximately \$1,600.00

RECOMMENDATION:

That the Mayor be authorised to attend the 2005 National Local Roads and Transport Congress during the period 3-5 July 2005.

REPORT:

As per summary.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Expenditure budgeting within Councillor's/Mayor's expenditure votes.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

16 [OGM] Code of Conduct

ORIGIN:

Governance

SUMMARY OF REPORT:

Council considered enhancements to the Model Code of Conduct at its meeting of 16 March 2005.

At this meeting the following was resolved:

"That this item be deferred pending further investigation of this matter."

Further enhancements have been made to the Model Code and are disclosed in the Code of Conduct attachment.

It is desirable that the Code of Conduct be adopted to enable a copy to be forwarded to the Department of Local Government and to the Tweed Shire Council Public Inquiry. Should any further enhancements be required in the future, these can be incorporated in the Code as and when required.

The Department of Local Government has advised that there is no requirement to advertise the amended Code.

RECOMMENDATION:

That Council adopts the enhanced Tweed Shire Council Code of Conduct April 2005.

REPORT:

As per the Summary.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

1. Enhanced Tweed Shire Council Code of Conduct April 2005
-

17 [OGM] Far North Coast Weeds - 2003/2004 Annual Report

ORIGIN:

Governance

SUMMARY OF REPORT:

The Far North Coast County Council has forwarded to Council a copy of the Far North Coast Weeds Annual Report for 2003/2004. The County Council administers the Noxious Weeds Act 1993 on behalf of the Councils of Ballina, Byron, Kyogle, Lismore, Richmond Valley and Tweed and Council's contribution for 2003/2004 was \$ 97,487.00.

The County Council has produced positive results during the financial year, achieving a financial surplus, implementing a change in management which has reflected through improved general operations and weed control.

RECOMMENDATION:

That this report be received and noted.

REPORT:

The Far North Coast County Council has forwarded to Council a copy of the Far North Coast Weeds Annual Report for 2003/2004. The County Council administers the Noxious Weeds Act 1993 on behalf of the Councils of Ballina, Byron, Kyogle, Lismore, Richmond Valley and Tweed and Council's contribution for 2003/2004 was \$ 97,487.00.

The County Council has produced positive results during the financial year, achieving a financial surplus, implementing a change in management which has reflected through improved general operations and weed control.

A copy of the Far North Coast Weeds Annual Report for 2003/2004 is available for viewing from the Council's Governance Officer.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

18 [OGM] Probity Audit - Council Land - Pandanus Parade, Cabarita

ORIGIN:

Governance

SUMMARY OF REPORT:

Consideration of this report was made at the meeting of 16 March 2005, with the following resolution:

"That the General Manager prepares a report on the recommendations contained with the Probity Officer's report for Council's consideration."

The attached report discloses the recommendations and the appropriate responses/actions.

RECOMMENDATION:

That :-

1. This report be received and the response/actions noted.
2. Council commences the draft Development Control Plan 50 process.

REPORT:

PROBITY RECOMMENDATIONS

1. I therefore recommend that action be taken to analyse and decide, and to document that analysis and decision-making, in respect of all of the options contained in the Resort Corp proposal.

Response/Action

If the Resort Corp or any other proposal is to be considered such a process will be followed.

2. In view of the above, I consider it is unclear as to what Council's expectations were as to the likely process to follow receipt of public submissions and that this reflects poorly on the level of accountability and transparency of the process. I consider that it would have been desirable in all of the circumstances for the available courses of action, including the decision process involved, to have been documented and formally evaluated in relation to Council policies, and for this to have been communicated to Council and, desirably, to the public as part of the public consultation process. This analysis would desirably have been in place early in the process of evaluating the Resort Corp (and Jay-Are) proposals. However, I recommend it as desirable that it be implemented now.

Response/Action

If there is to be further consideration such a process will be followed.

3. In view of the circumstances of this matter, I recommend that Council consider taking action to remind Councillors and staff of the probity risks inherent in dealing closely with parties who may, or may be likely to, have commercial dealings before Council. I have referred a number of the instances in point to the Council's General Manager for information and further consideration.

Response/Action:

Highlighted and reiterated in the proposed Code of Conduct April 2005.

4. From review of Council files and after discussion with Cr Dale, I am satisfied that the matter was managed reasonably by the parties involved. I recommend, however, that Councillors be advised/reminded of these guidances.

Response/Action

In accordance with ICAC Guidelines to Reduce Conflicts of Interest in Councils, March 1997, pg 23 and Code of Conduct April 2005, Section 9.7 Use of Information pg 17.

5. **Code of Conduct** - The Council has promulgated a Code of Conduct which incorporates requirements in respect of conflicts of interest. The Code in conjunction with the specific references in the Local Government Act addresses the

requirements of good practice in respect of conflicts of interest. I would recommend, based on the findings of this probity audit, that the Code be expanded to specifically address the subject of conflicts of interest more comprehensively. I would suggest that it deal with this subject at greater length than the "Model Code of Conduct" proposed by the Department of Local Government in December 2004.

Response/Action

Included within Section 6 Conflict of Interest, Code of Conduct, April 2005.

6. I recommend that Council reconsider its Code of Conduct with a view to including more clearly circumstances such as those indicated above in respect of Council meetings, and communicate the related issues to all Councillors and staff.

Response/Action

Included within Section 6 Conflict of Interest, Code of Conduct, April 2005.

7. While I consider the impact of the failure may have been minimal in the particular circumstances, it is appropriate that I also recommend that Council seek a legal opinion in order to clarify whether there have been breaches of the Act in the instances noted and, where appropriate, undertake relevant disciplinary procedures.

Response/Action

Included within Section 6 Conflict of Interest, Code of Conduct, April 2005. Further advice received that Section 448(e) of the Act provides exemption from declaring a pecuniary interest if the Councillor is the holder of an office within an incorporated association.

8. That is, I recommend it as desirable, where possible, for Council to separate the Councillor's role in their decision-making from any role on a recommending body.

Response/Action

Councillors are fully aware of responsibilities associated with committee membership and the differentiation with the role of councillor. This aspect is further highlighted through the application of the Code of Conduct, April 2005- Sections 5.9 and 6.

Where deemed necessary Council staff may either recommend or engage independent consultants to advise/recommend to Council on matters where Councillors have a decision making role in relation to a Council project.

9. I recommend that Council now consider bringing forward the draft DCP so that the DCP process of assessment, public consultation, and decision is finalised concurrently with or in advance of further consideration of the Resort Corp proposal.

Response/Action

That Council bring forward the draft DCP process.

10. I recommend that Councillors be reminded of this risk, and that they refrain from any unnecessary contact with the developer's representatives particularly when they have or may have dealings with Council.

Response/Action.

Issue highlighted and reiterated through the Code of Conduct April 2005.

11. I would recommend consideration of the following:
- Undertake a documented analysis of all relevant issues going to the question of ensuring value for money;
 - Include consideration in that analysis of
 - i) negotiation with Resort Corp to, in effect, sell its covenant rights, over the three lots in question;
 - ii) establishing a basis for negotiation with multiple parties in relation to land without the restrictive covenant (particularly Lot 6), and
 - ii) testing the current legal advice in respect of the covenant;
 - Implement the resultant strategy with firm resolve;
 - Include an independent expert in the process of evaluation & negotiation; and
 - Include a probity adviser or probity auditor in respect of the process.

Response/Action

If there is to be further consideration such a process will be followed.

12. If a competitive process is undertaken, I would recommend that consideration be given to including an independent expert and a probity adviser or probity auditor in the process.

Response/Action

If there is to be further consideration where Council will be the decision making authority such independent persons will be utilised.

13. If, however, in the event that, despite the recommended steps, there remains no way to obtain a reasonably satisfactory level of competition, I would recommend Council consider obtaining a further independent advice on valuation or, alternatively, resolving to not pursue a sale of the land at this time.

Response/Action

If there is to be further consideration alternative processes with be considered.

14. In view of the observations above, I suggest that the consultation process would likely have had greater credibility, and fewer concerns of a probity nature would likely have arisen, if Council had:

- issued advertising of the proposal which was more clearly unbiased
- provided more comprehensive and readily available details of the proposal in question, and
- provided clear details to the public as to the (procurement) process that Council had in contemplation, and the role the consultation would play in that process.

I consider that the probity value of the consultative process in this instance could have been significantly better had these suggestions applied. I would recommend that they be considered further in respect of future proposals put to Council.

Response/Action

The recommended course of action will be followed in future matters, as outlined within the report.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

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REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS

19 [EO] Walk of Fame Proposal

ORIGIN:

Works

SUMMARY OF REPORT:

At its meeting on 16 February 2005 Council resolved to request public comment from the Tweed residents on the proposal for the Walk of Fame to be located in the Tweed Heads CBD precinct. This was done through the Tweed Link on the 8 March 2005 edition. There have been no objections to the proposal.

RECOMMENDATION:

That Council:-

1. Approves the concept of a Walk of Fame in the Tweed Heads CBD Precinct and that it be operated in accordance with the Manual submitted.
2. Determines its representation on the selection committee.

REPORT:

At its meeting on 16 February 2005 Council resolved to request public comment from the Tweed residents on the proposal for the Walk of Fame to be located in the Tweed Heads CBD precinct. This was done through the Tweed Link on the 8 March 2005 edition. There have been no objections to the proposal.

Council now need to consider if this project is one that is fitting for this area.

The newly erected "Johnny O'Keefe" statue in the precinct and the Wintersun Festival continuing in Coolangatta /Tweed would complement this proposal. The proponent has suggested the footpath in front of the Twin Towns Service Club as the first preference for the initial plaques. This area has been inspected and would be suitable.

Attached to this Business Paper are the previous reports and the Manual of Operation as proposed. The Manual of Operation indicates that Councillor Murray be the Tweed Shire Council representative on the selection committee. Council will need to formally resolve its representation.

If approved the applicant would need to make a Section 138 Approval for works on a road reserve which would identify the exact position of plaques and details of pedestrian and traffic management during construction and any ceremonies.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

1. Previous Council report (DW 1156477)
 2. Manual of Operation for the Walk of Fame (DW 1128069)
-

20 [EO] Tweed Terrace and Coral Street Tweed Heads Reconstruction

ORIGIN:

Works

FILE NO: R5640 Pt1; R1350 Pt1

SUMMARY OF REPORT:

Council has funding allocated in the current Works Program for the reconstruction of both Tweed Terrace and Coral Street Tweed Heads. These roads have been included because of their very poor pavement condition. Both roads are in the Jack Evans Boat Harbour Precinct. A previous report which was to be presented to Council regarding Tweed Terrace and the removal of a large Norfolk Pine was held over for further investigation of the future of the roads and reserve in that area.

This has been undertaken and there will be no conflict of future proposals if Tweed Terrace only is reconstructed on its existing alignment and width.

It is also proposed that Coral Street be reconstructed on its existing alignment and width. This also will not interfere with any future plans for the area.

RECOMMENDATION:

That Council approves the work to be completed in the current Works Program.

REPORT:

Council has funding allocated in the current Works Program for the reconstruction of both Tweed Terrace and Coral Street Tweed Heads. These roads have been included because of their very poor pavement condition. Both roads are in the Jack Evans Boat Harbour Precinct. A previous report which was to be presented to Council regarding Tweed Terrace and the removal of a large Norfolk Pine was held over for further investigation of the future of the roads and reserve in that area.

This has been undertaken and there will be no conflict of future proposals if Tweed Terrace only is reconstructed on its existing alignment and width. The allocation in the Works Program is \$200,000. However the proposed work to be completed immediately is estimated to cost \$100,000. The balance funding should be carried forward for work on the connecting road between Tweed Terrace and Boundary Street when a final proposal is determined which is consistent with the Jack Evans Boat Harbour Masterplan.

It is also proposed that Coral Street be reconstructed for an estimated cost of \$250,000, on its existing alignment and width. This also will not interfere with any future plans indicated in the Masterplan.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Expenditure allowed in 2004/2005 budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

21 [EO] Classification of Land as Operational - Blacks Rocks, Pottsville

ORIGIN:

Design

FILE NO: DA2805/35 Pt 7

SUMMARY OF REPORT:

In the plan of subdivision of Lot 232 in DP 1072665 in the Black Rocks subdivision at Pottsville, a drainage reserve, proposed Lot 242 is to be transferred to Council as a drainage reserve.

It is necessary to classify the land pursuant to the provisions of section 31 of the Local Government Act.

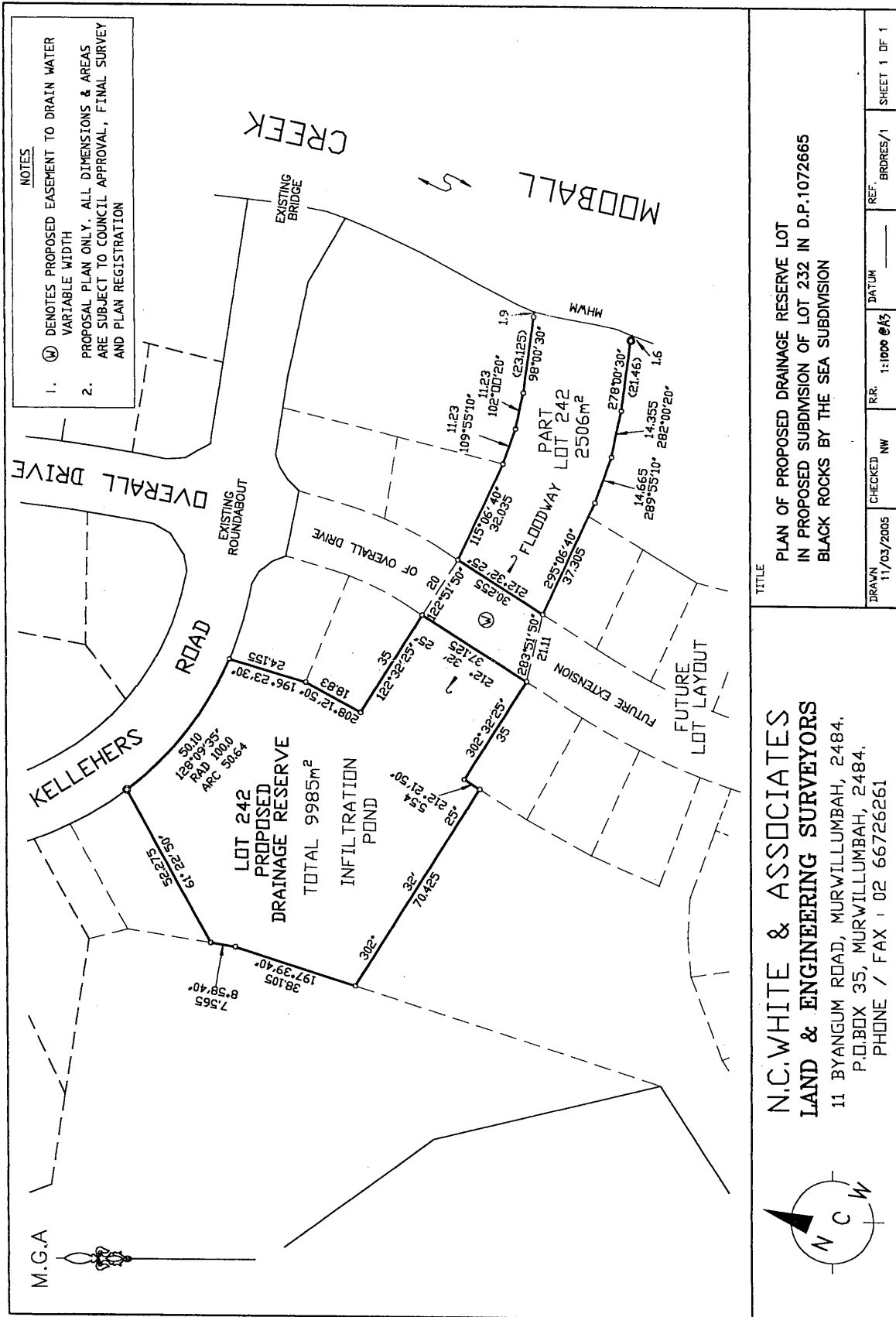
RECOMMENDATION:

That :

1. The land proposed to be transferred to Council as a Drainage Reserve, described as proposed Lot 242 in the subdivision of Lot 232 in DP 1072665 be classified as "operational" pursuant to section 31 of the Local Government Act, 1993; and
2. All necessary documentation be executed under the Common Seal of Council.

REPORT:

As per Summary of Report, a copy of the plan showing proposed Lot 242 follows this report:-



TITLE
PLAN OF PROPOSED DRAINAGE RESERVE LOT
IN PROPOSED SUBDIVISION OF LOT 232 IN D.P.1072665
BLACK ROCKS BY THE SEA SUBDIVISION

DRAWN	CHECKED	R.R.	DATE	REF.
11/03/2005	NW		1:1000 @A5	BRODRES/1

SHEET 1 OF 1

N.C. WHITE & ASSOCIATES
LAND & ENGINEERING SURVEYORS
11 BYANGUM ROAD, MURWILLUMBAH, 2484.
P.O. BOX 35, MURWILLUMBAH, 2484.
PHONE / FAX : 02 66726261

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

22 [EO] Application to Close and Purchase Part of Road Reserve - Corner of View Street and Cominan Avenue, Banora Point

ORIGIN:

Design

FILE NO: R1240

SUMMARY OF REPORT:

Council has received an application to close and purchase part of the road reserve adjacent to 86 Cominan Avenue, Banora Point to enable the setback of the property to Cominan Avenue to conform with the remainder of the other properties on the street,

The vacant lot adjacent to the area of road reserve sought to be closed, Lot 2 in DP 549550, is undulating from high to moderate west to east, with the preferred driveway access apparent on the south eastern boundary.

The current road alignment causes a step in the continuous boundary line of private frontages to Cominan Avenue, the road closure will remedy the non-conformity.

The application conforms with Council's Policy on Road Closure and Private Purchase, there are no public utilities within the area of road reserve sought to be closed.

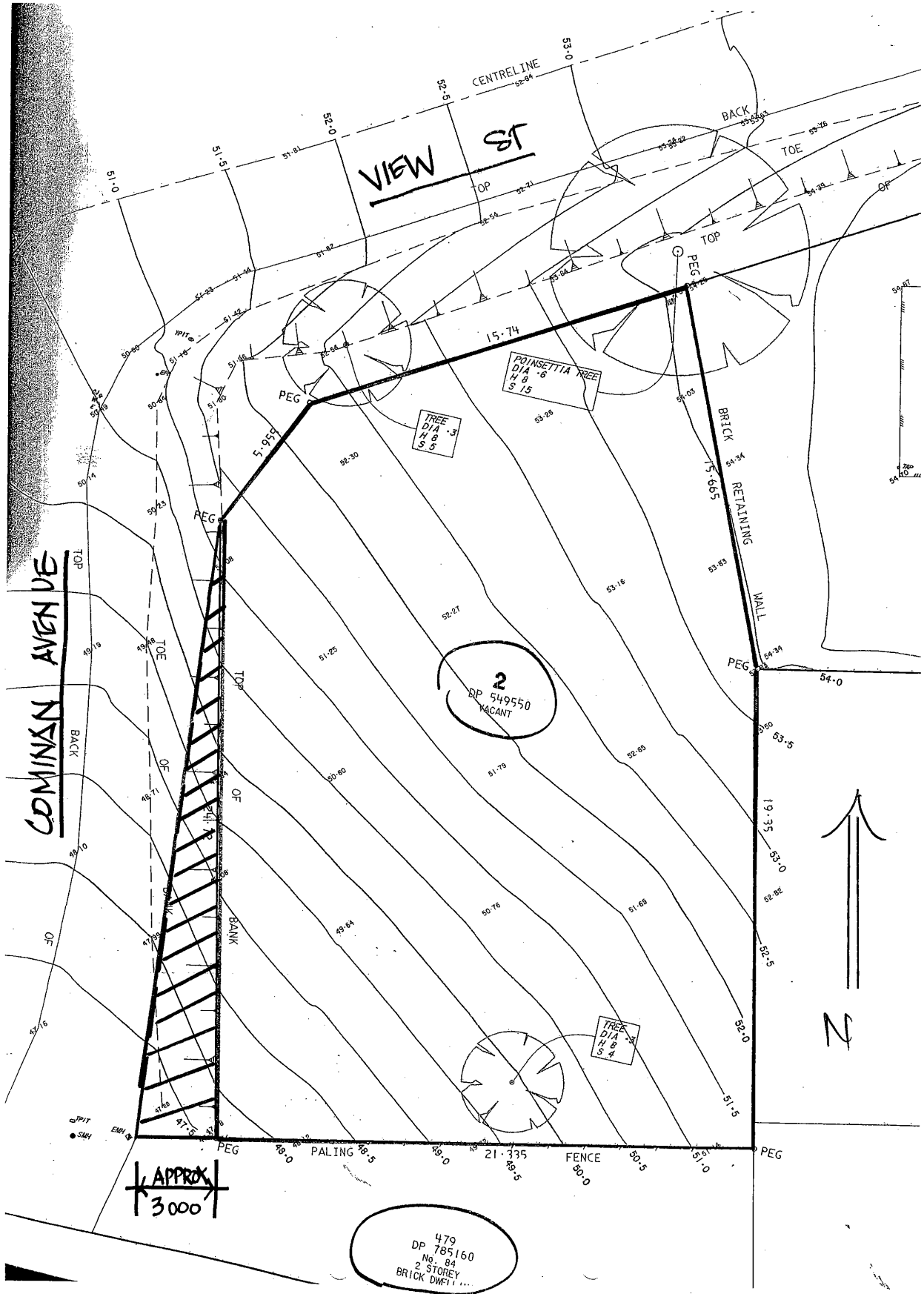
RECOMMENDATION:

That:

1. Council approves the closure of part of the road reserve of Cominan Avenue, Banora Point adjacent to Lot 2 in DP 549550;
2. The applicant bears all survey and legal costs and purchases the subject land as determined in value by the State Valuation Office;
3. The title of the closed road be consolidated with the adjacent land;
4. All necessary documentation be executed under the Common Seal of Council.

REPORT:

As per Summary of Report. A copy of a drawing provided by the applicant, showing the area sought to be closed as hatched, follows this report:-



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

23 [EO] Application to Close and Purchase Crown Public Road - Nobbys Creek

ORIGIN:

Design

FILE NO: GR3/12/5

SUMMARY OF REPORT:

At its meeting held on 1 December, 2004 Council resolved to object to the closure of part of a Crown Public Road at Nobbys Creek on the basis of the retention of the road reserve for possible potential use for fire buffers or trails, access for apiarists and equestrian uses.

The Department of Lands, subsequent to receiving notice of Council's objection, advised that the purpose for the application was to remedy the construction of a septic system and water tanks within the road reserve.

RECOMMENDATION:

That Council advises the Department of Lands that it does not object to the closure and purchase of that part of the Crown Public Road located to the east of Booyong Place and Teak Place at Nobbys Creek.

REPORT:

At its meeting held on 1 December, 2004 Council resolved to object to the closure of part of a Crown Public Road at Nobbys Creek on the basis of the retention of the road reserve for possible potential use for fire buffers or trails, access for apiarists and equestrian uses.

The Department of Lands, subsequent to receiving notice of Council's objection, advised that the purpose for the application was to remedy the construction of a septic system and water tanks within the road reserve.

When the applicant lodged development applications with Council for the construction of her dwelling, including an associated septic system and water tanks, the fence line was presumed to be the boundary.

To remedy the encroachment of the road reserve, the applicant made an application to the Department of Lands to close and purchase the affected part of the road reserve. Upon advice that Council objected to the road closure, the Department requested Council to reconsider its objection and provided further information revealing the encroachment.

When the subdivision of the surrounding parcels, including the applicant's property, were fenced, the Crown Road reserve adjacent to each property was inadvertently fenced in. Contrary to prudent conveyancing practice, no surveys were obtained by the purchasers thus the enclosure of the road reserve within various parcels of the subdivision remain undetected.

On this basis, it is recommended that Council provides no objection to the length of Crown Road, highlighted on the following plan, being closed and transferred to adjacent landowners. This would enable further applications, from adjoining property owners for similar reasons to proceed.



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

24 [EO] Tweed Shire Council - Kenyan Mentoring Program

ORIGIN:

Director

SUMMARY OF REPORT:

All Councillors would be aware of the Mentoring Program under way between Maji Na Ufanisi and Tweed Shire Council. Council considered the first report in September 2004. That report dealt with the establishment of the Program, the first visit from Olita Ogonjo and John Nyachieo in May 2004 and the first visit outcomes.

Subsequently Council's environmental scientist, Karen Cranney visited Nairobi to undertake volunteer work. Karen's report is available upon request.

This business paper item provides an overview of Karen's report, details actions currently under way, provides comment on organisational problems occurring within Maji Na Ufanisi and recommends a way for the Program to move forward within the context of a sustainable and viable funding arrangement.

RECOMMENDATION:

That Council:-

1. Notes this report.
2. Commits in-principle to an annual contribution of \$10,000 to the Mentoring Program.
3. Withholds formal commitment to (2) above until a business plan has been developed and endorsed by all funding agencies.

REPORT:

Karen Cranney Report - December 2004

Karen Cranney, an environmental scientist within Council's Design Unit visited Nairobi to undertake volunteer work between October and November 2004.

The aims of the visit were:-

1. To document the work undertaken by MNU.
2. To establish contacts with other agencies including Nairobi City Council (NCC), the National Environmental Management Authority (NEMA) and Nairobi Water and Sewerage Company (NWSC) by presenting the TSC-MNU 1st report and using the issue of trade waste as an entry point;
3. To review the existing trade waste policy including:-
 - Visits to various industries to look at their pollution controls or lack of;
 - Reviewing the current trade waste policy;
 - Reviewing the level of enforcement in pollution control
4. To develop a TSC-MNU concept note in relation to trade waste using TSC as a model'
5. Report back to TSC and the MNU board by submitting both the report documenting the work of MNU and the trade waste concept note.

Karen's report graphically describes a number of Maji Na Ufanisi projects and the challenging environment in which those projects are undertaken. One of Council's objectives in committing to the mentoring program was to provide an opportunity for Council staff to gain an appreciation of life in such an environment. The report was circulated to all staff in December 2004.

Kibera Slums Sports Day

Kibera is the largest informal settlement in Kenya housing some 700,000 people. In January 2005 the Murwillumbah Services Soccer Club wrote to Council with an offer to donate to the mentoring program some 300 – 500 unused soccer strips as well as used soccer balls.

Subsequent to that offer an opportunity to collect 2nd hand football boots arose during a recent Sports Advisory Committee meeting.

This proposal was discussed at a recent Sports Advisory Committee meeting where support was expressed to broaden the concept. It is proposed to initiate a 'boot muster' where all soccer and football clubs within the Shire are invited to collect 2nd hand boots and strips for shipment to Nairobi / Kenya. It was also suggested that private organisations may be approached to sponsor shipping costs.

Olita and John have been progressing ways to distribute the sporting equipment within the context of supporting and developing the Mentoring Program. They are currently collaborating with a Non-Government Organisation (NGO) called Gallamoro Network (GN). GN is an HIV-AIDS awareness organisation focussed on youth living within the informal settlements. They are also working with another youth group in Kibera called Initiative for Sports and Social Arts (ISSA).

The current proposal is to establish a youth sporting day (including ladies football) over 3 weekends. It would be held in Kibera with the primary objective of promoting the Mentoring Program and HIV – Aids. It is intended to involve the Australian Ambassador, NEMA, Nairobi City Council, Ministry of Water and Irrigation, Ministry of Environment, Nairobi Water and Sewerage Company and UN Agencies, all as potential sponsors. If the proposal develops to fruition it is intended to seek out, through the Tweed Link, expatriate Tweed Shire residents, business people or holidaymakers that may be visiting Nairobi at the time and who would be pleased to represent the Tweed community.

At this stage Council's financial commitment would be limited to meeting the cost of freight and the payment of Customs for the goods. The estimated cost of this is \$500 including the modest sum of \$200 to assist in promotion.

Riversymposium

The 8th International *Riversymposium* 2005 will be held in Brisbane from the 6 – 9 September 2005. The theme for this year's symposium is "Water and Food Security – Rivers in a Global Context." Council has been runner up in the Thies National River Prize on 2 occasions in the last 3 years*. It is intended to submit a further nomination this year building on the work as outlined in the previous nominations by particularly focussing on the Mentoring Program. An abstract for a paper outlining the Mentoring Program has been jointly submitted by Olito Ogonjo, John Nyachio and Council's Director of Engineering and Operations.

* The winner of the Riverprize 2005 will receive \$50,000 as well as national international recognition.

The *Riversymposium* also provides limited assistance to assist delegates from developing countries to attend the *Riversymposium*. John and Olita have submitted such a submission together with a letter of support from the Mayor and Council's Director of Engineering and Operations.

Maji Na Ufanisi

Maji Na Ufanisi is a Non Government Organisation (NGO) reliant on sponsorship funds from within Kenya and other countries. The predominant sector funding this NGO are private professionals from Nairobi and abroad.

A drawn out dispute has occurred between the CEO and Maji Na Ufanisi Board. The CEO attempted to dismiss the Board. The Board in turn attempted to dismiss the CEO. The dispute ended in being brought before the Court. The Court in turn has frozen all funds pending resolution of the dispute. In the intervening period staff (including John and Olita) have been forced to find alternative employment.

The Mentoring Program can only continue, in realistic terms, if it is undertaken within the auspices of a host organisation. This is considered essential for transparency and probity in regard to any external funding that may be directed to the Program.

To that end Olita and John have identified an NGO - Gallamoro Network (GN). GN is a HIV and aids awareness organisation that Maji Na Ufanisi has collaborated with in the past in their work in the Kiberia slums.

GN has agreed in principle to the establishment of a water and sanitation desk at the Institution from where the Mentoring Program could grow.

**Mentoring Partnership
Trade Waster Management Regulation
and Enforcement Program**

Olita and John have provided the following paper on the next formal stage of the Mentoring Program:-

"1. Introduction:

1. *Tsc- Kenya link and the concept on mentoring.*

In March 2003, Mike Rayner, Tweed Shire Councils (TSC) Director of Engineering and Operations, attended the 3rd World Water Forum in Kyoto, where he met Olita Ogonjo, Program Officer with Maji Na Ufanisi (MNU), a Kenyan Non Governmental Organization (NGO). The two established contact and later began discussions of a concept on mentoring partnership program between the TSC and MNU. The mentoring program begun with a visit to the Tweed Shire by John and Olita in May 2004 that was supported by TSC. This visit is documented in a report titled "Tweed Shire Council and Maji Na Ufanisi Mentoring Program 1st Report, July 2004". The report describes the activities undertaken during the visit and potential areas of collaboration between the two organizations.

2. *The visit by Karen.*

The second stage of the partnership was marked with a TSC staff member, Karen Cranney visiting MNU in Kenya during October – November 2004 to work with MNU in selling the partnership idea through establishing contacts and meetings with agencies including Nairobi City Council (NCC), the National Environmental Management Authority (NEMA), Government of Kenya (GOK) ministries and Nairobi Water and Sewerage Company (NWSC) to include key Civil Society Organization (CSOs) and using the issue of Trade Waste Policy Management Regulation and Enforcement (TWPMRE) as an entry point. This phase also involved supporting TSC-MNU the development of concept in relation to trade waste using TSC as a model.

3. *The 3rd Nov 2004 meeting.*

The highlight of Karen's visit was the meeting of 3rd November 2004 that brought together representative from Nairobi City Council (NCC), NEMA, Universities, key CSOs engaged in waste activities such as Network for water and sanitation, Taka ni Pato and Ministry of water, and ministry of environmental. Others who were invited included UN-Habitat, United Nation Environmental Program (UNEP), Water and sanitation program of the World Bank. At this keynote meeting there was consensus that issues of TWPMRE need dire attention and that the TSC model presented by Karen was suitable. It was

recommended that a model project piloted in an area with similar characteristics to TSC, with view to improve on TWPMRE

6. *The proposed program.*

This paper proposes to TSC upgrading of the mentoring partnership into a pilot project, targeting a settlement with similar characteristics to the TSC in Nairobi, in terms of population, vegetation and catchments. This pilot will be based on partnership where important agencies such as NEMA, NCC, NWSCO, government ministry, CSOs, UN agencies and the Business sector will undertake collaborative initiative aimed at alleviating poverty through improved TWPMRE. The lessons drawn from this pilot would be used to in other areas and to develop model TWPMRE for Kenya and can be adopted for other countries facing similar challenges.

2. Background and justification:

The high level of waste pollution in Nairobi as witnessed in the rivers bodies, Nairobi Dam, and in the slums are arguably the strongest indicators of poverty and squalor arising out of the inability by the authorities to regulate and enforce waste disposal and particularly Trade Waste. The project targets a pilot settlement depicting similar characteristics to the TSC, with view of adopting the TSC model. The project is a poverty alleviation initiative aimed at promoting sustainable environmental governance, capacity support to NCC/GOK/NEMA/local communities and businesses and safe disposal of trade-waste through treatment, monitoring through testing, waste recycling, women and children improvements...

1. *The Problem*

Most businesses in Nairobi dump their untreated waste into the city sewer line, river and ground water system. This practice has had serious environmental impact in terms pollution and contamination. This situation has been due to:

- *Low levels of awareness,*
- *Poorly defined Trade waste policies*
- *Failure by local authorities to enforce policies,*
- *Weak systems of Trade waste monitoring through testing,*
- *Lack of capacity and relevant skills*
- *Poor equipments*

3. Project description

In endeavor to improve environmental health and sanitation the program seeks the partnership with GOK/NCC/NWSC/NEMA, businesses, local communities and key CSOs as well as professions. It seeks to draw lessons from and crossbreed the best practice from the TSC model with local approaches. The program will be based on a partnership focusing on settlement with similar characteristics to the TSC with view to:

- *Strengthen the current legislative framework and Trade waste policy regulation and enforcement.*
- *Institute effective and efficient monitoring through testing.*

- *Enhance partnership with GOK, NEMA, local council, business and local community to include key CSOs in enforcement and management of Trade waste regulation and policies.*
- *Raise awareness and ensure adequate participation.*
- *Promote good trade waste management practice through improved infrastructure design and plan, environmental impact assessment and environmental audit.*
- *Environmental conservation through awareness, tree planting and species protection*
- *Promotion of simple and appropriate waste water treatment technology such as wetlands, oil traps*
- *Strengthen the regulatory role of NEMA.*

1. *Program goal.*

Reduced poverty through improved water and wastewater management.

2. *Program purpose.*

Improved Trade waste management in pilot settlement in Nairobi.

3. *Program outputs.*

- *Awareness raised on factors that lead to successfully Trade waste management with specific focus on the TSC model*
- *Financially viable model developed for integrated Trade Waste management model.*
- *Regulative framework developed for integrated Trade Waste management system.*
- *Infrastructure design and development to improve integrated Trade waste management system.*
- *GOK agencies, NWSC/NCC, NEMA as well as key individuals capacity development to manage, implement trade waste policy and management systems.*
- *Strategy developed for the improved involvement and participation of communities, businesses in Trade Waste management."*

Sustainable Funding

For the program to continue (initially to deliver the Trade Waste Program) into the long term a sustainable funding stream needs to be identified.

Potential sources of funding include:-

From Kenya: National Environmental Management Authority
Nairobi City Council
Network for Water and Sanitation
UN Agencies
Business Sector

From Australia: Tweed Shire Council
Water Aid Australia
Tweed Service Clubs
Australian Aid Agencies

River Symposium (part funding of \$50,000 River Prize)

A target budget of \$A50,000 is detailed below:-

No.	Particulars	Unit (Kshs)	amount Jan-march	April- June	Total (Kshs.)	Amt
1	<i>Office support:</i>					
	Office space	20,000.00	60,000.00	60,000.00	120,000.00	
	Telephone and email	10,000.00	30,000.00	30,000.00	60,000.00	
	Furniture	20,000.00	0.00	0.00	20,000.00	
	Registration and license	20,000.00	0.00	0.00	20,000.00	
	Desk computer	90,000.00	0.00	0.00	90,000.00	
	Stationery, printing and p/copy	5,000.00	15,000.00	15,000.00	30,000.00	
					340,000.00	
2	<i>Personnel cost:</i>					
	1 x water engineer	100,000.00	300,000.00	300,000.00	600,000.00	
	1x sociologist	100,000.00	300,000.00	300,000.00	600,000.00	
					1,200,000.00	
3	<i>Project activities:</i>					
	Baseline /research/proposal devt.	400,000.00	0.00	0.00	400,000.00	
	Travel and travel cost	15,000.00	45,000.00	45,000.00	90,000.00	
	Seminars and meetings	1,200,000.00	0.00	0.00	<u>1,200,000.00</u>	
					<u>1,690,000.00</u>	
					3,230,000.00	
					<i>Aus Dollars</i>	49,692.31

In the event that a sustainable funding package can be secured a Business Plan would be developed identifying key objectives of the program reporting mechanisms, audit trails, communication strategies etc.

Adoption of the Business Plan by all of the funding bodies would be a pre-requisite to a formal commercial commitment.

Recommendation:

Council's initiative in establishing the Mentoring Program has been positively supported across the Tweed community and has attracted wide media interest.

While it is recognised that there are ongoing unmet community and social needs within the Tweed community the absence of any negative feedback to date would seem to indicate genuine support to continue a program that supports a depressed community in a developing country.

To attract the necessary funding from other potential agencies in order to ensure the long term sustainability of the program this report recommends a \$10,000 annual 'pledge' from Tweed Shire Council, funded from Council's Catchment Water Quality Program.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

25 [EO] Tweed Heads - Banora Point Reclaimed Water Release Strategy - Option Evaluation Workshop

ORIGIN:

Water

SUMMARY OF REPORT:

At its meeting of 15 March 2000 it was resolved that Council *"in the first instance, seeks Environment Protection Authority (EPA) approval of a strategy to increase the Licensed discharges at existing outfalls to 75,000 EP at Banora Point and 12,000 EP for Tweed Heads with significantly enhanced effluent quality"*.

Further to this resolution and following lengthy discussions with the EPA Council at its meeting of 20 March 2002 resolved that:-

"Consultants be engaged to facilitate a consultation program as outlined in the report and a final strategy recommendation be reported to Council."

Consultation on the proposed strategy commenced in February 2003 and concluded in December 2003 with the aim of informing the general public of the Council's effluent strategy and to gain feedback on the preferred option of enhancing the effluent treatment and continue to discharge at the existing outfalls in Terranora Creek.

A diverse and extensive consultation process was undertaken over a 10 month period. The draft effluent disposal strategy and associated issues received little interest with very poor responses to all attempts to engage the public. There were some groups who showed interest in the issues and voiced an opinion that effluent should no longer be discharged to Terranora Inlet. There was however various options raised but no conclusive response on how the effluent should be disposed.

On the 3 March 2002 it was resolved that:-

"Council, receives and notes the community consultation report for the Tweed Heads - Banora Point Effluent Disposal Strategy." and "Continues with current strategy and undertakes an EIS on the proposed strategy options."

GHD were engaged by Council Resolution on Wednesday 28 April 2004 to undertake an EIS for the Tweed Heads - Banora Point Reclaimed Water Release Strategy.

As part of the engagement, GHD were required to undertake additional community consultation to determine the best option for the disposal of reclaimed water from the treatment facilities.

A series of workshops were arranged to seek community input into the options that culminated in an Options Evaluation Workshop that was held at the Tweed Heads Civic Centre on 23 November 2004.

The final evaluation workshop resulted in Option 6 having the No. 1 ranking. It is noted that some members of the Community Reference Group at the conclusion of the evaluation and ranking questioned the process and the outcome. There was some support for an ocean outfall, which was contained in Option 9 however it was noted by others that this option would also be bound by a number of environmental issues.

GHD are now proceeding with the preparation of an EIS based on option 6.

The EIS will also identify the opportunities for reuse including potential reuse volumes and areas within the Terranora Creek catchment that can be targeted for reducing nutrient loadings.

The EIS will target an augmentation of Banora Point WRP to 75,000 EP and Tweed Heads West WRP to 10,000 EP which will result in a reduction of the total nutrient load on Terranora Creek.

RECOMMENDATION:

That Council:-

1. Accepts the Option Evaluation Workshop Report as prepared by GHD.
2. Concurs with the preferred option 6 for the Reclaimed Water Release Strategy to Upgrade the Wastewater Reclamation Plants to reuse quality, with beneficial reuse for domestic non-potable uses in new developments and capital investment in catchment rehabilitation, with discharge of unused water to Terranora Creek.

REPORT:

Background

GHD were engaged by Council Resolution Wednesday 28 April 2004 to undertake an EIS for the Tweed Heads - Banora Point Reclaimed Water Release Strategy.

As part of the engagement, GHD was required to undertake additional community consultation to determine the best option for the release of reclaimed water from the treatment facilities for the ultimate development of the Plant which is currently set at 125,000 EP.

A series of workshops were arranged to seek community input into the options that culminated in an Options Evaluation Workshop that was held at the Tweed Heads Civic Centre on 23 November 2004.

Option Evaluation Process

A number of alternative options were developed at a workshop/forum on 4 November 2004. The options identified and listed for evaluation were:-

- Option 1 Upgrade Wastewater Reclamation Plants (WRP) to enhanced effluent quality and continue discharge to Terranora Creek on ebb tide (***Previous Preferred Option – Council Resolution, 15 March 2000***)
- Option 2a Move reclaimed water release location to Tweed River with existing effluent quality
- Option 2b Move reclaimed water release location to Tweed River with enhanced effluent quality
- Option 3 Deep Sea Release to Pacific Ocean
- Option 4 Upgrade WRPs to enhanced effluent quality with capital investment in stormwater quality improvement with discharge to Terranora Creek
- Option 5 Upgrade WRPs to reuse water quality, with beneficial reuse for domestic non-potable uses in new developments with discharge of unused water to Terranora Creek
- Option 6 Upgrade WRPs to reuse water quality, with beneficial reuse for domestic non-potable uses in new developments and capital investment in catchment rehabilitation, with discharge of unused water to Terranora Creek
- Option 7 Upgrade WRPs to reuse water quality, with beneficial reuse for domestic non-potable uses in new developments with discharge of unused water to Tweed River

Option 8 Upgrade WRPs to reuse water quality, with beneficial reuse for domestic non-potable uses in new developments with discharge of unused water to the ocean via Deep Sea Release

Option 9 Upgrade WRPs to reuse water quality, with beneficial reuse for domestic non-potable uses in new developments and capital investment in catchment rehabilitation, and discharge of unused water to the ocean via Deep Sea Release

It was determined that only Options 5 to 9 were to be evaluated at the final workshop. The first 4 options were not included in the evaluation process as it was deemed that all options should include beneficial reuse in line with adopting integrated water cycle management principles.

Weighting criteria were developed at the workshop. Each participant was asked to rank from 1 – 12 the relative importance of the criteria. The responses were collated and formed the weighting that would apply to each of the selected criteria. Results of the weighting were not revealed until after the option assessments were complete to minimise potential bias.

Each option was then assessed against the weighted criteria that were developed. The assessment process consisted of:-

- Review and discussion of the option under consideration;
- Consideration as a group, of the “likelihood” of the option to deliver each of the 12 assessment criteria given the information provided.

This methodology was designed to allow a qualitative assessment to be undertaken by people with limited technical information.

Following the option assessment, the overall scores were collated. The results of the assessment are shown below:-

Option	5	6	7	8	9
Cumulative score	686.5	564.5	744	704	625
Overall Ranking	3	1	5	4	2

Preferred Option

The outcome of the evaluation workshop resulted in option 6 ranking as the preferred strategy:-

Option 6 – Upgrade the Wastewater Reclamation Plants to reuse quality, with beneficial reuse for domestic non-potable uses in new developments and capital investment in catchment rehabilitation, and discharge of unused water to Terranora Creek.

It should be noted that there was an element of surprise to some of the workshop participants in the final assessment score for Option 6. This was quickly followed by a general disbelief of the final score. Option 9 was obviously the “preferred option” in the minds of some participants, however the total group scoring system did not strongly reflect this.

It is worth noting that this kind of anonymous scoring system can discover that the perceived strongly held view, is in fact the view of a vocal or central group, rather than a view that there is clearly a consensus opinion in a group.

Considering the difficulties associated with implementing Option 9 in the short term (ie less than 2 years) a preferred strategy that considers the phased implementation of both Option 6 and Option 9, as a short and longer term strategy will go some considerable way to address many of the issues raised by the Community Reference Group.

Complete community acceptance of any final option is unlikely, however the incorporation of the community views will maximise the potential to build better water management solutions for the Tweed.

Project Status

GHD are now proceeding with the preparation of an EIS based on the above option 6. The Draft EIS based on option 6 is scheduled to be completed by the end of April 2005 and public exhibition undertaken in May 2005.

The EIS will also identify the opportunities for reuse including potential reuse volumes and areas within the Terranora Creek catchment that can be targeted for reducing nutrient loadings.

The EIS will target an augmentation of Banora Point WRP to 75,000 EP and Tweed Heads West WRP to 10,000 EP.

The targeted improvement in the reclaimed water released from both the Banora Point and Tweed Heads treatment plants will result in a reduction of the total nutrient load being released into Terranora Creek.

Nutrient Source	Existing Load (51,000 EP) (t/yr)		Proposed Load (85,000 EP total) (t/yr)	
	Total N	Total P	Total N	Total P
Banora Point RWP	23.7	15.9	19.7	1.9
Tweed Heads RWP	8.4	6.4	2.6	0.3
Total	32.1	22.3	22.3	2.2

The above results are based on the treatment plants achieving the very high nutrient removal standards of <0.3 mg/L total Phosphorous and <5.0 mg/L total Nitrogen on a 90

percentile basis. This is considered to be at the forefront of sewage treatment technology and is in line with the standards being implemented for the new Kingscliff Treatment Plant.

Copies of the "Draft Banora Point and Tweed Heads West STP Reclaimed Water Management Strategy - Options Evaluation Workshop Two, December 2004" Report are available upon request.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funds have been voted in the current 2003/2004 budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

26 [EO] Seaside City Road Network

ORIGIN:

Planning & Infrastructure

FILE NO: DA05/0274 Pt1; GT1/LEP/2000/3 Pt11

SUMMARY OF REPORT:

A Development Application and associated Part 5 Application to construct Ocean Avenue, Lorna Street, Western Road adjacent to Cudgen Creek, walkway/cycleway, public Car Parking and associated works at Seaside City have been submitted. Prior to Council giving owners consent to these applications it is necessary to determine a suitable road network. As the Local Environment Study / Draft Local Environment Plan for Seaside City is not yet finalised, determination of the road network should be deferred until these reports are received by Council.

RECOMMENDATION:

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.

REPORT:

1. Background

(a) Strategic Planning

In May 2000 Council resolved to prepare a draft LEP to rezone land at Seaside City from 2(f) to 2(e). This amendment (TLEP 2000, Amendment No 3) was stalled following the recommendations of the Bulford Report to dispense with the services of the planning consultants engaged to undertake this amendment.-

On 19 May 2004, Council resolved *"that Council completes Draft Tweed Local Environmental Plan 2000, Amendment No 3 to rezone land at Seaside City from 2(f) Tourism to 2(e) Residential Tourist"*.

On 3 November 2004 Council accepted a quotation from Connell Wagner to complete the Draft Local Environmental Plan Amendment for Seaside City and they were engaged for this task 9 November 2004.

The preparation of the LES and LEP amendment is in progress. The study specifications provided by DIPNR include an assessment of the option to re-subdivide Seaside City.

At a workshop meeting held 16 March 2005 with Seaside City landowners and Council staff, Connell Wagner presented a number of layout options for discussion. It is understood that work on the LES and draft LEP is still in progress.

(b) Development Application

A development application (DA 05/0274) has been received from Richtech Pty Ltd (the owner of 172 of the 204 lots in Seaside City) for the following:-

- Construct Ocean Avenue from Casuarina Way to Lorna Street in accordance with Plan 3102 CP4
 - Ocean Ave to be widened to 40 m (currently 20m reserve) along its northern alignment
- Construct Lorna Street full length in accordance with Plan 3102 CP4
 - southern section to be narrowed.
- Construct road and walkway/cycleway to west of lots on western side of Casuarina Way in accordance with Plan 3102 CP4
- Construct public car park and adjacent road in accordance with Plan 3102 CP4. Plan shows one car parking area in east west road reserve at southern end of Seaside City between Lorna Street and Carne Street (adjacent to Casuarina) and another car parking area at northern end of Seaside City in widened 6m lane between Lorna Street and Carne Street (adjacent to Salt).
- Dedicate land as open space as depicted on Plan 3102 CP4
- Provision of services and associated works within roads including water sewer, power and stormwater drainage works

The DA also has an accompanying Part 5 application (originally submitted December 2003 and reactivated by proponents request 17 March 2005) for construction of roads on existing road reserves.

(c) How to Deal with the DA

It is generally preferable to have strategic planning issues settled prior to dealing with development applications on this site. However, a number of meetings have been held between the proponents of the DA and Council staff in order to address/progress the DA that has been submitted.

Council has a number of roles in this application. As well as its planning (strategic and development control) role it has the role of landowner of the road reserves where most of the works are proposed and could if it wished withhold owners consent.

At a meeting held 1 March 2005 with the Director Planning & Environment, the proponents and their consultants and relevant Council staff, it was proposed that:-

- a preliminary report on road network options and recommendations be forwarded to Council for consideration at the first meeting in April
- Council agreement (as road reserve landowner) to a designated road network layout for Seaside City would be a necessary prerequisite for this development application to be progressed

This report fulfils that undertaking.

(d) Other Engineering/Infrastructure Issues

There are a number of other critical engineering/infrastructure issues relating to this development application. These include stormwater drainage and associated landform alteration issues, impacts of road levels on adjacent (non Richtech) owners, water supply, sewerage, other utilities, open space, walkways cycleways, urban design considerations and riparian buffers to Cudgen Creek. Richtech propose that whilst they will initially construct and finance the infrastructure associated with this DA, there should be a s94 plan adopted that will enable them, over time as other development proceeds, to recoup the proportionate cost of this infrastructure from the other landowners.

None of other these issues are dealt with in this report. This report only addresses the desired road network. If the road network can be agreed, then these other issues would be considered in the normal DA assessment process.

2. Road Network Option Submitted in DA 05/0274

(a) Proposed Network

The network proposed by Richtech is shown on Plan 3102 CP4. Typical cross sections for various roads are shown on Cardno MBK Drawing No. 2967/03/03-216 Rev. A. Features of this network include:-

- Increase Ocean Avenue road reserve from existing 20m to 40 m by including lots 1 & 32 Section 7 and Lots 1 & 32 Section 8 (owned by Richtech) on the north side of Ocean Avenue between Casuarina Way and Lorna Street.
 - Construct Ocean Ave 23m wide kerb to kerb with 90 degree centre aisle parking and kerbside parallel parking. 8.5m wide verges to be landscaped
- Roundabout at Casuarina Way/Ocean Avenue intersection as main entrance to Seaside City
- Construct majority of Lorna Street in 20m wide road reserve, 11m kerb to kerb with 4.4 m wide verges
 - Construct southern 200m of Lorna Street in 16m road reserve, 8m kerb to kerb with 4m wide verges

Note: 4m of east side of Lorna Street in above section could be closed and sold/exchanged with adjacent landowners (and zero lot line buildings permitted) to accommodate dwellings on adjacent land outside of 7f environmental protection zone.
- Construct new road in 20m road reserve, 8m kerb to kerb, between Cudgen Creek and lots west of Casuarina Way
- Construct 90 degree parking bays, 5.5m long with 5.5m aisle on east west road at southern end of Seaside City between Lorna Street and Carne Street adjacent to Casuarina
- Construct 90 degree parking bays, 5.5m long with 5.5m aisle on east west lane and road widening onto Richtech owner lots 16 & 17 Section 6 at northern end of Seaside City between Lorna Street and Carne Street adjacent to Salt

(b) Traffic Volumes

Richtech commissioned Eppell Olsen to analyse traffic movements in a future fully developed Seaside City. Indicative predicted daily volumes are:-

Street	Location	Vehicles per day
Ocean Ave	east of Casuarina Way	4,780
Carne Street	south of Ocean Ave	1,210
	north of Ocean Ave	940
Lorna Street	south of Ocean Ave	1,280
	north of Ocean Ave	1,350
East west road adjacent to Casuarina	west of Casuarina Way	180

(c) Comments on Proposed Network

Connectivity

In order to comply development standards/criteria in DCP16 and the Coastal Design Guidelines for NSW, it is considered that there should be at least 3 external connections to Seaside City and that this should preferably include local connections (for inter-neighbourhood trips) between Casuarina and Salt. The Salt approval has provided for a road link at the north east corner of Seaside City which can be connected into Lorna Street. Council has resolved previously to not connect adjacent streets in Casuarina. In the absence of these connections the third connection for Seaside City should be at the east west road (at the southern end of the site) with Casuarina Way.

Public Access to Beachside and Associated Parking Areas

Lorna Street is the main access for the general public to the beach and associated parking areas. As such it will be a significant connector road between Ocean Avenue and the northern and southern designated parking areas. Kerbside parking along Lorna Street itself is also required to comply with Council's DCP 51 requirement for 300 parking spaces per kilometre along and within 100m of the beachfront. Preserving the traffic and public parking capabilities of Lorna Street is therefore critical. To maximise this capability the southern 200m section of Lorna Street should preferably be 9m kerb to kerb to facilitate efficient two way traffic flow and the remaining section should preferably be 13m kerb to kerb.

Intersections

Four way intersections and key T intersections should be controlled by roundabouts. Additional roundabouts should be provided at:-

- Ocean Ave/Carne St intersection
- Lorna Street/Ocean Ave T intersection
 - to distribute traffic from/to Lorna St from Ocean Ave and to facilitate U turn at the end of Ocean Ave.
- Casuarina Way/East West Road Reserve at Southern boundary of Seaside City.

Ocean Ave Treatment

Richtech propose centre parking supplemented by kerbside parallel parking (Cross Section 6) and use of wide landscaped verges for providing an entry statement for Seaside City. Whilst this configuration is acceptable an alternate configuration with kerbside angle parking and median separation (Cross Section 5) is preferred. Both configurations provide similar levels of parking capacity.

Village Centre Loading/Unloading Access

A rear lane for loading/unloading access should be provided to the north and south of the proposed Village centre areas.

East /West Roads (Adjacent to Casuarina and Salt) Incorporating Public Parking Areas

These areas should be configured for two way traffic and sufficient space for aisle turning movements into parking bays. Provision should also be made in the cross section for adjacent pedestrian paths.

3. Preferred Road Network for Seaside City

Sketch No.1 03/2005 is the preferred road layout for Seaside City (provided the strategic planning process does not recommend radical re-subdivision of the whole estate). Sketch No.2 03/2005, Cross sections 1 – 4 details preferred cross sections for the various streets. Key elements of the preferred layout are:-

- Three external access points provided at
 - Ocean Ave/Casuarina Way

- Casuarina Way/East West Reserve Rd adjacent to Casuarina
- Lorna St northern extension into Salt
- The connectivity and permeability of the layout provide multiple route choices that prevent congestion bottlenecks at key locations such as the village centre and near car parking areas
- Roundabouts provided at key locations
 - Ocean Ave/Casuarina Way
 - Casuarina Way/East West Reserve Rd adjacent to Casuarina
 - Ocean Ave/Carne St
 - Ocean Ave/Lorna Street
- Key Cross section elements
 - Angle parking and median separated carriageway in Ocean Ave
 - Lorna Street provides good connectivity from village centre to parking areas and beachside access with 13m kerb to kerb width for majority of length
 - Southern 200m section of Lorna Street with 9m kerb to kerb width provides two way access and limited parking, whilst providing 4m extra for buildings on adjacent lots to the east outside the 7f zone.
 - East west perimeter road/parking areas with 15.7m wide formation provides 90 degree parking, two way vehicular access and 2m wide pedestrian access.
- Provision of rear lane access for loading/unloading north and south of "Village Centre" areas.
- Provision of new road in 20m road reserve, between Cudgen Creek and lots west of Casuarina Way is not addressed in this preferred network. The road and connection to Casuarina Road by roundabout is suitable in road/traffic terms, but, it conflicts with the Cudgen Creek riparian buffer and its inclusion would await determination these issues.

It is considered that the determination of the preferred cross section for Ocean Ave (Sketch No.2 2005 (Cross Sections 5 or 6) should be deferred pending further urban design assessment of DA 02/0274.

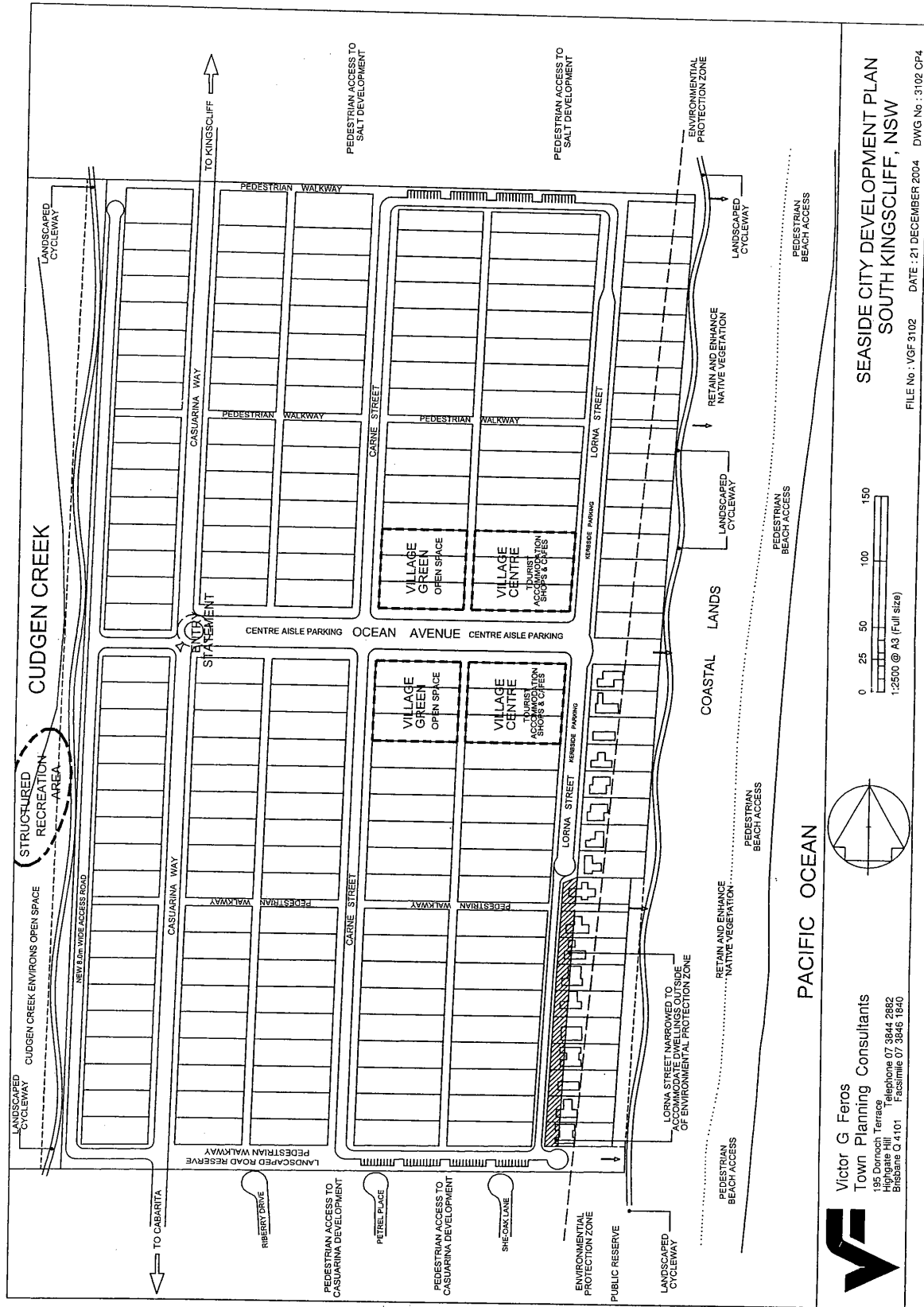
4. Options

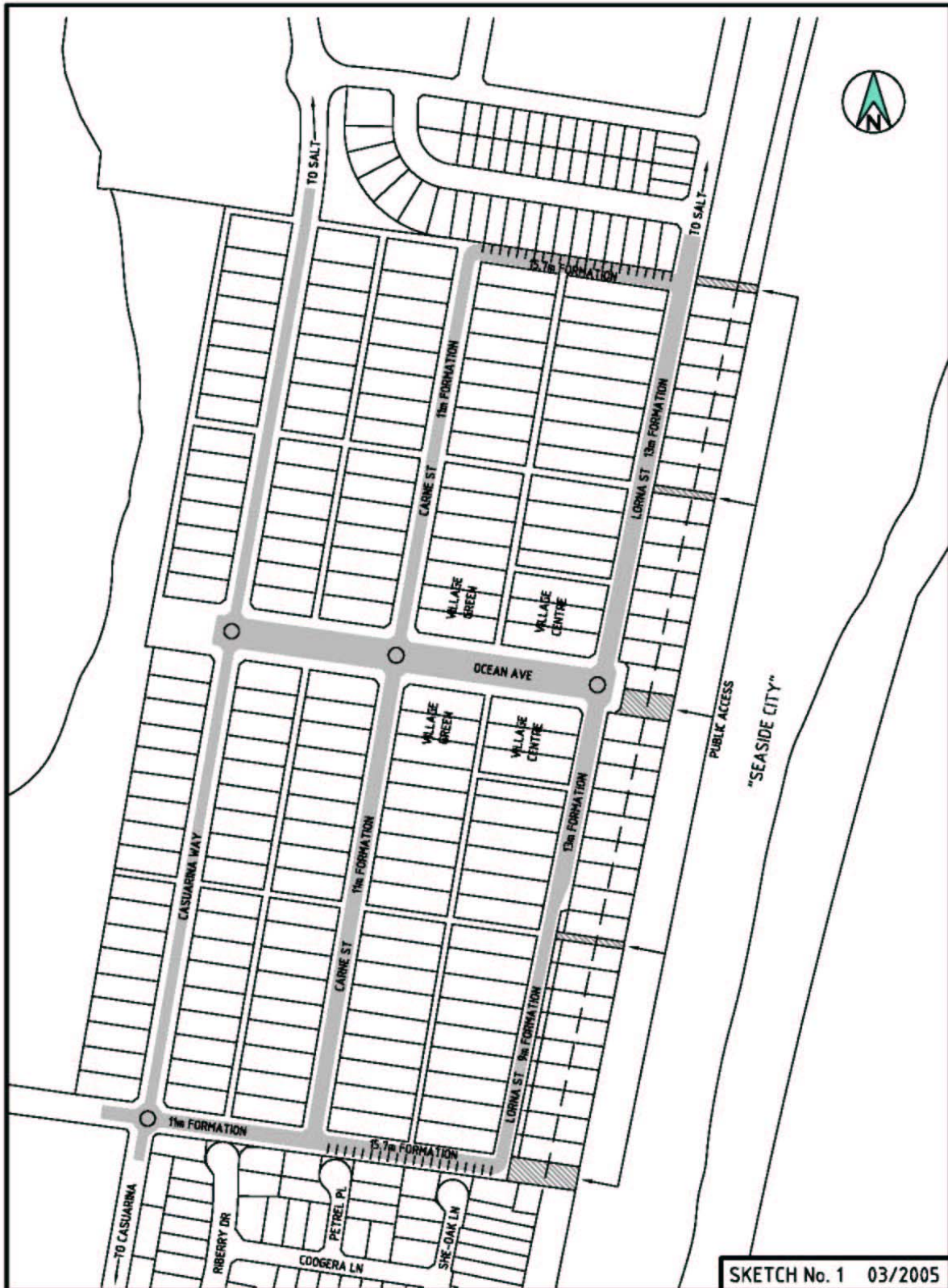
The options for Council are:-

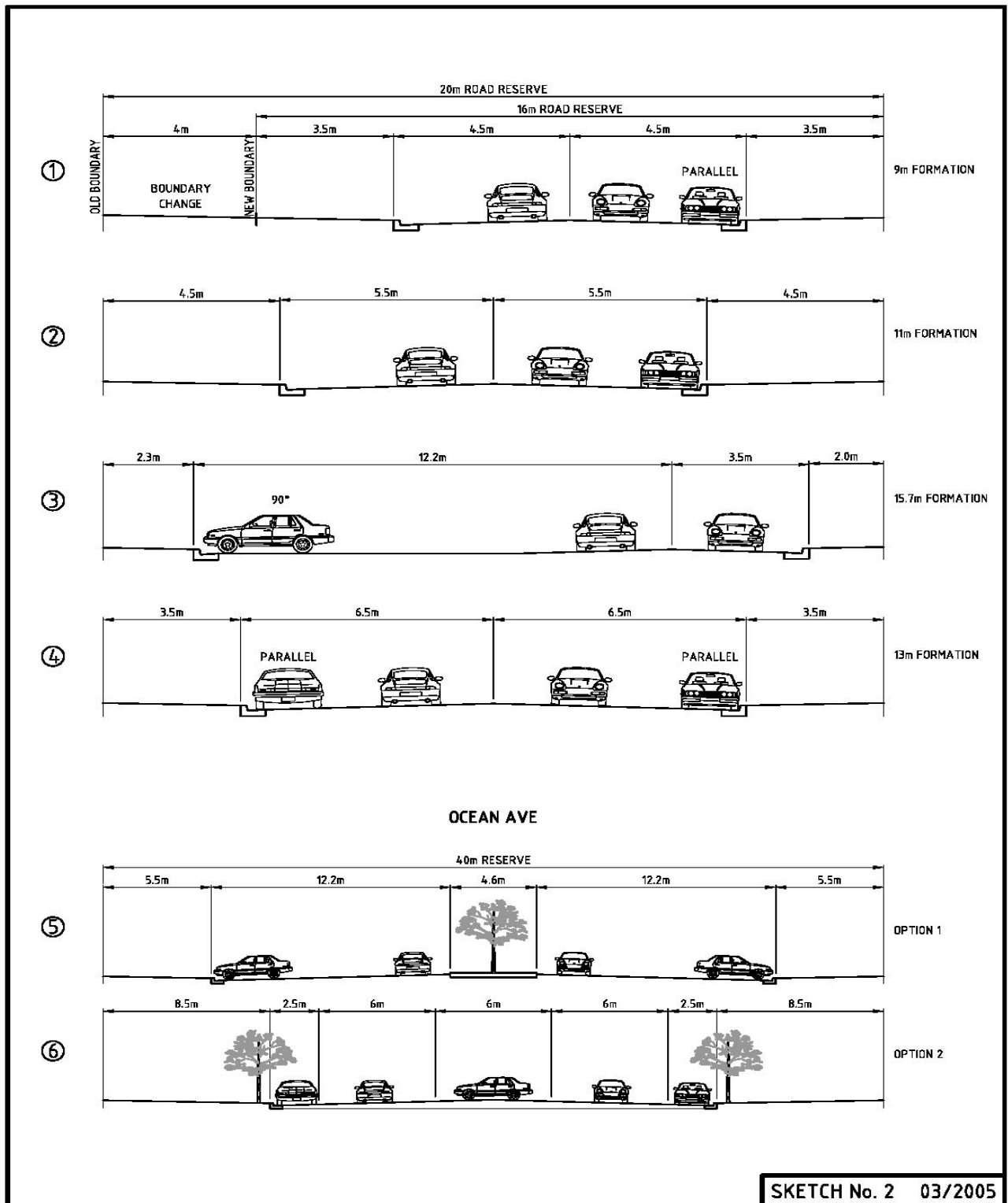
- A. That to enable DA 05/0274 and associated Part 5 application to be progressed and assessed for determination:-
 1. Council accepts the Seaside City Road Layout as designated on Sketch No.1 2005 and Sketch No.2 2005 (Cross Sections 1 – 4) as the road/traffic control layout for Seaside City
 2. The determination of preferred cross section for Ocean Avenue (Sketch No.2 2005 (Cross Sections 5 or 6) be considered as part of further urban design assessment of DA 05/0274.

3. Council provide Owners Consent for DA 05/0274, on the understanding that if consent is granted it will be conditioned to be generally in accordance with (1) above.
- B. Refuse owner's consent for the lodgement of DA 05/0274.
- C. That Council defer consideration of the Seaside City road network until it has received the Consultant's Local Environmental Study / Draft Local Environmental Plan Report.

Option C is recommended as the other options may pre-empt the LES / DLEP process.







LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council's agreement to road layout is desirable prior to it giving owners consent to development application to construct roads on Council road reserves. Following issue of a development consent, further consent by Council will be required in accordance with section 138 of the Roads Act 1993.

POLICY IMPLICATIONS:

The adopted road network for Seaside City needs to be compliant with DCP16 Subdivision Manual, development standards and criteria and DCP 51. Progress in determination of DA 02/0274 could conflict with concurrent consideration of LES and draft LEP for the Seaside City area.

UNDER SEPARATE COVER:

Nil.

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27 EO] Country Towns Water Supply and Sewerage Program (CTWSSP)

ORIGIN:

Water

SUMMARY OF REPORT:

Council has received advice from both the Minister for Energy Utilities and Sustainability, the Hon Frank Sartor and the Director General of the Department of Energy Utilities and Sustainability (DEUS) on those projects in Council's Water Supply and Sewerage Capital Works Program that will receive funding under the State Government's Country Towns Water Supply and Sewerage Program (CTWSSP). These letters follow at the end of this report for Council's information.

Due to the limited funds that are available in the CTWSSP DEUS have determined to implement a priority ranking system for the purpose of an equitable allocation of funds.

Tweed Shire Council projects to receive funding under this priority system will be Clarrie Hall Dam - Safety Construction and Tyalgum Water Supply Augmentation. Projects that will not receive funding are Burringbar / Mooball Sewerage and Kingscliff Sewerage.

Council officers are accepting of the fact that Kingscliff Sewerage Treatment Plant upgrade is of a low priority in comparison to other projects throughout the state and it is proposed that Council proceed with construction without subsidy.

Council has been actively progressing the Burringbar / Mooball Sewerage Scheme in partnership with the community and DEUS and subsequently in 2002 Council commenced levying a special rate on this community for the purpose of funding the project. Due to the advanced stage of this project it is recommended that Council request the Minister to reconsider this scheme for funding under the CTWSSP.

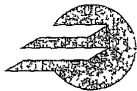
At its meeting of the 4 August 2004 Council was advised of major changes to the level of subsidy for the CTWSSP. Noted in this report was the advice that if Burringbar Mooball Scheme was to receive subsidy it would reduce from approximately 70 to 50% (\$1 million). Council resolved at this meeting to review the flexibility of the preferred option and timing. The results of this review have not yet been finalised. Notwithstanding the above it would be appropriate to request the Minister to consider the funding of this Scheme in accordance with the previous subsidy arrangements as when the special rate for Burringbar Mooball was set (\$350) it was on the basis of a 70% subsidy from the NSW State Government.

RECOMMENDATION:

That Council requests the Minister for Energy Utilities and Sustainability, the Hon Frank Sartor, to reconsider funding for Burringbar / Mooball Sewerage Scheme under the previous subsidy arrangement based on Council having already commenced levying the community for this project.

REPORT:

As per summary of Report.



DEPARTMENT OF ENERGY,
UTILITIES AND SUSTAINABILITY
NEW SOUTH WALES GOVERNMENT

Leadership in energy and water sustainability
for New South Wales

SEWERAGE - CAPITAL WORKS PROGRAM - GENERAL

TWEED SHIRE COUNCIL
FILE NO. 04 February 2005
SEARCHED TO []
INDEXED TO []
SERIALIZED TO []
FILED TO []
RAYNER M

Dr John Griffin
General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Dear Dr Griffin

As you will recall, the changes to the Country Towns Water Supply and Sewerage Program included the establishment of an Independent Prioritisation Committee (IPC)

In September and October 2004 all local water utilities were advised of the prioritisation process, the IPC was subsequently expanded to include representatives from the Shires Association of NSW and the Water Directorate to consider appeals. The expanded Committee considered all submissions received from utilities regarding the initial ranking and submitted a report to the Minister. The Minister has now approved the rankings determined by the IPC and I wish to inform you of the outcome of that process.

Your projects have received the following final ranking

CLARRIE HALL DAM - SAFETY CONSTRUCTION (C605)	Rank - 1
TYALGUM WS AUG - CONSTRUCTION (D353)	Rank - 2
BURRINGBAR / MOOBALL SGE - CONSTRUCTION (C604)	Rank - 5
KINGSCLIFF SGE - CONSTRUCTION (C603)	Rank - 8

Projects with a higher ranking (1 is high, 10 is low) will receive priority for funding on the basis of the annual budget allocation. You will receive a letter from the Minister shortly if any of the above projects are eligible for funding.

All existing Ministerial grant offers for both construction and pre-construction will continue to be funded up to the approved amount of that offer and will not be affected by this prioritisation process.

The IPC will meet periodically to review rankings. The next review was previously scheduled for February 2005. As the current review has only just concluded this would not be productive and accordingly the next review is now scheduled for early 2006. This will enable the results to be released early that year to give utilities time to incorporate them into their Annual Management Plans. The Department will write to each utility prior to that review inviting appropriate submissions.

Should you require further information please contact Chris Hennessy in the Department's Alstonville Office, telephone (02) 6627-0113

Yours sincerely

David Nemtsov
David Nemtsov
Director-General

Level 17, 227 Elizabeth Street Sydney GPO Box 3889 Sydney NSW 2001 Australia
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ABN 43 863 863 906 Printed on Australian made 100% recycled paper

DataWorks Document Number: 1159388

RECORDS please request
thanks to
MIKE RAYNER



MINISTER FOR ENERGY AND UTILITIES
MINISTER FOR SCIENCE AND MEDICAL RESEARCH
MINISTER ASSISTING THE MINISTER FOR HEALTH (CANCER)
MINISTER ASSISTING THE PREMIER ON THE ARTS

FILE No.
SUBJECT No.
DOCUMENT No.
REC'D	18 FEB 2005
DOCUMENT TYPE
LOCATION CODE
ED P. PROCESSED

Councillor Warren Polglase
Mayor
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

SEWERAGE CAPITAL WORKS PROGRAM-GENERAL

TWEED SHIRE COUNCIL
FILE No. WATER SUPPLY-GENERAL
DOCUMENT No. 15 FEB 2005
REC'D 22 FEB 2005
ASSIGNED TO RAYNER, M
HARD COPY <input type="checkbox"/> IMAGE <input checked="" type="checkbox"/>

Dear Councillor Polglase

I am pleased to advise that, as a result of the Inter Agency Prioritisation Committee's ranking of projects to be funded under the Country Towns Water Supply and Sewerage Program, funding is available to enable construction of the following projects to proceed.

- CLARRIE HALL DAM - SAFETY CONSTRUCTION RANK - 1
- TYALGUM WS AUG - CONSTRUCTION RANK - 2

Funds will be available over the next 3 financial years for Council to undertake these important projects, subject to my approval of funding for each individual project following an application for funds from Council after it has completed pre-construction activities. The conditions that will apply to offers of financial assistance under the Program will be in accordance with the revised conditions announced in 2004.

Council is reminded that financial assistance is dependent upon substantial compliance with each of the criteria in the Best Practice Management of Water Supply and Sewerage Guidelines.

All existing Ministerial grant offers for both construction and pre-construction will continue to be funded up to the approved amount of that offer and will not be impacted by this prioritisation process.

You are advised that project priorities are reviewed annually and that this indicative commitment does not extend indefinitely. Accordingly, I would strongly recommend that if you intend to proceed with the projects you do so expeditiously.

For further information please contact Chris Hennessy in the Department's Alstonville Office, telephone (02) 6627-0113, regarding progression of the projects and due processes to determine eligibility of, and timing for, funding of components of the project

Yours sincerely

Frank Sartor

ATTN: MIKE RAYNER
M21/2

Level 31, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000
Telephone (02) 9228 4700 Facsimile (02) 9228 4711 Email office@sartor.minister.nsw.gov.au

DataWorks Document Number: 1161074

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Burringbar / Mooball Sewerage estimated total cost \$5.15 Million. Previously the State Government contribution estimated 70%. If Council was to proceed without subsidy cost to Council would be \$4.58 Million.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

28 [EO] Closure of Crown Public Road - Rowlands Creek

ORIGIN:

Design

FILE NO: R4800 Pt1

SUMMARY OF REPORT:

At its meeting held on 19 January, 2005 Council heard a report that recommended approving an application for a road closure at Rowlands Creek. However, it was resolved by Council to object to the road closure *“because it would significantly sever the network of Crown roads in the vicinity and reduce options for public access”*.

Upon advice of this resolution to the Department of Lands, Council received further information from the Department to the effect that the reason for the road closure application was that there are buildings that are built within the road reserve and the applicant is seeking to remedy the encroachment.

The Department of Lands have requested that Council reconsider its objection to the road closure.

Council's previous objection was based on retaining the network of Crown Roads within the vicinity, it should be noted that in the vicinity of the application, there are numerous Crown Roads, however, these are less amenable for public access due to the topography of their location.

RECOMMENDATION:

That Council advises the Department of Lands that it does not object to the closure and purchase of that part of the Crown Public Road located between Lot 2 in DP 815475 and Lot 1 in DP 597042 at Rowlands Creek if the landowner provides an alternate road reserve to maintain the network of Crown roads in the vicinity and to retain options for public access.

REPORT:

At its meeting held on 19 January, 2005 Council heard a report that recommended approving an application for a road closure at Rowlands Creek. However, it was resolved by Council to object to the road closure *“because it would significantly sever the network of Crown roads in the vicinity and reduce options for public access”*.

Upon advice of this resolution to the Department of Lands, Council received further information from the Department to the effect that the reason for the road closure application was that there are buildings that are built within the road reserve and the applicant is seeking to remedy the encroachment.

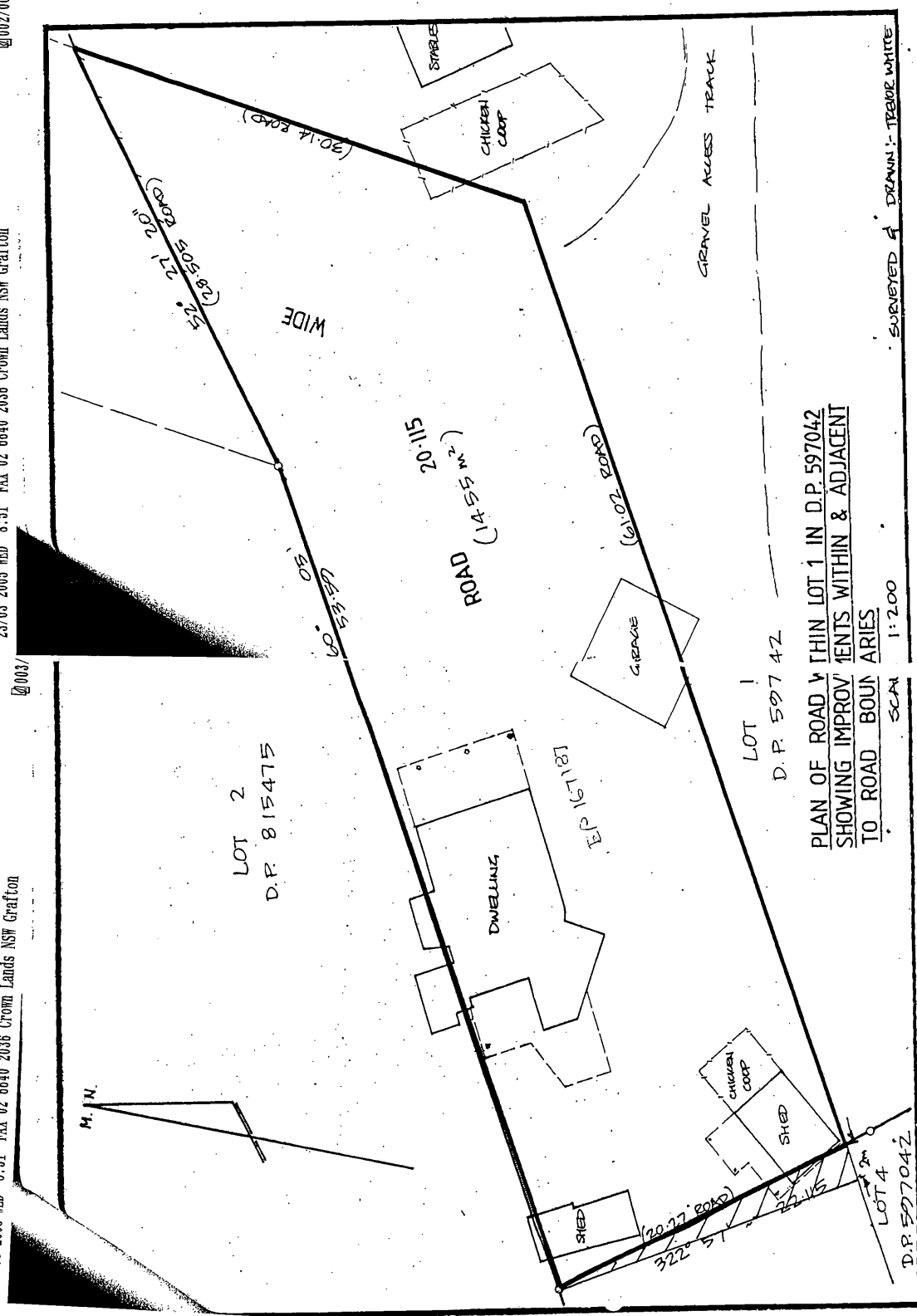
A copy of a survey plan showing the buildings encroaching on the road is shown below, you will note that a dwelling, garage and various sheds are within the road reserve:

002/003

23/03 2005 WED 8:51 FAX 02 6640 2036 Crown Lands NSW Grafton

003/

24/03 2005 WED 8:51 FAX 02 6640 2036 Crown Lands NSW Grafton



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY

29 [EC] Request for "In Kind" Support Waive Fee

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

Council has received requests from various organisations asking that Council provides in-kind support/waives the fees for room hire. Details of the requests are reproduced in the body of this report.

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

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

RECOMMENDATION:

That Council determines this report.

REPORT:

Council has received requests from various organisations asking that Council provides in-kind support/waives the fees for room hire. Details of the requests are reproduced as follows: -

Organisation	Request	Est \$ Amount of Waiver	Application Summary	Meet Guidelines?
North Coast Area Health Service	The request is to have the hire fee for the Murwillumbah Auditorium waived.	186.40	The Murwillumbah District Hospital will be holding a Theatrical Revue on 13 & 14 May 2005.	Yes
Northern Rivers Writer's Centre	The request is to have the hire fee for the Murwillumbah Auditorium waived.	93.20	The Northern Rivers Writers Centre will be holding a Primary School Event.	Yes
Tweed Byron Local Aboriginal Land Council	Free use of the Tweed Heads Auditorium and South Tweed Community Centre.	254.50	Request free use for Tweed NAIDOC Week 2005.	Yes
Country Women's Association of NSW	The request is to have the hire fee for the Murwillumbah Auditorium waived.	55.10	The Association will be holding a Craft Expo on 17 September 2005.	Yes

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

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

POLICY IMPLICATIONS:

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

Festivals Policy.

Donations Policy.

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

UNDER SEPARATE COVER:

1. Correspondence dated 25 February 2005 from North Coast Area Health Service (DW1168346)
 2. Correspondence dated 2 March 2005 from Northern Rivers Writer's Centre (DW1170376)
 3. Correspondence dated 2 & 17 March 2005 from Tweed Byron Local Aboriginal Land Council (DW1166633 & DW1175959)
 4. Correspondence dated 17 March 2005 from Country Women's Association of NSW (DW1174325)
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30 [EC] Banora Point Multi Purpose Centre

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

Council at its meeting on 16 February 2005 considered a report relating to the Draft Schedule of Fees to be implemented at the Banora Point Multi Purpose Centre.

At this meeting it was resolved that Council "*advertises the proposed fees for public comment as per the Local Government Act 1993 requirements*".

The exhibition of the proposed fees has now closed and no formal submissions have been received.

RECOMMENDATION:

That Council adopts the fees as advertised.

REPORT:

Council at its meeting on 16 February 2005 considered a report relating to the Draft Schedule of Fees to be implemented at the Banora Point Multi Purpose Centre.

At this meeting it was resolved that:

- "1. *Council:-*
 - a. *Approves the expenditure of \$3,548.00 for the opening of the Banora Point Centre*
 - b. *Advertises the proposed fees for public comment as per the Local Government Act 1993 requirements.*
 - c. *Advises any party wishing to use the facility from the final fixing of the fee that they can volunteer to pay the appropriate amount or the facility is unavailable.*
 - d. *Approves the expenditure of \$4,429.00 being for additional equipment to commence hire of the rooms in the Centre.*
2. *Includes as part of the hiring conditions that "any not- for-profit organisation outside of the Tweed Shire will need to submit to Council a Notice of Intention and request for consideration of 'Not for profit status' fees".*
3. *The budget variation be considered in the end of March 2005 Quarterly Budget Review."*

The exhibition of the proposed fees has now closed and no formal submissions have been received.

The following is a schedule of the as advertised in the Tweed Link during the exhibition period.

**Public Exhibition
2004/05 Fees and Charges
Banora Point Multi Purpose Centre
Hire Charges**

Notice is given that the fees listed below will apply:

Room	Community Hire*	Private Hire	Commercial Hire
Large meeting room 100 person capacity	First 2 hours	N/A	N/A
	Hourly	\$40	\$40
	Half day	\$75	\$75
	Full day	\$150	\$150
Small meeting room x 2 20-30 person capacity	First 2 hours	N/A	N/A
	Hourly	\$20	\$20
	Half day	\$40	\$40
	Full day	\$75	\$75
Interview rooms	First 2 hours	N/A	N/A
	Full day	\$60	\$60
	Half day	\$30	\$30
Full Centre (conference use)	\$150	\$300	\$300
Deposit		\$350	\$350
Evening Rates -- additional 5pm - 10pm	\$70	\$180	\$180

* Not for profit -- defined as having no employees

Submissions concerning the proposed amended fees will be received by Council for 28 days from the date of this advertisement.
Submission close on Tuesday March 22, 2005.

Dr J F Griffin
General Manager

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER:

Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

1 [SUB-CDA] Minutes of the Community Cultural Development Advisory Committee Meeting held Thursday 16 December 2004

FOR THE CONSIDERATION OF COUNCIL:

VENUE:

City of the Arts Space

TIME:

3.00 p.m.

PRESENT:

Cr Max Boyd, Cr Barbara Carroll, Judith Sutton, Glenda Nalder, Geoff Edwards and Lesley Buckley

APOLOGIES:

Bill Bainbridge and Russell Logan

MINUTES OF PREVIOUS MEETING:

Moved: Judith Sutton

Seconded: Cr Barbara Carroll

RESOLVED that the minutes of the Community Cultural Development Advisory Committee meeting held Thursday 4 November 2004 be confirmed as an accurate record of the proceedings of that meeting.

BUSINESS ARISING

1. Salt Cultural/Arts Trust

GC7/6 Pt3

Following a recent meeting between Brian Ray, Sarah Brisbane (Project Manager for Salt Central Park), Councillors Max Boyd, Barbara Carroll and Council staff Peter Brack and Lesley Buckley, Sarah Brisbane attended this meeting to put forward a proposal to establish the Salt Cultural/Arts Trust:

Salt Central Park + Tweed Cultural Trail– The Vision and The Mechanics

1. History

- Original concept for Salt always anticipated a Central Park amphitheatre

- Formal development approval includes a Central Park formed as an amphitheatre
- Many design details in the Park accommodate future public events

2. Vision

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 3 weeks ago
- 2 phased-approach to staging events in the Park due to staged construction

b) *What do we 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 proposed 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 to have weekend events
 - Eg school plays, recitals, Shakespeare in the Park, markets, art displays, NSW Dept of Education school events ("Sing"), poetry reading etc

NB. All events will be run as not for profit ventures.

3. Resourcing and coordination

- 3.1 The Ray Group plans to recruit a new full time role commencing in early 2005. The salary for the *Salt Events/Marketing Coordinator* will be paid for via a levy from retailers, Sandbar and the various hotels at Salt.

Discussions with the funders of the role have already commenced and were positively received.

There will be no cost impost on Council to fund this role.

Responsibilities will include:

○ **Events –**

- acting as the primary point of contact for inquiries, logistics, scheduling of a 12 month calendar of events at Central Park and Saltbar
- assisting on the delivery of major and minor events in Central Park; responsible for the content management of the proposed dedicated website on Central Park
- being the key driver in securing sponsorship to off-set production costs of free public events in the Park (eg Xmas Carols)
- sitting on Council's Cultural Advisory Committee (CAC)
- acting as the primary interface between the Ray Group and Council and ensuring seamless integration of Council's organized activities and those organized by the Ray Group
- playing a key role in the development of the "Tweed's Cultural Trail" project; and
- elevating the status/kudos of the regional arts/cultural sector.

○ **Marketing –**

- working with the retailers and hotels to generate publicity
- organizing promotions; and
- implementing general profile-building activities for Salt.

3.2 Given the scope, scale and number of events (up to 45 "minor" weekends and up to 6 major events with as many as 4,000 people), the role will be too much for one person. It is also a possibility that the Ray Group secures a bright, final year under graduate student in marketing/communication from either Bond or Griffith University in 2005, to work up to 2 days per week as an intern, to assist the Events/Marketing Coordinator and create a succession plan. Again, the Ray Group would aim to fund this.

3.3 It is proposed that Sarah Brisbane, as Central Park's Project Director, will work closely with the Events/Marketing Coordinator, the proposed student intern and Council, at least in the development phase of the Tweed Cultural Trail and Central Park's first 12 month Calendar of Events . To this end, it is proposed that Sarah also sits on Council's CAC, taking Ray Group's representation on the CAC to 2 members.

3.4 Importantly, the Ray Group and Council need to strategically coordinate any approaches for funding from organisations such as the Australia Council, which has a current focus on supporting regional arts.

- 3.5 Since the Ray Group will take the financial responsibility for conceiving and delivering up to 4 major events per annum in Central Park (which in some cases, will cost up to AUD\$1million to put on), and will be a logistics/event production resource for any other major events organised by third parties, it will be imperative that the Ray Group can operate with autonomy for the major events, while still collaborating with Council's CAC.
- 3.6 While there had been some initial discussions around establishing a second committee in relation to Central Park, (a management committee), it is proposed to disband this and simply have the Cultural Advisory Committee.

4. Funding the arts community of the Tweed

- 4.1 It is proposed that 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 CAC.
- 4.2 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 CAC will draft the grant criteria and widely publicise the availability of funds, at the appropriate time.
- 4.3 The Arts Trust – while essentially a pooled grant fund, is also a sub committee of the CAC and would comprise no more than 5 members, with 2 representatives from the Ray Group (the Events/Marketing Coordinator and Sarah Brisbane).
- 4.4 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.
- 4.5 The Ray Group is currently working on plans to design and construct an aesthetically-pleasing permanent base/platform for a stage at the easterly end of Central Park, costing in the order of \$60,000 to build, plus another \$25,000 to build a permanent power/light control box.

This platform/stage and power box will then be available to ALL artists/talent to use in their performances in Central Park and make for a more professional calendar of events.

To offset this production cost, it is recommended that Council give permission for the Ray Group to obtain a stage naming rights sponsor. The Ray Group recommends approaching the NSW Department of Education and Training - which is a non-commercial "partner" in synergy with the vision of Central Park and the Tweed Cultural Trail.

The Department has already met with Sarah Brisbane and is keen to consider Central Park for future school arts events. If acceptable to Council, Sarah Brisbane would take on the responsibility of securing a suitable partner.

5. Restoration

5.1 While public (community land), the Ray Group has a vested interest in ensuring Central Park is maintained to the highest standard. To this end, it is proposed that a maintenance licence agreement be struck between the Ray Group and Council.

6. Discussion Points included:

- Council's responsibility in line with Public Liability and maintenance of the site and technical infrastructure.

Sarah advised that this was still to be ratified in line with further discussions with Council.

- Technical resources for small-scale performances and Community groups.

Sarah advised that the provision of technical resources such as PA and microphones is still to be considered but basic infrastructure ie 3-phase power would be built into the stage.

- Cultural/Arts Trust

Discussions took place regarding the proposed *up-to* \$25,000 per major ticketed event. It was noted that at the previous meeting the figure was specific and was now downgraded to *up-to* \$25,000. Sarah advised that this amount was dependent of the revenue from major concerts and at this stage it was impossible to predict the exact amount.

2. Arts Northern Rivers

Lesley advised that due to the presentations by Sarah Brisbane from SALT as well as a presentation on the Quality of Life Community Program by Douglas Jardine and Robin Spragg, Arts Northern Rivers had been postponed until the first meeting in 2005.

Discussions took place regarding the current status of Tweed's involvement and the limited input and advice the Committee have had with the regional planning currently being undertaken by ANR. It is deemed necessary that from this point the Committee needs to be advised on important issues.

Moved: Cr Barbara Carroll

Seconded: Judith Sutton

RECOMMENDATION

That Council supports the Committee's request for the appointment of Tweed Shire Council's Cultural Development Officer Lesley Buckley as a member of Arts Northern Rivers to facilitate a direct link and information flow to the Community Cultural Development Advisory Committee.

CARRIED

GENERAL BUSINESS

3. Quality of Life Community Program

Douglas Jardine, Manager Strategic Planning and Robin Spragg, Social Planner attended the meeting to discuss the Quality of Life Community Program. The committee were advised the following:

- It was recognised that Council allocated a low percentage of its expenditure on community programs and it has been proposed to increase this percentage by introducing a Quality of Life Program in the Social Plan.
- The Quality of Life Program should focus on new initiatives, with a balance of lifestyle and welfare projects
- Currently identifying a number of actions for the next five years that will support community wellbeing
- The full list of projects is estimated to cost \$28.50 per household recurrent on the rates for services (\$855,000/30,000) and \$54 once only for facilities (\$1,620,000/30,000). Alternatively, these costs could be spread over 5 years, costing approximately \$5.70pa for services in the first year, assuming services are introduced gradually, and increasing to \$28.50 in the fifth year; and \$10.80pa for facilities.
- The following Project Selection Criteria should be applied when nominating inclusions:
 - a) How does the project improve social equity, or more fairly spread resources?
 - b) How does the project strengthen the community and build social capital?
 - c) Does the project satisfy a small or large group in the community? Improving a public transport service may facilitate access by many to a range of services, whereas buying a bus for a disability service may improve access for a small number of mobility-impaired people with more severe disadvantages
 - d) Is the need being satisfied urgent or could it be met later? Will it get more urgent if left, or will it go away?
 - e) Do some part of the Shire need services or facilities more than other parts, either because of growth pressures, or because of previous neglect?
 - f) Does the project attract funds or investment from outside the Tweed?

- g) Does the project add a new service or facility to the Shire, or is it a local innovation that could be used as a model elsewhere
- h) Are there adequate resources to manage the project and carry it out effectively?

Discussions Points:

- Lesley advised that a number of cultural/arts projects have been put forward as a starting point for discussion. It was noted that the Committee should review these in line with priorities and put forward ideas at the next meeting.
- The committee expressed some concerns about the prioritisation of projects presented in the draft, including:
 -
 - (a) The view that all projects need to be considered by council before allocating an order in terms of timing and importance
 - (b) That the mix of priorities so far presented raised the issue about whether Council is a facilitator of social planning and/or a service provider of community services.
 - (c) Would funds be better allocated to community development functions which then can leverage project partnerships and funding in the wider community, rather than be spent on a specific project with recurrent costs which meets a limited need. (For example funds for a Grants Officer is included as a priority in Year 3, wouldn't it be better paced in Year 1 so that the person can leverage resources from the beginning of the Quality of Life Program.
 - (d) Similarly, before allocating funds to a specific Youth Centre, with no associated funding for staff in Pottsville, might it not be better to expand a Youth Development Officer position to respond to the needs of Youth shire-wide. The Youth Development Officer could work on securing resources wherever they are most needed.

NEXT MEETING:

The next meeting of the Community Cultural Development Advisory Committee will be held on 24 February 2005 at 3.00 p.m. at the City of the Arts Space.

The meeting closed at 5.30 p.m.

DIRECTOR'S COMMENTS:

With regard to Item 2 of Business Arising, **Arts Northern Rivers**, the Board structure is fixed and the Mayor is Board member and Chairman. The Director Environment & Community Services is an observer and alternative.

DIRECTOR'S RECOMMENDATIONS:

2. Arts Northern Rivers

RECOMMENDATION:

That the Director Environment & Community Services arrange a meeting between the Mayor as Arts Northern Rivers Chairman, Lois Randall, Lesley Buckley and himself to discuss co-ordination of activities within Tweed Shire.

2 [SUB-PTW] Minutes of the Public Transport Working Group Committee Meeting held Friday 25 February 2005

FOR THE CONSIDERATION OF COUNCIL:

VENUE:

Tweed Heads Civic Centre Board Room

TIME:

10.00am

PRESENT:

Committee Members: Garry McDougall, Cr Henry James

Informal: Linda Lomman (PTDP), Robin Spragg (TSC).

APOLOGIES:

Cr Dot Holdom, Rob Lake (MoT).

CORRESPONDENCE:

Outwards: Surfside Buslines, Access Guide for comments
Kirklands, Access Guide for comments
Murwillumbah Bus Co, Access Guide for comments

Inwards: Nil.

MINUTES OF PREVIOUS MEETING:

No Committee Members who attended the January meeting were present, so that the January Minutes could not be adopted.

The November Minutes also remain to be adopted.

BUSINESS ARISING:

1. Policy Document Review

(a) Sustainable Local Transport Plan

One project of the SLTP is to produce an Access Guide for the Shire. The final draft of the Guide was tabled for comments. It is in the form of an A4 folded brochure providing operator contacts for trains, buses and taxis, a network map of services in the Shire, and advice on the services to major Shire destinations. The network map is a more concise way of giving a view of the network than presenting a list of timetables. Comments have also been requested from major bus

companies. It is hoped to complete the Guide for use at the 'Driving over 70' Seminar on 1 March.

Comments included:

- a colour clash between Kirklands and Singhs routes on the map;
- is it feasible to place it on the Council website?
- Link the route colours to the operator;
- The NRSDC wants to include Tweed information in its annual Getting There guide update.

(b) Strategic Plan Review

Not discussed.

2. Major Development Review

(a) Oak Drive Extension to Mountain View Estate

Proposals for a 400 lot subdivision of Oak Drive, Murwillumbah, will create a connection with Mountain View Estate that could be used by a bus route. Designated bus routes are shown that almost achieve this loop route. Information discussions with Murwillumbah Bus Co indicate that such a route is contemplated, but there is a difficulty because of the narrowness of the existing Castle Field Drive connecting to North Arm Road.

RECOMMENDATION:

That:

1. Council ensures that roads of a suitable standard for use by buses linking Oak Drive to Mountain View Estate;
 2. The difficulty of buses using Castle Field Drive be addressed.
-

3. Studies & Submissions

(a) Surfside Timetable Review

Surfside Buslines provided a preliminary map of proposed bus routes, though changes may still be made following further review. Services have not changed for 6 years. More services will be provided, especially in the evening, and the frequency of service on the Tweed Heads-South Tweed strip will be evened out (at present the various services are bunched, leaving gaps). Ticketing data is being used to assess needs. A similar review of the school bus system is also in train, making school bus routes more direct.

Major features include:

- Routes 602 and 604 are combined to give better services to West Banora Point;
- The Kingscliff route will have a 15 minute frequency, be extended from 6.30 to 10.00 in the evening, with extension to the TAFE College;
- The Pottsville service will include West Kingscliff, Kingscliff Library/Health Centre, and a separate service to Koala Beach and Seabreeze Estate;
- Interchange at Sexton's Hill will facilitate trips from the Coast to Murwillumbah;
- A new service from Tweed City will utilise Machinery Drive, Greenway Drive and Darlington Drive, Banora Point;
- A new service from Tweed City will utilise Tweed Heads Bypass and Kennedy Drive to Bilambil Heights;
- Winders Place in Banora Point and the Barneys Point area will gain services.

Surfside will provide new timetables in all the bus shelters, and undertake some radio promotion. Promotion via Tweed Link will also be considered. The biggest concern is the effect of changing school buses for 10,000 children.

(b) Aboriginal Transport

No developments.

(c) Integrating Land Use & Transport Workshop

The Workshop will be rescheduled for May, after the Regional Conference.

(d) Healthy Ageing

After the 'Driving Over 70' Seminar there will be meetings with the Minister for Transport around mobility management issues, to determine how to develop a service for this region. DVA is also starting a Day Club for veterans.

(e) Mobility Management

See above.

4. Tourism Link

Going Places Website link to TACTIC Website needs to be progressed.

5. Bus Stop Requests

(a) Kirkwood Drive

Stop is to be made safe with a rail.

(b) Kennedy Drive

Surfside to discuss with Ray Clark selection of a safe location for the bus stop at Matilda Motel.

GENERAL BUSINESS:

6. School Zones

The general issue of car traffic at schools was discussed. This has been causing problems in some locations. It was thought that schools should regulate and discourage excess traffic, perhaps by use of newsletters for parents.

7. Kirkwood Road

There was discussion about bus access to residential areas at the western end of Kirkwood Drive, and when Kirkwood Drive would be continued through to Fraser Drive. Timing is uncertain due to objection by RTA to access to the Bypass at this point.

8. "Going Places" Regional Transport Conference

The NRSDC/PTDP 'Going Places' Regional Transport Conference at Ballina Beach Resort is scheduled for 21/22 March. Public Transport Working Group members are offered much-reduced registration - please fax 6622 3302.

A calendar of meeting dates for the year was circulated.

NEXT MEETING:

Owing to the absence of Robin Spragg and inability of Ray Clark to convene the meeting on 24 or 25 March, the next meeting will be held on **WEDNESDAY, 23 MARCH** at 10.00am, Tweed Heads Civic Centre.

This will be confirmed when the Agenda is sent out.

The meeting closed at 12.30pm.

DIRECTOR'S COMMENTS:

Nil.

DIRECTOR'S RECOMMENDATIONS:

2. Major Development Review

(a) Oak Drive Extension to Mountain View Estate

As per the Committee's recommendation.

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3 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 17 March 2005

FOR THE CONSIDERATION OF COUNCIL:

MINUTES OF THE LOCAL TRAFFIC COMMITTEE MEETING HELD THURSDAY 17 MARCH 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: Chairman: Mr Paul Morgan, Mr Ray Clark and Judith Finch Tweed Shire Council.

APOLOGIES:

Mr Don Page MP, Member for Ballina.

MINUTES OF PREVIOUS MEETING:

RESOLVED that the Minutes of the Local Traffic Committee Meeting held Thursday 17 February 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.

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.

BUSINESS ARISING:

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.

Deferred to the next meeting of the Local Traffic Committee as the traffic counters have not been available.

For Council's information.

Item from Meeting held 18/11/2004 and 17/2/2005

2. Parking of Vehicles in Wrong Direction to Way of Travel

DW1117732; 1117733; Traffic - Committee; Parking Zones; Safety; Local Area Traffic Management; Parking Infringement Notices

"Request received for advice in relation to vehicles parking in the wrong direction to the way they are travelling.

The RTA Representative stated that Road Rule 208 is the regulation governing this. The Committee discussed the issue and the sometimes potential safety implications of this behaviour which basically has no reason. Examples discussed included Glen Ayr Drive and Darlington Drive. The Committee noted that these parking issues should be referred to the Council Ranger for enforcement and requests the Rangers to enforce such breaches for one month and report back to the next Local Traffic committee meeting on infringements issued.

For Council's information.

To be brought forward to the next Local Traffic Committee meeting in February 2005."

From meeting held 17 February 2005:

"It was also suggested that the Rangers maybe able to provide advice in relation to vehicles parking in the wrong direction.

The Police Representative advised that this would be an enforcement issue.

The Committee requested that Council Rangers prepare a report for the next Traffic Committee meeting in March detailing any infringements.

For Council's information."

The report from the Rangers was tabled. It was noted that regular meetings with the Rangers would be held prior to Local Traffic Committee meetings.

Jason Thrupp arrived at 9:20am.

For Council's information.

Item from Meeting held 17/2/2005

**2. Tweed Heads Hospital (off Powell Street)
R4430 Pt1; DW1139161, Hospital - Tweed Heads; Parking Zones**

"Request received for the installation of two hour parking for the car park at Tweed Heads Hospital off Powell Street.

Tweed Shire Council Safety Officer has written to Tweed Heads Hospital asking for additional parking in Brett Street.

The Committee agreed that a report be brought back to the next Committee meeting regarding potential Development Consent Breaches for car parking.

RECOMMENDATION:

That the:

- 1. Request for a 2 hour parking zone in the Tweed Heads Hospital Powell Street Car park is supported subject to written confirmation from the Hospital.*
- 2. Hospital be requested to include a "No Parking - Police Vehicles Excepted" space at the entrance to the Emergency drop off area."*

Advice not yet received from the Tweed Heads Hospital.

Decided that a further letter be sent to the Hospital with a copy to Mr N Newell and Chris Crawford, Area Manager, Northern Rivers Area Health Service.

For Council's information.

Item from Meeting held 17/2/05

14. Level of Parking and other Infringement Notices

Parking Infringement Notices

"Cr Murray asked if the Committee could get a report from Council Rangers on the volumes and types of offences that infringements have been issued for each month. This information will assist the Committee when considering parking issues raised by the community.

The Committee requested that the Rangers supply a monthly report on the volume and type of traffic related Infringements issued over the previous month.

For Council's information."

The report from the Rangers was tabled. It was noted that regular meetings with the Rangers would be held prior to Local Traffic Committee meetings.

For Council's information.

GENERAL BUSINESS:

PART A

1. Bells Boulevard, Kingscliff (SALT) Lifeguard Facility R2285; DW1160032; Traffic - Directional Signs; Parking Zones; Surf Lifesaving

Request received for the provision of two "No Parking" signs for Bells Boulevard, Kingscliff. It is reported that beach visitors are parking across the driveway next to the life saving facility. The driveway is for the use of the lifeguard and emergency vehicle access. It was noted that vehicles could park along the frontage of the Surf club which obviously restricts access to angle parking opposite and emergency access to the beach.

RECOMMENDATION:

That "No Parking" signs be erected from 28m north of the Southern end of the Surf Life Saving building on the eastern side of Bells Boulevard and approximately 5m to the south of the southern corner of the building to cover the driveway.

2. Norman Street, Tweed Heads

DW1156613; Bus Services - Stops

Request received for designated bus stops on both sides of Norman Street between Stanley and Margaret Streets.

The Committee agreed to the installation of designated bus stops on both sides of Norman Street between Stanley and Margaret Streets. The Committee noted that it is the responsibility of Surfside Buslines to erect bus stop posts in accordance with their contract with the Department of Motor Transport.

RECOMMENDATION:

That bus stops be approved on both sides of Norman Street between Stanley and Margaret Streets.

3. Eucalyptus Drive, Banora Point

R1917 Pt1; DW1158866; Traffic - Directional Signs; Bus Services - Stops; Traffic - School Zones

Request received for the provision of:-

1. "Buses Only" signage at the entrance to the bus bay at Banora Point High School on Eucalyptus Drive, Banora Point and
2. "No Stopping" signage in the bus bay at Banora Point High School on Eucalyptus Drive, Banora Point.

This is because problems are occurring when a bus attempts to pull away from the kerb the exit route is blocked. This is due to parents parking cars on the eastern side of the bus bay when picking up students from Centaur Public School.

The Committee noted that such signage would eliminate legitimate use of the bus area after school hours unnecessarily and technically preventing garbage trucks servicing the "bin" area.

RECOMMENDATION:

That:-

1. Bus zone signage including school bus times be installed along the bus lay-by bay at the front of the Banora Point High School off Eucalyptus Drive.
 2. 'No Stopping' signs be erected on the east side of the bus bay in Eucalyptus Drive.
-

**4. Cudgera Creek Road, Cudgera Creek
R1470 Pt 5; Traffic - Safety; Local Area Traffic Management; Traffic - Weight of Vehicles; Speed Zones**

It is reported that the haulage of fill using trucks and dogs from Taggetts quarry to Casuarina is putting added pressure on Cudgera Creek Road.

Request received for the introduction of a 60kph speed zone along the flat section of Cudgera Creek Road, Cudgera Creek to reduce the risk of road debris becoming air borne.

The alternative suggestion to this is the possibility of requiring that trucks use Coast Road to access the Casuarina site rather than Cudgera Creek Road. This would be unacceptable to the community and may create different safety issues.

The RTA Representative advised that tenders have been closed and construction is imminent on the upgrade of this section of Cudgera Creek Road and road works speed zones will then apply.

Council officers to monitor the situation and if any safety issues develop advise the RTA accordingly.

For Council's information.

**5. Towners Avenue, Bogangar
R5530 Pt1; DW1171778; Local Area Traffic Management; Traffic - School Zones**

The residents of Towners Avenue have requested that Council give consideration to the following signage and requests enforcement of any breaches of such traffic signage with the intended outcome for all parties to be as follows:-

- For all drop off and pick up of school children to be from the designated area on the Coast Road at Bogangar.
- That Towners Avenue be exclusively a pedestrian cycle access for the school.
 - That the only vehicular access to the school along Towners Avenue will be for service vehicles as required.

The following actions are requested by residents of Towners Avenue, Bogangar:-

1. Erection of a "No Entry" sign at the end of Towners Avenue preventing vehicular access on to land owned by Tweed Shire Council.
2. Erection of "No Stopping" signs between the relevant hours for school drop off and pick up (2 signs only) at the end of Towners Avenue near the school.

3. Approval, subject to the request of residents for further installation of another 4 similar "No Stopping" signs along Towners Avenue.
4. A sign on the current "No Through Road" sign in Towners Avenue be erected stating "School Pedestrian Access Only, Vehicular Access via Coast Road Only. Penalties will apply."
5. If necessary Council should issue parking permits to land owners in the street so that they are exempt from the "No Stopping" signs.

The Committee agreed with number 1 of the petition and recognised that there were safety issues that may be alleviated by the installation of kerb and guttering of Towners Avenue as well as the provision of a footpath.

The Committee agreed that the school traffic may impact on the amenity of the area which is compounded by the lack of kerb and guttering, footpaving and formed driveways. It is difficult to enforce with signage at this stage but the area be monitored and the provision of kerb and guttering and footpaving be considered to be brought forward in Council's Works Program.

RECOMMENDATION:

That:-

1. Erection of "No Entry" signage at the end of Towners Avenue be installed, preventing vehicular access on to land owned by Tweed Shire Council.
2. A yellow "children warning" sign be installed on Towners Avenue.

**6. Golden Links Drive and Sapphire Street, Murwillumbah
R2260 Pt1; R4910 Pt1; Traffic - Signage**

Late item from Engineering & Operations. An aerial view of the location was viewed by the Committee and it was noted that the intersection was not clearly defined. The Committee agreed that a "Give Way" sign be installed on Sapphire Street at the intersection with Golden Links Drive and that the linemarking be reviewed.

RECOMMENDATION:

That a "Give Way" sign be installed on Sapphire Street at the intersection with Golden Links Drive and that the line marking be reviewed

**7. Condong Street & Riverview Street, Murwillumbah
R1290 Pt1; R4750 Pt2; Traffic - Safety**

Late item on the verbal advice of a driver. The intersection of Condong Street and Riverview Drive has been reported as a being confusing to drivers as it is difficult to notice that Condong Street is intersected by Riverview Drive.

RECOMMENDATION:

That a Give Way sign be installed in the centre of the road on Riverview Drive with Condong Street if design limitations permit. If not, the matter should be referred back to the Local Traffic Committee.

PART B

Nil.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 21 April 2005 in the Peter Border Room commencing at 9.00am.

The meeting closed at 10:30am

DIRECTOR'S COMMENTS:

Nil.

DIRECTOR'S RECOMMENDATIONS:

GENERAL BUSINESS:

PART A

- 1. Bells Boulevard, Kingscliff (SALT) Lifeguard Facility
R2285; DW1160032; Traffic - Directional Signs; Parking Zones; Surf Lifesaving**

As per the Committee's recommendation.

- 2. Norman Street, Tweed Heads**

DW1156613; Bus Services - Stops

As per the Committee's recommendation.

- 3. Eucalyptus Drive, Banora Point**
R1917 Pt1; DW1158866; Traffic - Directional Signs; Bus Services - Stops; Traffic - School Zones

As per the Committee's recommendation.

- 5. Towners Avenue, Bogangar**
R5530 Pt1; DW1171778; Local Area Traffic Management; Traffic - School Zones

As per the Committee's recommendation.

- 6. Golden Links Drive and Sapphire Street, Murwillumbah**
R2260 Pt1; R4910 Pt1; Traffic - Signage

As per the Committee's recommendation.

- 7. Condong Street & Riverview Street, Murwillumbah**
R1290 Pt1; R4750 Pt2; Traffic - Safety

As per the Committee's recommendation.

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

FOR THE CONSIDERATION OF COUNCIL:

UNDER SEPARATE COVER:

1. Minutes of the Tweed Shire Council Disability Access Committee Meeting held Thursday 17 February 2005.
 2. Agenda and Minutes of the Arts Northern Rivers Group Meeting held on Monday 21 February 2005.
 3. Minutes of the Tweed Shire Council Consultative Committee Meeting held Thursday 24 February 2005.
 4. Minutes of the Bob Whittle Murwillumbah Airfield Management Committee Meeting held Thursday 10 March 2005.
 5. Minutes of the Tweed Shire Council Occupational Health & Safety Committee Meeting held Thursday 10 March 2005.
 6. Minutes of the Tweed Shire Council Consultative Committee Meeting held Thursday 17 March 2005.
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CONFIDENTIAL MATTERS

CONFIRMATION OF MINUTES

Minutes of the Confidential Council Meeting held on Wednesday, 16 March 2005

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REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM DIRECTOR PLANNING & ENVIRONMENT IN COMMITTEE

1 [PE] Unauthorised Vegetation Clearance

REASON FOR CONFIDENTIALITY:

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

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

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

Nil.

REPORTS FROM DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

2 [EO] EC2005-028 Supply & Delivery of One (1) 5,000 Kg Excavator

REASON FOR CONFIDENTIALITY:

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

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

3 [EO] EC2005-029 Supply and Delivery of one (1) 20,000 Kg Excavator

REASON FOR CONFIDENTIALITY:

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

4 [EO] EC2005-042 Manufacture, Supply, Delivery and Unloading of DN 300 - 600mm Diameter Pressure Pipes

REASON FOR CONFIDENTIALITY:

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

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

5 [EO] EC2005-027 Supply & Delivery of One (1) 25,000 Kg Mobile Crane

REASON FOR CONFIDENTIALITY:

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

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