



Tweed Shire Council

# Planning Committee Agenda

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30 August 2005

Dear

**NOTICE IS GIVEN** that a Meeting of the **Planning Committee** will be held at the Council Chamber, Murwillumbah Civic and Cultural Centre on **Wednesday 7 September 2005**, commencing at **5.30pm**.

Submitted,

A handwritten signature in black ink, appearing to read 'J Griffin', written in a cursive style.

**Dr J Griffin**  
General Manager

## AGENDA

1. Confirmation of Minutes of the Planning Committee Meeting held Wednesday 17 August 2005
2. Apologies
3. Disclosure of Interest
4. Items to be Moved from Ordinary to Confidential - Confidential to Ordinary
5. Access - Planning Matters
6. Reports through the General Manager
  - a. Reports from the Director Planning & Development
  - b. Reports from the Director Governance & Corporate Services
  - c. Reports from the Director Engineering & Operations
  - d. Reports from the Director Environment & Community Services
7. Confidential Matters - (exclude Press and Public)

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## ITEMS FOR CONSIDERATION OF THE COMMITTEE:

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**CONFIRMATION OF MINUTES**

**Minutes of the Planning Committee Meeting held 17 August 2005**

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. Minutes of the Planning Committee Meeting held 17 August 2005 (DW 1251367).
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## REPORTS THROUGH GENERAL MANAGER

### REPORTS FROM DIRECTOR PLANNING & DEVELOPMENT

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

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

#### MATTERS FOR CONSIDERATION

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

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

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/1440 Pt2**

**SUMMARY OF REPORT:**

An application has been received for an aged care facility comprising a part three (3) and four (4) storey building containing forty one (41) x two (2) bedroom units, common living, dining, recreation, service areas, demolition of an existing fruit stall and associated site land filling and retaining structures.

Council's Engineering and Operations Unit has yet to provide a formal response on the application, however based on preliminary advices and consideration of the previous application advices (DA02/0495) for a development on the site of similar proportion, it is considered no significant issues are likely to arise that would compromise the recommendation of this report.

It is requested that the Planning Committee consider the report, which is recommended for approval, and resolve in accordance with the recommendation.

**RECOMMENDATION:**

**That the application be supported and be referred to the next Council Meeting with appropriate conditions of approval.**

**REPORT:**

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

**BACKGROUND:**

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

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

Development approval history over the site includes: -

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

The present application includes a new land parcel, Lot 1 DP 543412, increasing the total site area from 7875m<sup>2</sup> to 8602.2m<sup>2</sup>. The proposed development extends into the additional property (the site of the existing fruit stall) to approximately 16-metres further east than that approved under DA02/0495. It is largely within the previously excavated area of the fruit stall that the proposed development comprises of four storeys. Rather than filling the site, the development is proposing a lower ground level to construct a

store area that will principally accommodate the water tanks for the harvested roof water for re-use.

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

### Application History

05.11.2004 Application received.

12.11.2004 Application referred to ATM (internal referrals issued)

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

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

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

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

28.04.2005 Applicant submitted 'amended' development plans and documentation.

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

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

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

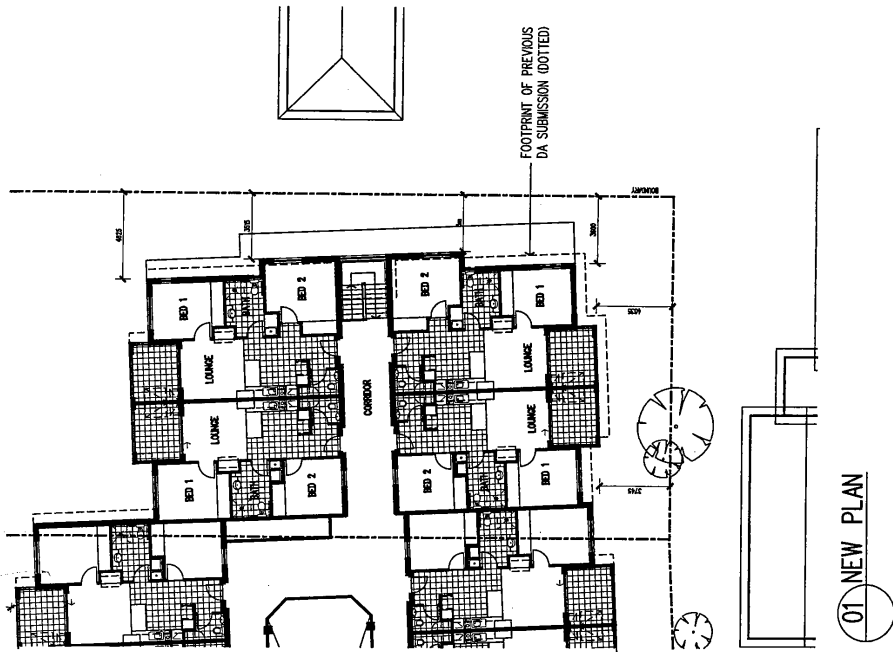
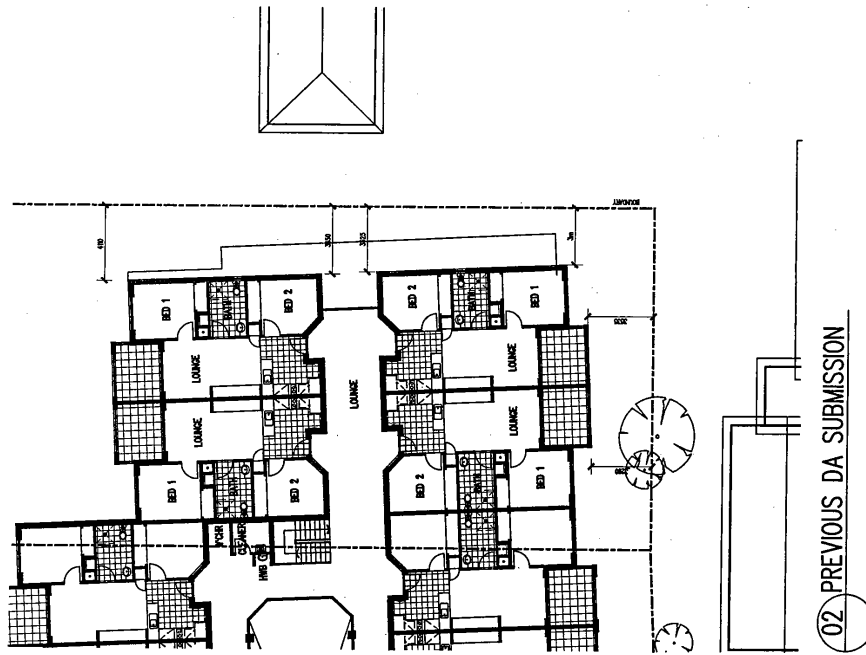
- Water storage RL 98.550
- Ground Floor RL 101.550
- First Floor RL 104.75
- Second Floor RL 107.450
- Ceiling above RL 109.85
- Roof height (not atrium) RL 111.17
- Atrium (approx) RL111.87

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

**SITE DIAGRAM:**



<p>© TWEED SHIRE COUNCIL 2005                  Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.  <b>DO NOT SCALE</b>                  COPY ONLY - NOT CERTIFIED                  P.O. Box 616 Murrumbidgee NSW, 2484 Tel (02) 6670 2409 Fax (02) 6670 2483</p>	<p><i>Tweed Shire Council</i>                  Lot 1 DP 543412 &amp; Lot 1 DP 624403                  Pacific Highway, Banora Point</p>		<p>STRATEGIC PLANNING UNIT  <b>Site Plan</b>                  Sheet: 1 of 1</p>
<p>File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 16/Aug/2005 Scale: 1:10,000</p>			

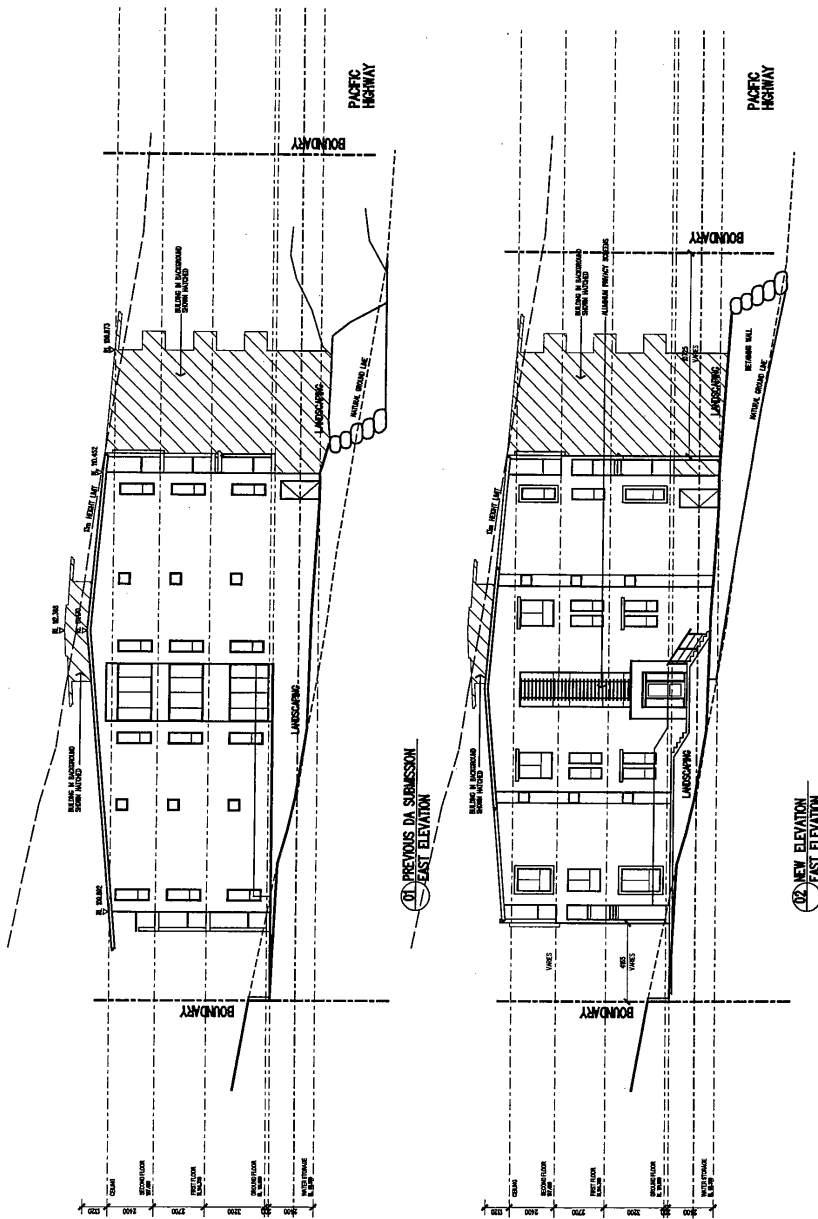


01 NEW PLAN

DA COMPARISON TYPICAL FLOOR PLAN

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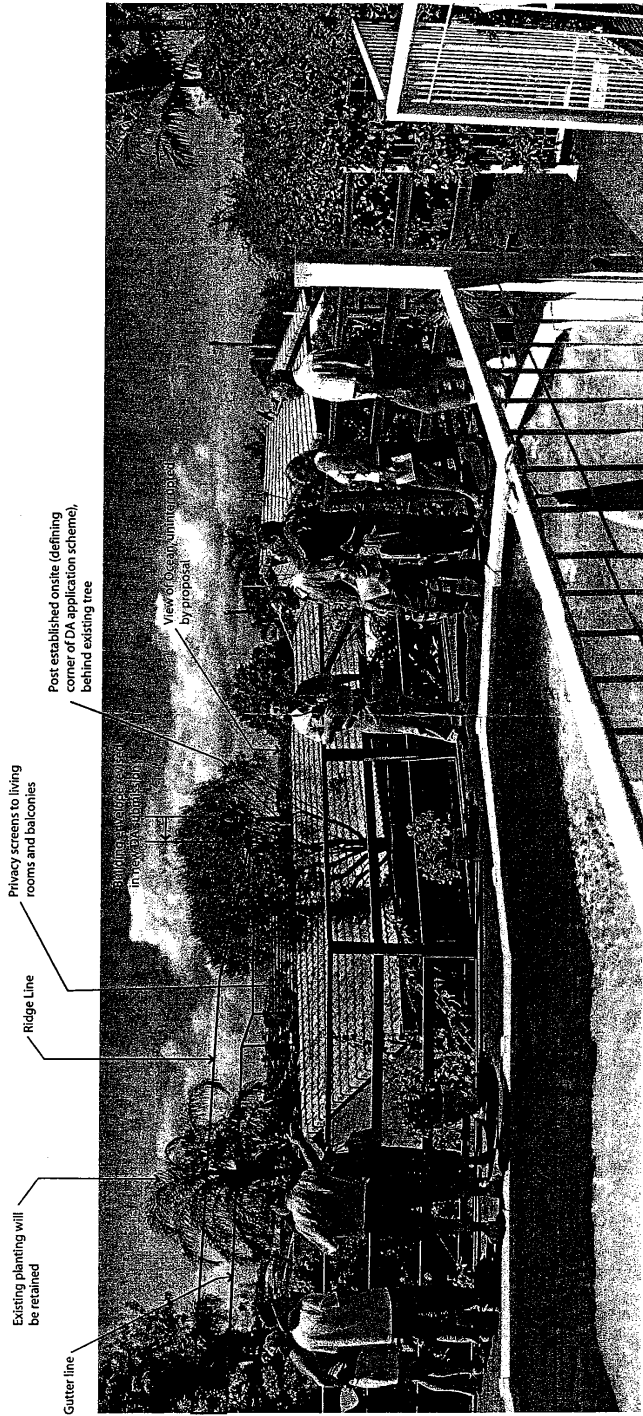
OCEAN VIEW, BANORA POINT  
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OCEAN VIEW, BANORA POINT  
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DA COMPARISON EAST ELEVATION



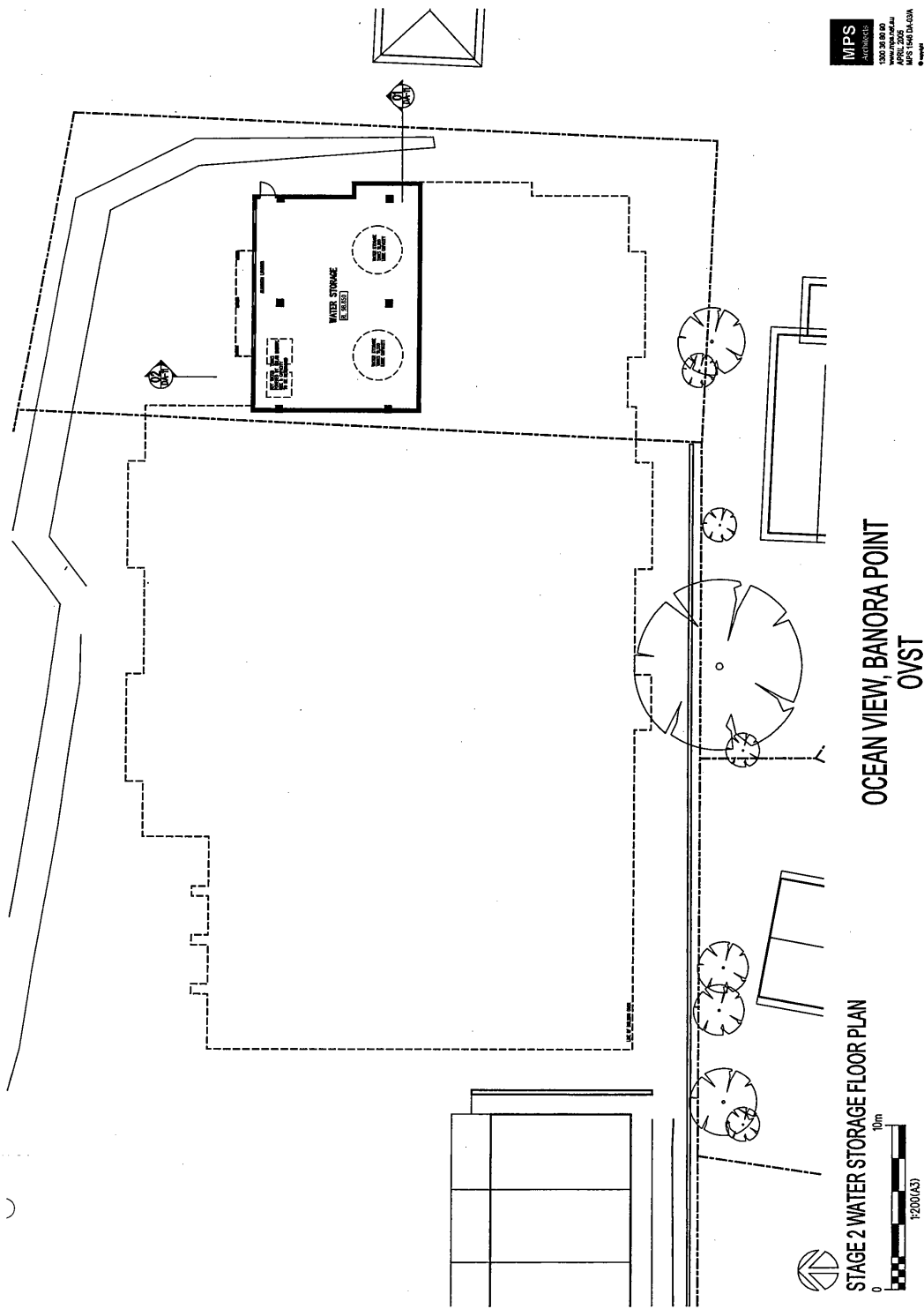


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Aerial 1:4000  
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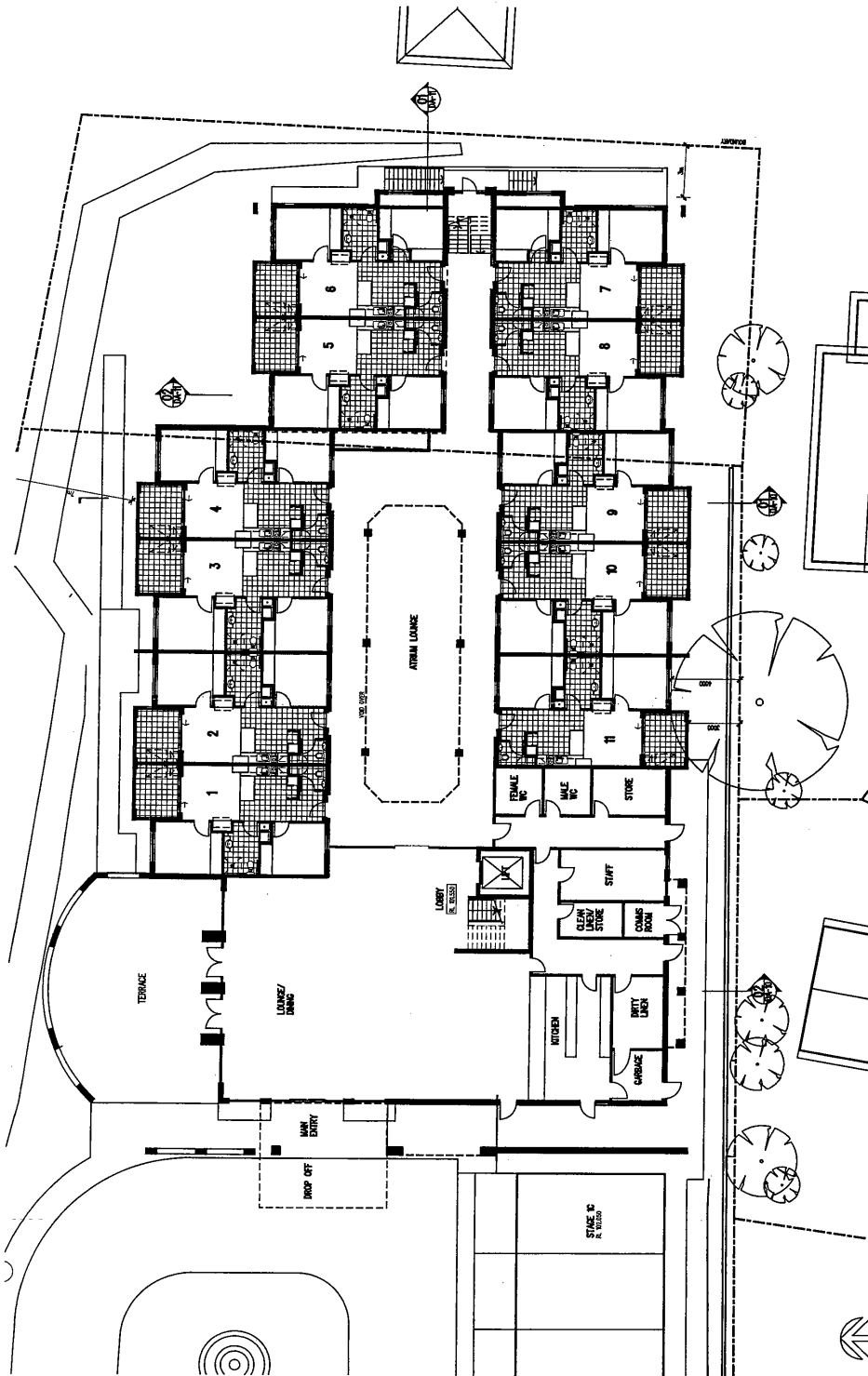
**OCEAN VIEW SUPPORTED LIVING COMMUNITY**  
TERRANORA ROAD, BANORA POINT  
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**INDICATIVE PHOTOMONTAGE**  
View taken from Deck of 34 Peter Street





MPS  
Architects  
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MURUMBidgee NSW  
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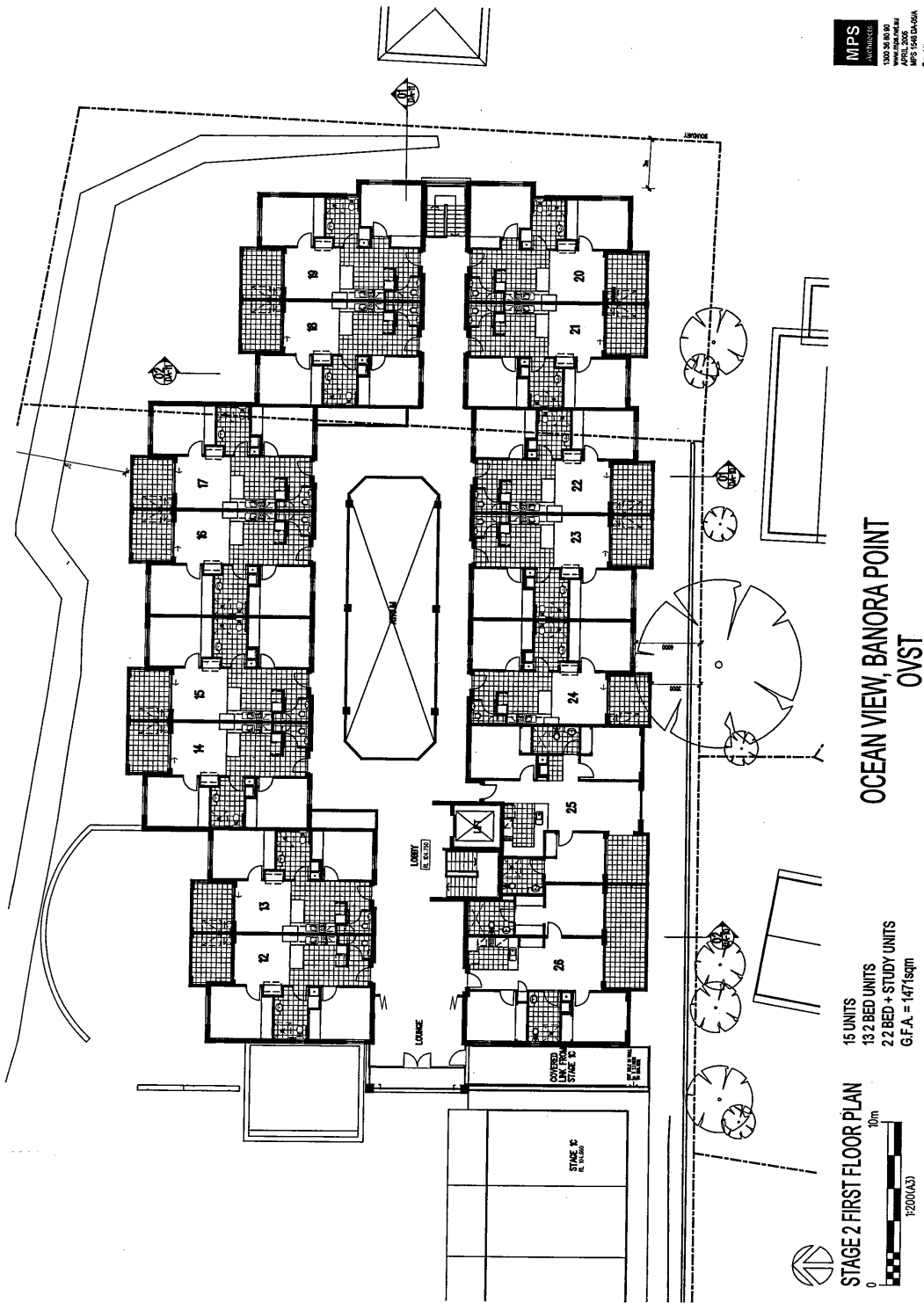


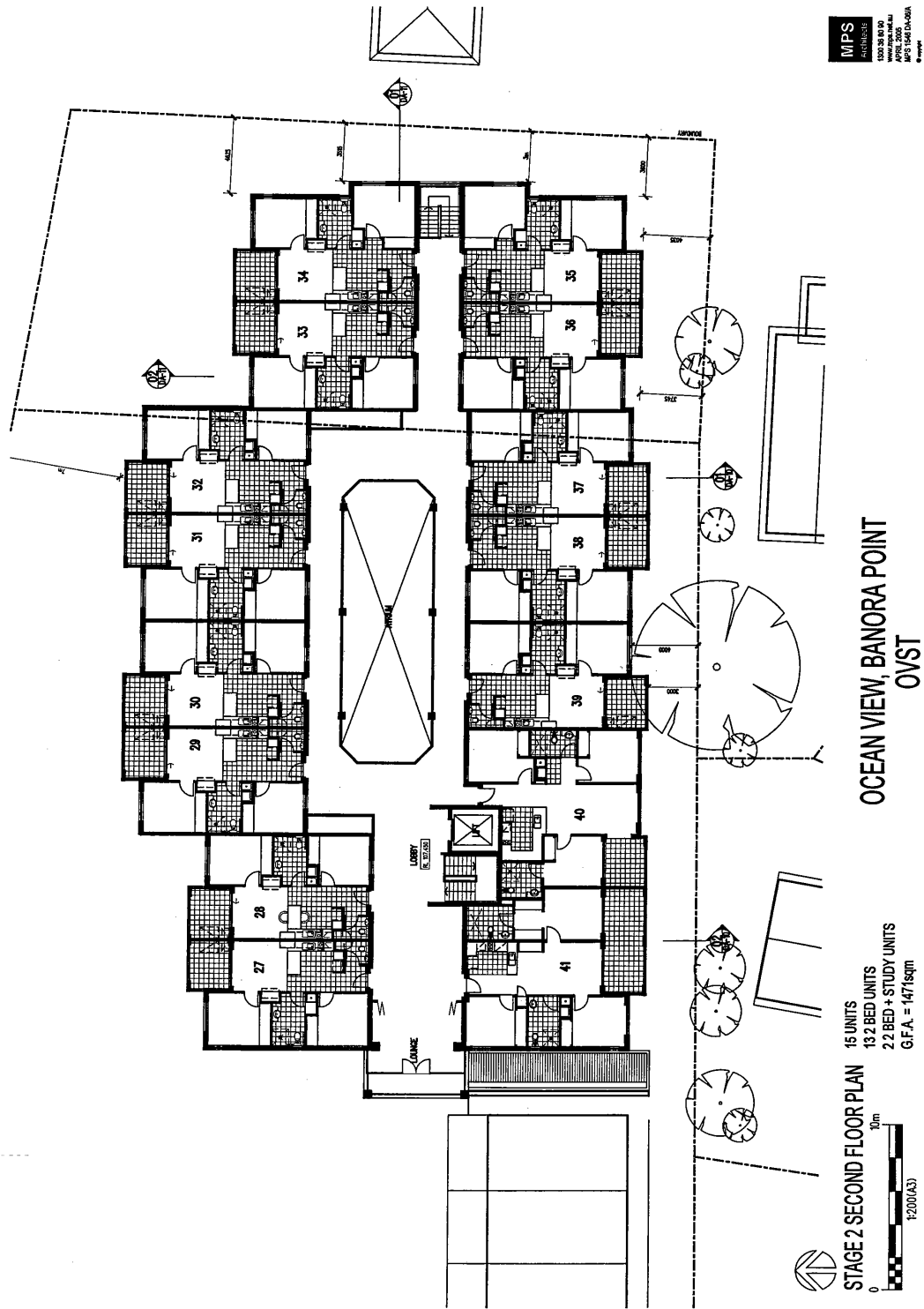
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11 UNITS  
11 2 BED UNITS  
G.F.A. = 1434 sqm

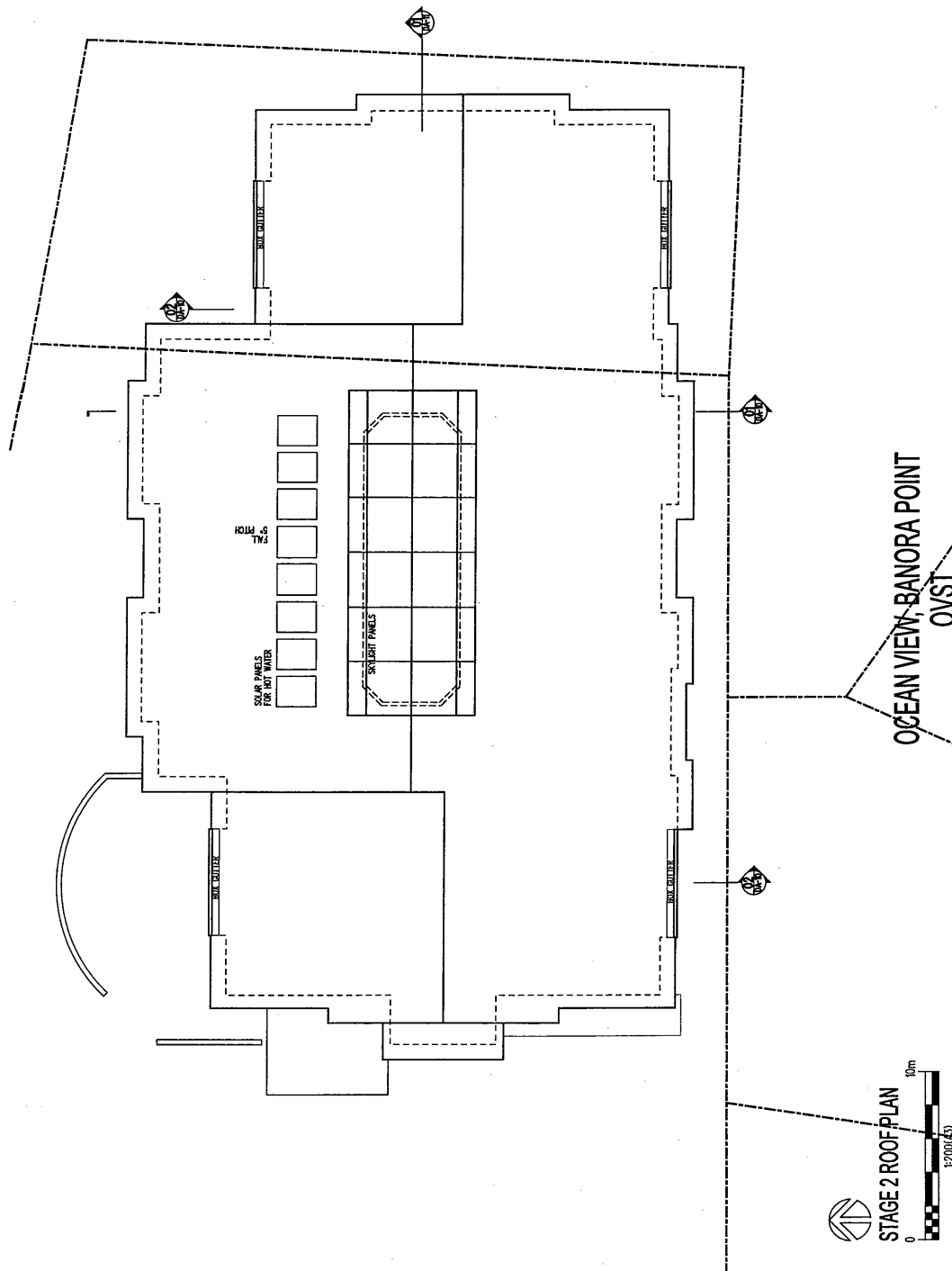
STAGE 2 GROUND FLOOR PLAN

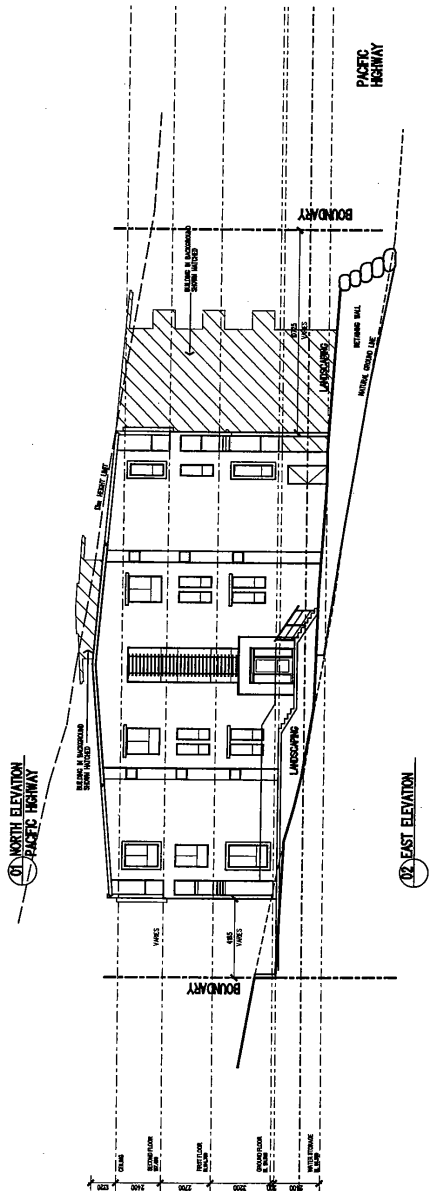
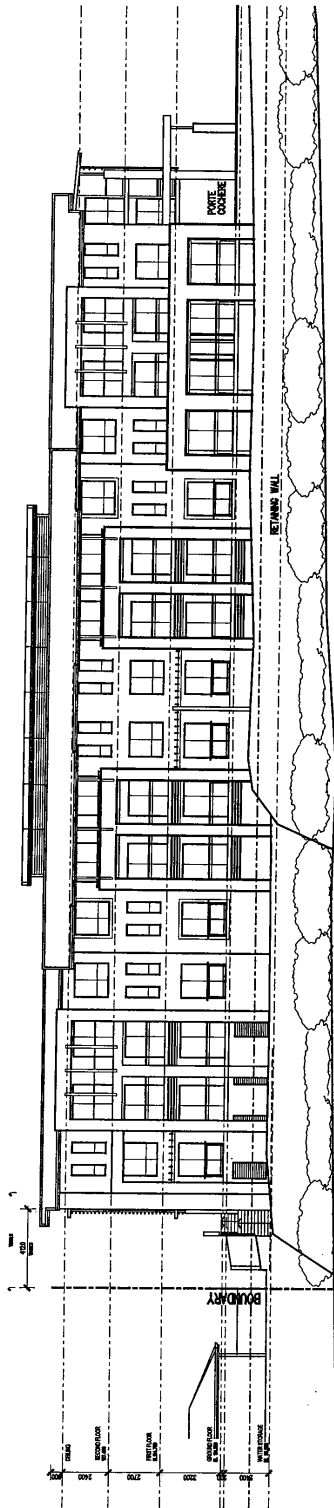






MPS  
ADDRESS  
1000/1001 ST  
APRIL 2005  
MPS 1000/1001  
Project



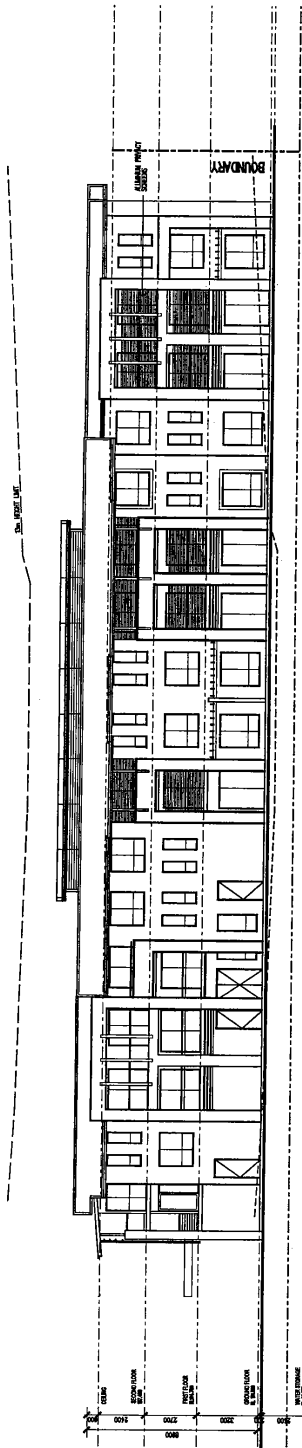


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ADDRESS  
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VICTORIA ST  
APRIL 2005  
MPS 106/21/004  
Project

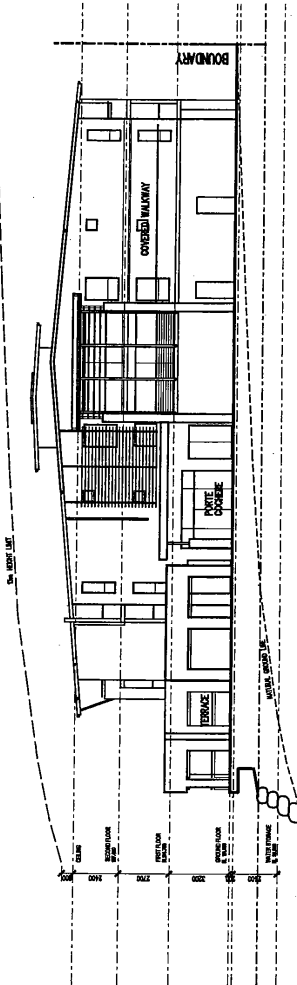
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**MPS**  
 Architects  
 1000, 30 & 300  
 North Street  
 MURFRESBORO  
 NSW 2484  
 MPS 1546 DA 004



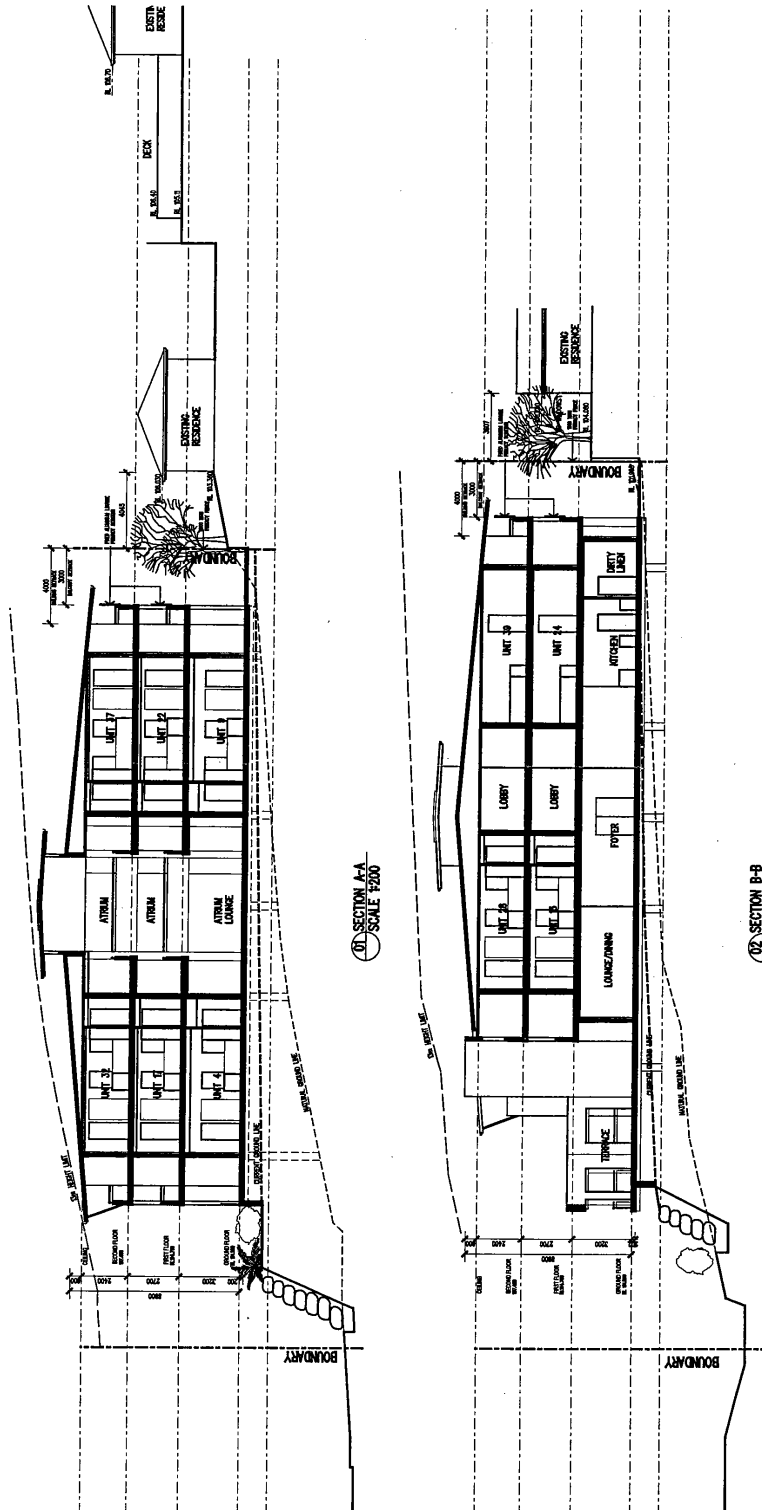
101 SOUTH ELEVATION



102 WEST ELEVATION



OCEAN VIEW, BANORA POINT  
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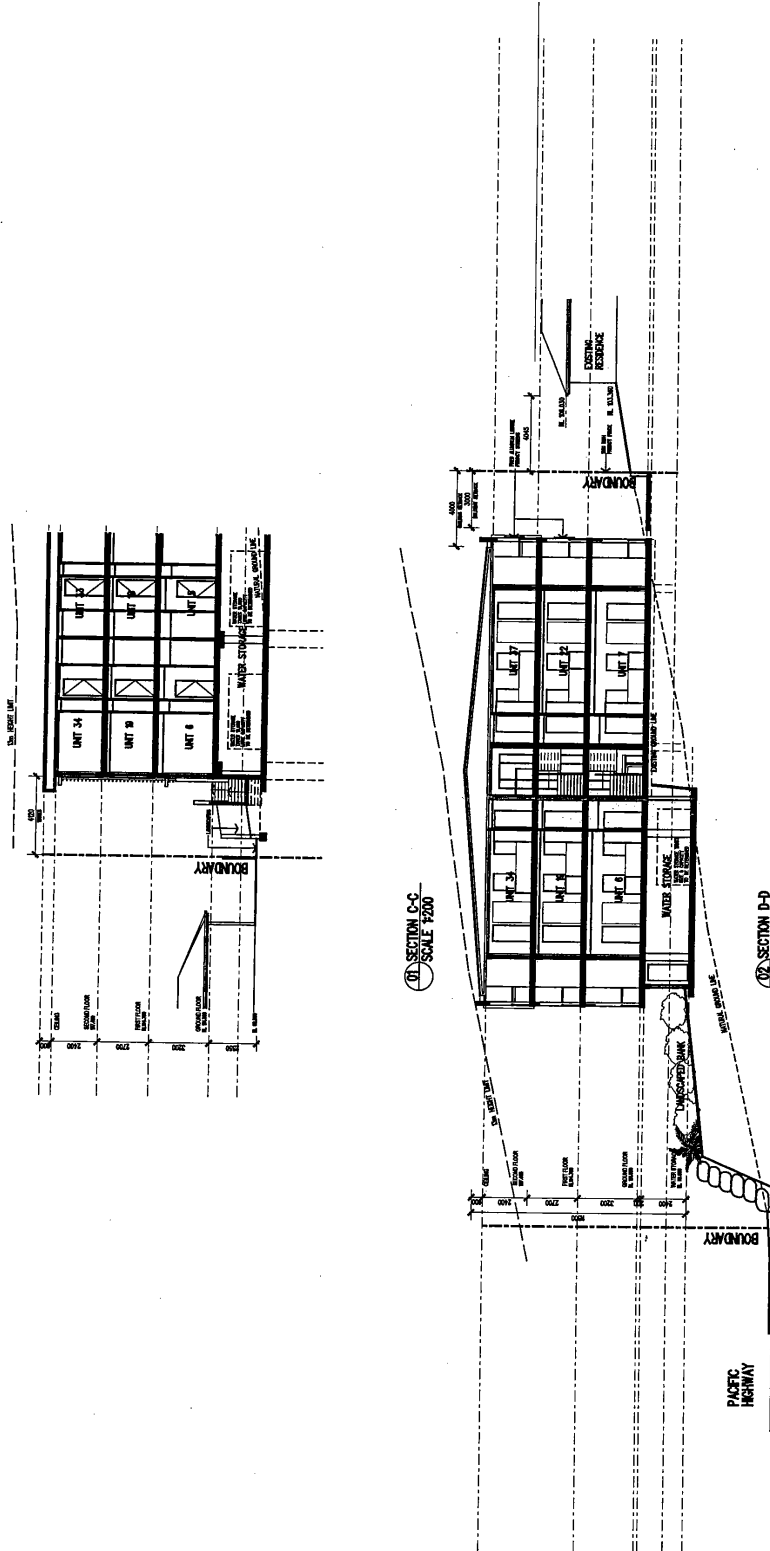


**MPS**  
Architects  
1300 38 80 80  
1300 38 80 80  
APRIL 2005  
MPS 1568 DA-09A  
Brisbane

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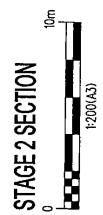


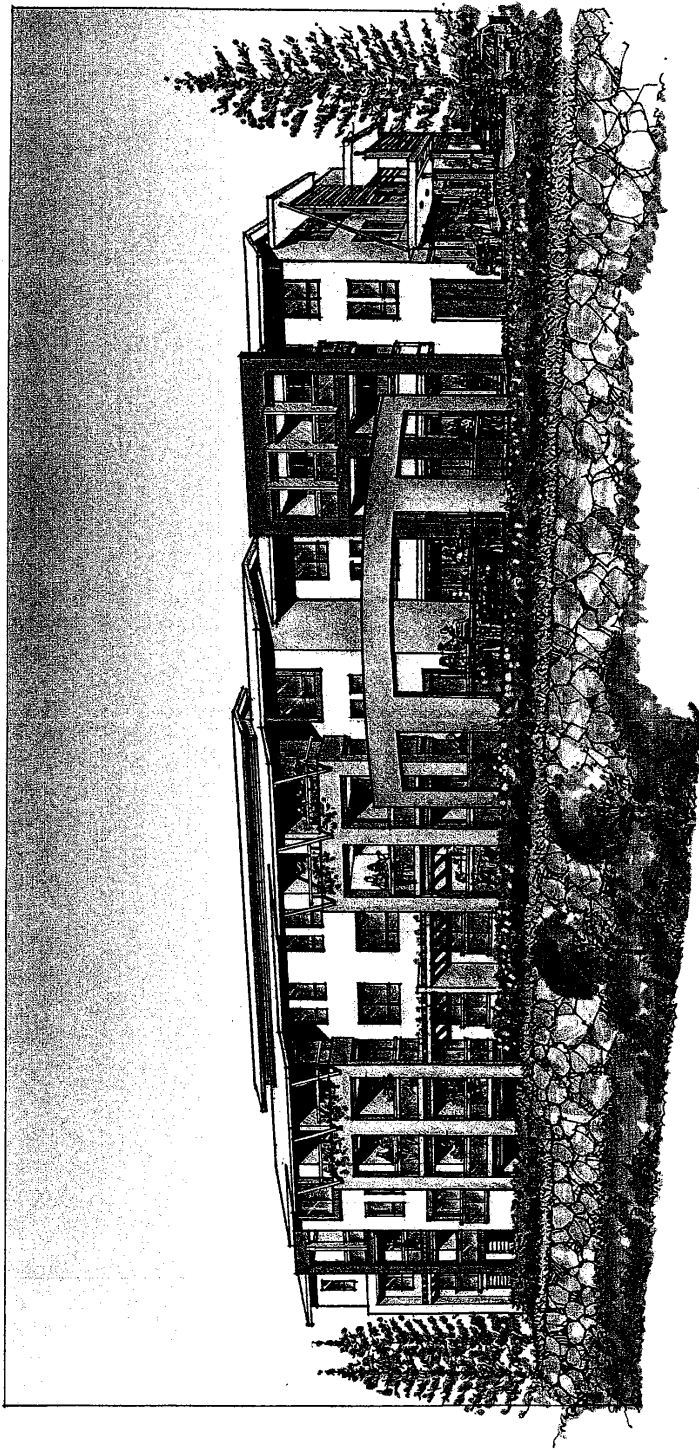




MPS  
CONSULTANTS  
1000 DE BRUIJN  
ARCHITECTS  
1/100 RIVERVIEW  
MPS 1648.DWG 1/10A

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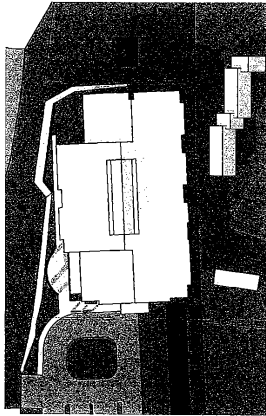




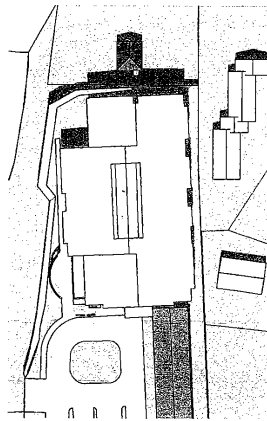
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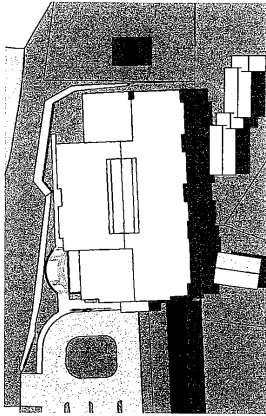
**PERSPECTIVE**



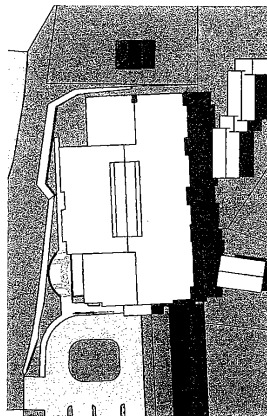
JUNE 22 . 3pm



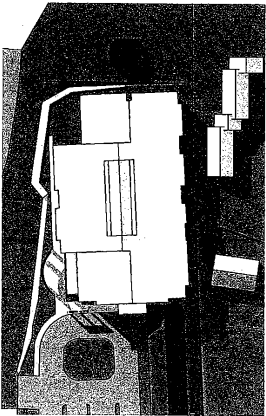
DECEMBER 22 . 3pm



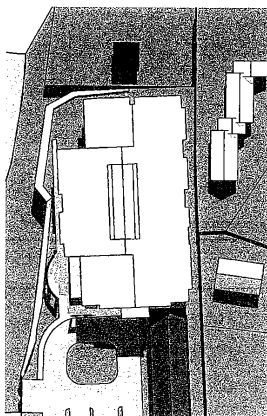
JUNE 22 . 12pm



DECEMBER 22 . 12pm



JUNE 22 . 9am



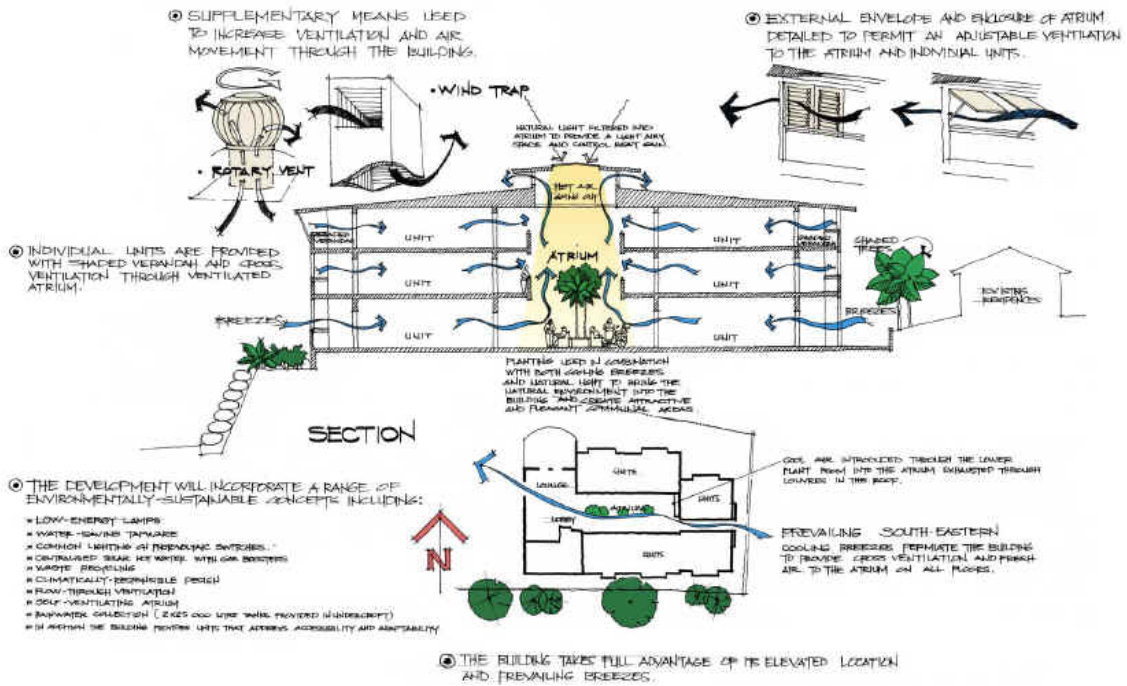
DECEMBER 22 . 9am

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Architects  
1300 26 86 59  
NOVEMBER 2004  
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**SHADOW DIAGRAM**

## Environmental Building Design



PASSIVE COOLING AND ENVIRONMENTAL CONCEPTS

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

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

Tweed Local Environmental Plan 2000

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

North Coast Regional Environmental Plan 1988

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

State Environmental Planning Policies (SEPP)

**SEPP 1 - Development Standards**

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

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

*represent a significant and positive addition to the built character of the locality.*

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

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

### **SEPP - Seniors Living**

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

### **SEPP 71 Coastal Protection**

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

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

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

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

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

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

Satisfactory.

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

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

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

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

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

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

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

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

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

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



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

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

**(e) Public interest**

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

**OPTIONS:**

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

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

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

**POLICY IMPLICATIONS:**

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

**CONCLUSION:**

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

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. Council Report of 17 July 2002 (DA02/0495) (DW 684998).
-

**2 [PD] Development Application DA05/0359 for an Attached Dual Occupancy at Lot 813 DP 1013074, No. 32 Donegal Court, Banora Point**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA05/0359 Pt1**

**SUMMARY OF REPORT:**

At the Planning Committee meeting held 17 August 2005 it was resolved as follows: -

*"that this item be deferred to the next meeting of the Planning Committee to allow objectors time to make representation to the Planning Committee access session and to have drawings included with the item."*

As a result of that resolution the report is resubmitted with all the relevant plans included in the report.

**RECOMMENDATION:**

**That Development Application DA05/0359 for an attached dual occupancy at Lot 813 DP 1013074, No. 32 Donegal Court 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 Sheet Nos 1-8 prepared by S Todiee and dated 2 March 2005 and the Landscape Concept Plan prepared by Paul Lockhart of Boyds Bay Garden World, except where varied by these conditions.**

[GEN0010]
- 2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.**

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

[GEN0120]
- 4. The erection of a building in accordance with a development consent must not be commenced until:**

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

[GEN0150]

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

5. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from an accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0160]

6. Development approval only is granted for a driveway from the development to connect with the adjacent public road.

You will be advised separately of the determination of your application to Council for consent under Section 138 of the Roads Act 1993 to construct or modify a driveway on the public road adjacent to your property.

You must receive this separate written consent from Council under Section 138 of the Roads Act 1993 prior to the issue of a construction certificate which includes any works on the adjacent public road and prior to any works taking place on the adjacent public road.

[PCC0200]

7. A detailed site stormwater plan, which includes details of the method of collecting and disposing of overland flow of rainwater which enters the site, separate to the roof water drainage system, shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCCNS01]

8. Construction Certificate drawings shall make provision for the regarding of the subject site, in accordance with Council's Development Control Plan 47 - Cut and Fill on Residential Land or to the satisfaction of the Director Engineering & Operations Division.

[PCCNS02]

9. All retaining walls in excess of 1.2m are to be designed by a suitably qualified geotechnical / structural engineer in accordance with AS4678 - 2002 - Earth Retaining Structures. A report that details compliance with the design provisions of this standard is to accompany the Construction Certificate drawings.

[PCCNS03]

10. 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]

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

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

[PCC0090]

12. 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]

### 13. 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.	Banora Point West/Tweed Heads South (DCP3) Open Space Passive (Casual): S94 Plan No. 1	\$813
b.	Banora Point West/Tweed Heads South (DCP3) Open Space Active (Structured): S94 Plan No. 1	\$639
c.	Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector2_4	\$1,684
d.	Shirewide Library Facilities: S94 Plan No. 11	\$212
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$50
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	\$110
i.	Regional Open Space (Structured) S94 Plan No. 26	\$361
j.	Regional Open Space (Casual) S94 Plan No. 26	\$67

[PCC0050/PSC0005]

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

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

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

Water DSP4:	1 ET @ \$4230	\$4,230
Sewer Banora:	1 ET @ \$2634	\$2,634

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]

#### **PRIOR TO COMMENCEMENT OF WORK**

15. 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]

16. 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]

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

[PCW0060]

18. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:



- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

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

[PCW0070]

- 19. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.  
[PCW0090]
- 20. 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]
- 21. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the PCA prior to commencement of building works.  
[PCW0250]
- 22. 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]
- 23. 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]

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

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

[PCW0190]

## DURING CONSTRUCTION

25. 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]

26. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. [DUR0060]
27. 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]
28. 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]
29. 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]
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. 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]
33. 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]
34. 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]
- 35. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.** [DUR1040]
- 36. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.** [DUR1070]
- 37. 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]
- 38. The finished floor level of the building should finish not less than 225mm above finished ground level.** [DUR1150]
- 39. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-**
- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
  - \* 50<sup>0</sup>C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.** [DUR1160]
- 40. 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]
41. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1210]
42. All proposed works are to be carried out in accordance with the conditions of development consent, approved Construction Certificate drawings and Specifications. [DURNS01]
43. No soil, sand, gravel, clay or other material shall be disposed of off the site. [DUR0030]
44. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate. [DUR0150]
45. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken. [DUR0430]
46. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering & Operations. Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base. [DUR0470]
47. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut

on each side of the work to enable a neat and tidy joint to be constructed.

[DUR0490]

48. All stormwater from roof catchment to be connected directly into road drainage pits if available, or to kerb and gutter, along the frontage of the site.

[DUR0640]

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

49. 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]

50. 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]

**REPORT:**

**Applicant:** Mr S Todiee  
**Owner:** Mr S Mansouri and Mrs P Mansouri  
**Location:** Lot 813 DP 1013074, No. 32 Donegal Court Banora Point  
**Zoning:** 2(c) Urban Expansion  
**Cost:** \$230,000

**BACKGROUND:**

Two previous Development Applications have been submitted over the subject site. Development Application DA05/0035 for an attached dual occupancy was submitted to Council on the 14 January 2005 although pursuant to Section 51(1) of the Environmental Planning and Assessment Act Regulation 2000 the application was returned to the applicant as insufficient information was submitted with the application.

Previously Development Application DA04/0127 was submitted to Council for a two (2) lot subdivision over the subject land within Glen Ayre Estate seeking to create two allotments of 640m<sup>2</sup> and 690m<sup>2</sup> respectively. The Development Application was reported to the Council Meeting on the 2 June 2004 and recommended that the application be approved subject to conditions. The application was considered at the Council Meeting and it was resolved 'that the matter be deferred for Council staff to bring forward appropriate reasons and/or conditions for refusal'. On Wednesday 16 June 2004 Council resolved to refuse Development Application DA04/0127. The reasons for refusal were as follows:

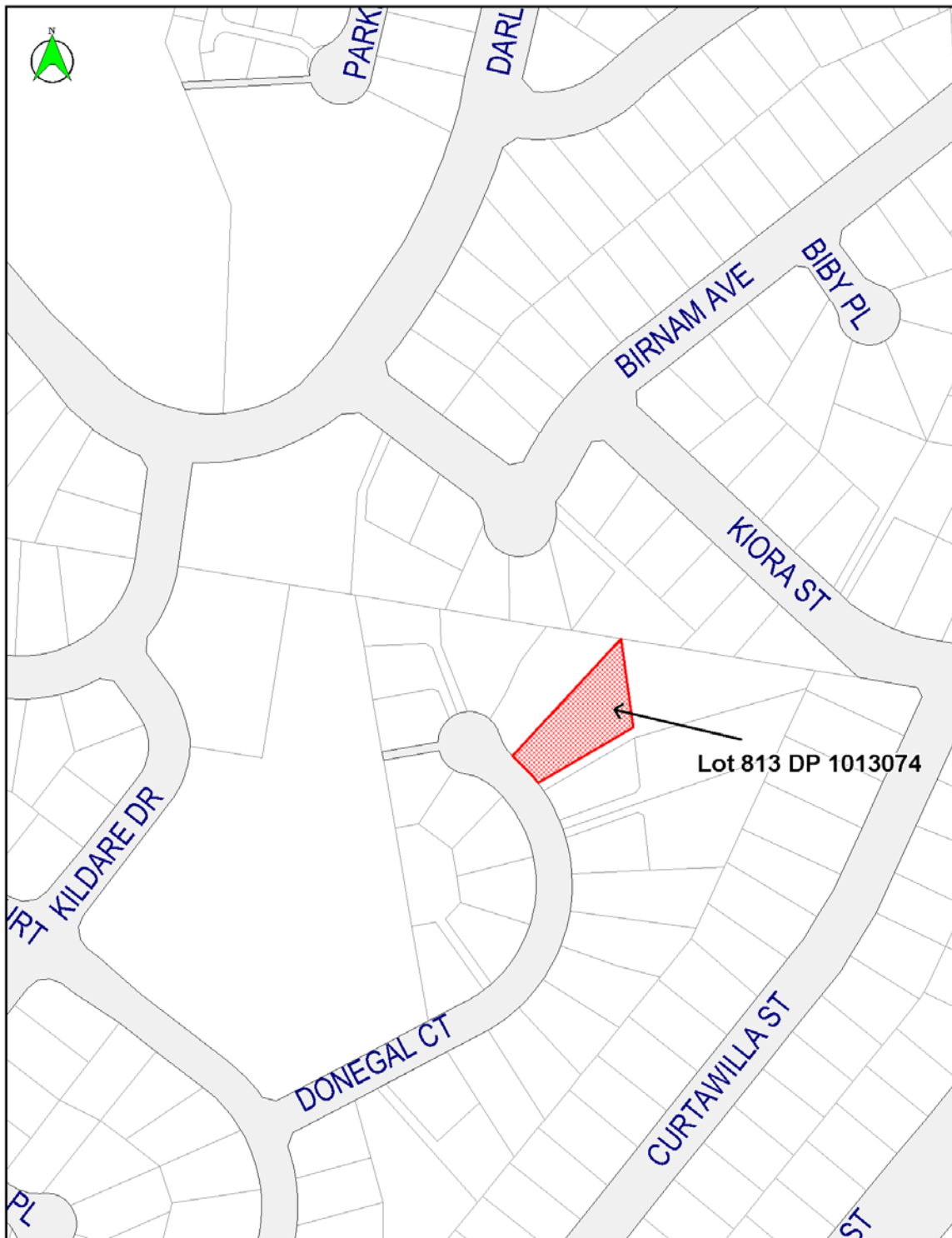
1. The proposed subdivision is not in keeping with the amenity and character of the locality.
2. The proposed subdivision is not considered acceptable given the intent of the original subdivision and the 88B instrument that prohibits dual occupancy developments.
3. The topography and geotechnical constraints limit the dwelling types which could be constructed on the land.
4. The proposed subdivision may result in an unacceptable impact on Donegal Court with on street car parking due to the gradient of the accessway to the subdivision lots and limited on street parking.
5. The weight of public objection to the proposal from other landowners in Donegal Court.


The subject site is a vacant parcel of land within the Glen Ayre Estate subdivision. The site has a 15.5 metre frontage to Donegal Court and an approximate depth of 45 metres. The site splays out from the street frontage and is slightly irregular in shape, with a total area of 1331m<sup>2</sup>.

The topography of the site is relatively steep with levels ranging between 9.5m AHD and 24.5m AHD. The site slopes upward from the Donegal Court frontage at a gradient between 18-25%. There is no significant vegetation on the site. The surrounding development is characterised by a mix of single dwelling houses and vacant residential allotments.



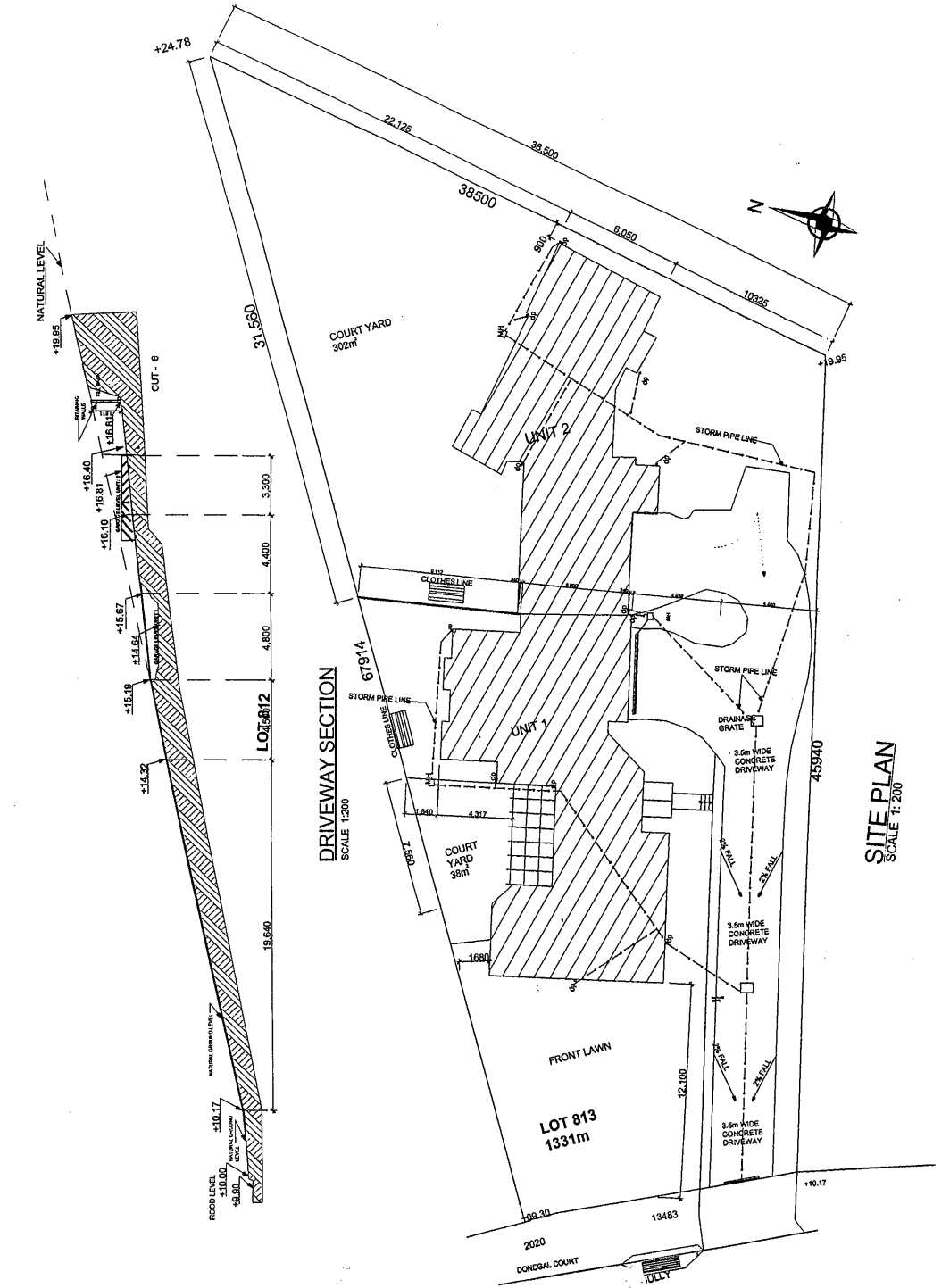
**SITE DIAGRAM:**



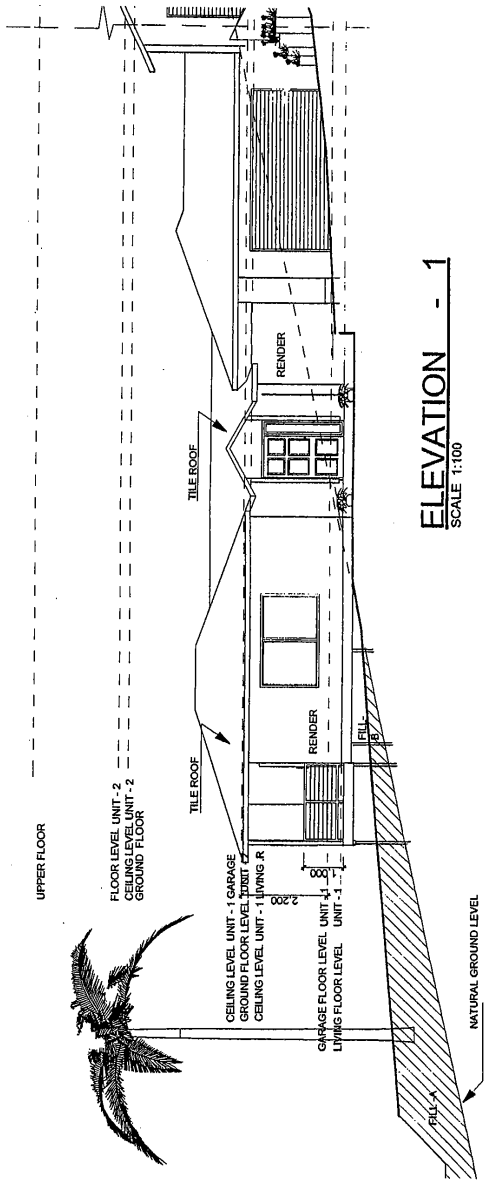
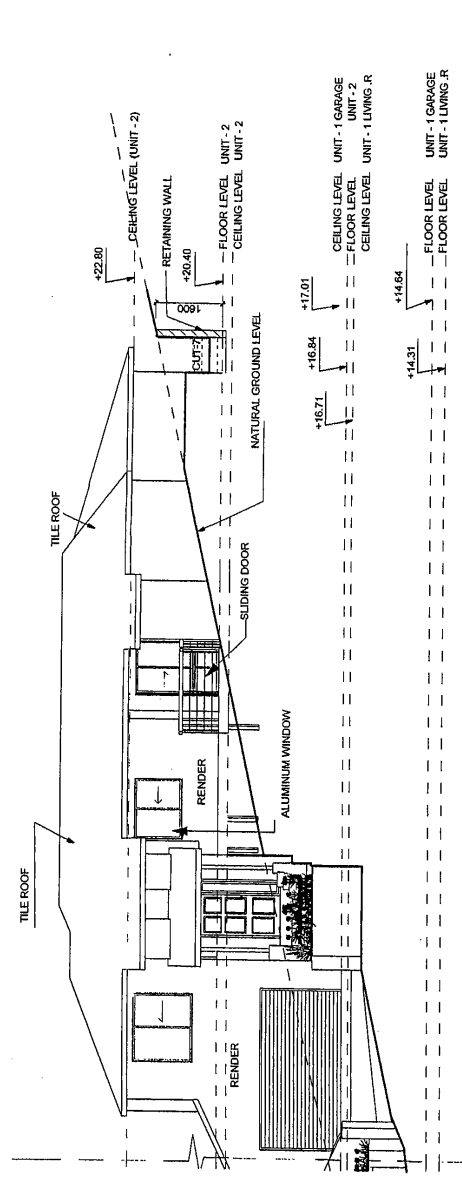
<p>© TWEED SHIRE COUNCIL 2004                  Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.  <b>DO NOT SCALE</b>                  COPY ONLY - NOT CERTIFIED                  P.O. Box 816                  Murwillumbah, NSW, 2484                  Tel: (02) 6670 2409                  Fax: (02) 6670 2403</p>	<p><i>Tweed Shire Council</i>                  Lot 813 DP 1013074                  32 Donegal Court, Banora Point</p>		<p>STRATEGIC                  PLANNING UNIT  <b>Site Plan</b></p>		
	File: N:\MapInfo 7...A4P Site Plan.Wor	Author: C.Davis	Date: 28May2004	Scale: 1:2,000	Sheet: 1 of 1

**DEVELOPMENT PLANS**

<b>STANDARD NOTES</b> 1-ALL CONSTRUCTION WILL COMPLY WITH THE BUILDING CODE OF AUSTRALIA 2-DO NOT SCALE THIS DRAWING- USE FIGURED DIMENSIONS. 3-CONTRACTORS SHALL CHECK ALL DIMENSIONS. 4-CONFIRM SITE INFORMATION PRIOR TO STARTING WORK. 5-THIS DRAWING IS COPYRIGHT. 6-WHEN IN DOUBT, ASK.		<b>DESIGN &amp; SET UP BY:</b> <b>S.TODICE</b> TEL: 07-55949076 MOBILE: 0400659003 FAX: ..... 14-TERRANORA RD BANORA POINT	<b>SUBJECT</b> SITE PLAN, DRIVEWAY PLAN	<b>CLIENT</b> S & P MANSOURI	<b>ADDRESS</b> DONEGAL COURT	SCALE SHEET NO 1 OF 8 DATE 2/3/05
		SCALE SHEET NO 1 OF 8 DATE 2/3/05				



<b>STANDARD NOTES</b> 1- ALL CONSTRUCTION WILL COMPLY WITH THE BUILDING CODE OF AUSTRALIA. 2- DO NOT SCALE THIS DRAWING. USE FIGURED DIMENSIONS. 3- CONTRACTORS SHALL CHECK ALL DIMENSIONS. 4- CONFIRM SITE INFORMATION PRIOR TO STARTING WORK. 5- THIS DRAWING IS COPYRIGHT. 6- WHEN IN DOUBT, ASK.		DESIGN & SET UP BY: <b>S. STODIE</b> TEL: 07 55245076 MOBILE: 0400058903 FAX: 07 55245076 100 WILSON RD BANGORA POINT	SUBJECT <b>ELEVATION</b> <b>1</b>	CLIENT <b>S &amp; P MANSOURI</b>	ADDRESS <b>DONEGAL COURT</b>	SCALE <b>1:100</b> SHEET NO <b>4 OF 8</b> DATE <b>2/3/05</b>
		STANDARD NOTES (continued from previous page)				



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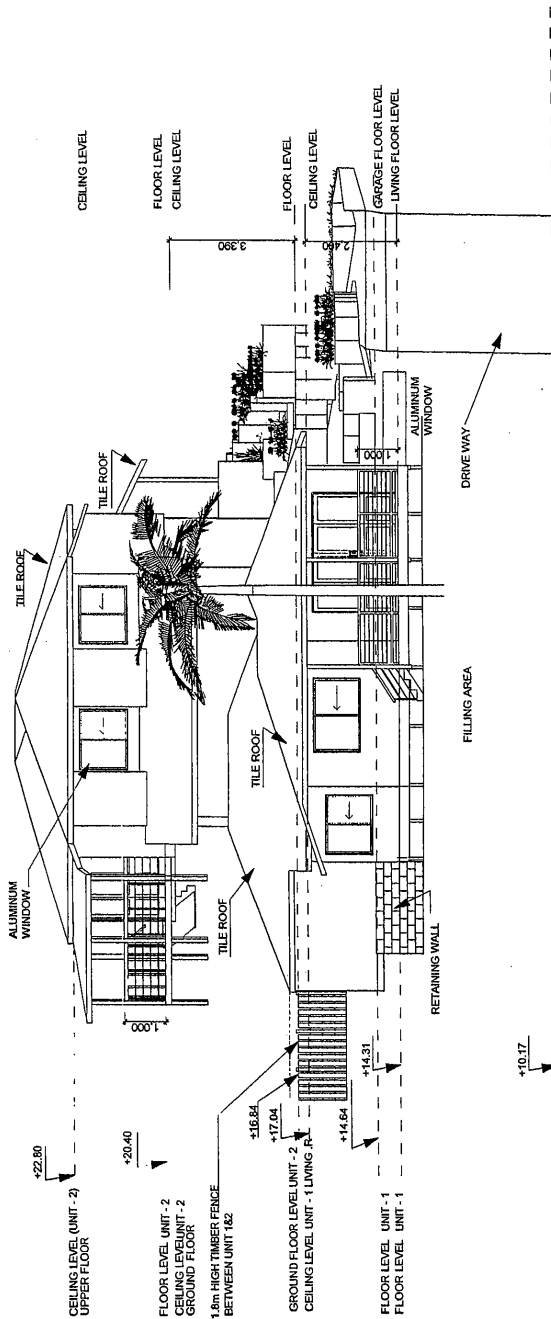
DESIGN & SET UP BY:  
**S. TOJNEE**  
 ARCHITECTS  
 MOBILE: 040658586  
 FAX: 040658586  
 14 TERRANORA RD  
 BANORA POINT

SUBJECT  
**ELEVATION - 2**  
 &  
**SECTION B-B**

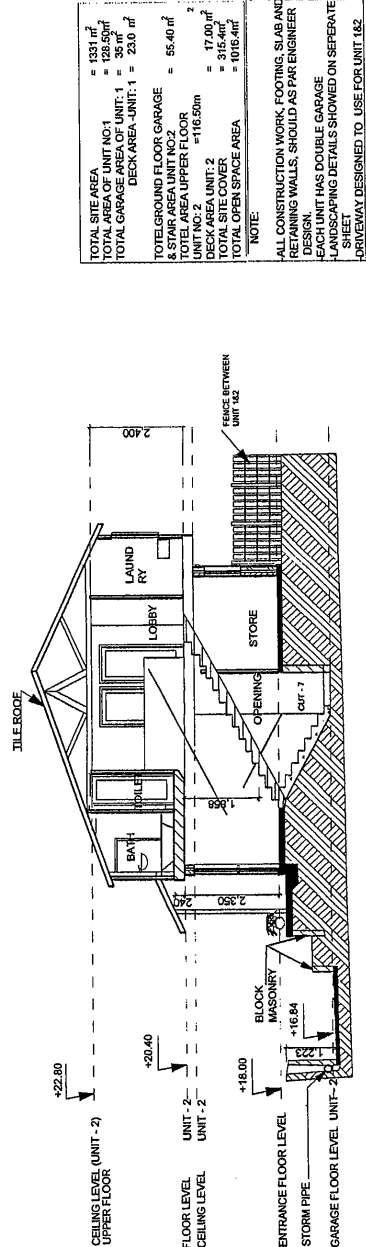
CLIENT  
**S & P MANSOURI**

ADDRESS  
**DONEGAL COURT  
 BANORA POINT**

SCALE **1:100**  
 SHEET NO **5 OF 8**  
 DATE **2/3/05**



**ELEVATION - 2**  
 SCALE 1:100

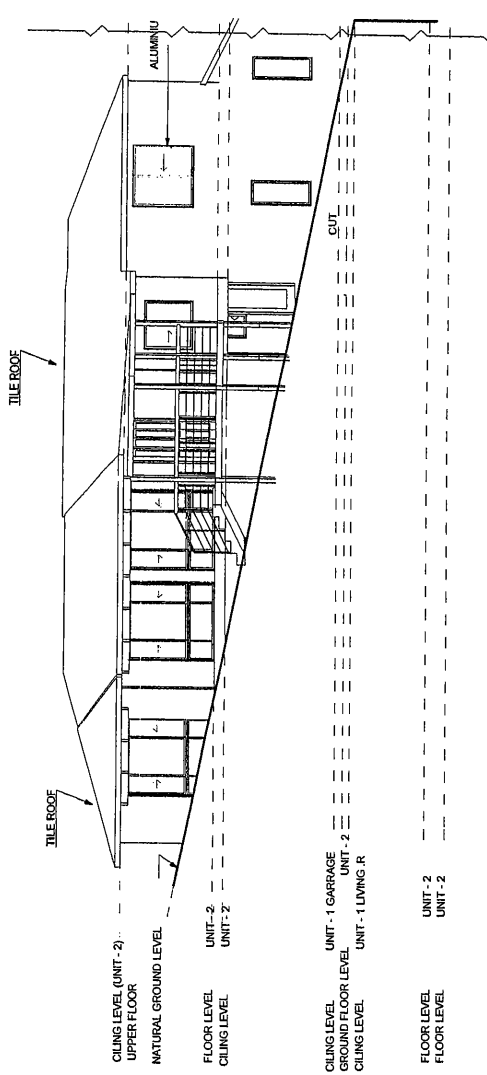


**SECTION B - B**  
 SCALE 1:100

TOTAL SITE AREA	= 1331 m <sup>2</sup>
TOTAL AREA UNIT NO.1	= 35.00 m <sup>2</sup>
TOTAL GARAGE AREA UNIT:1	= 23.0 m <sup>2</sup>
DECK AREA UNIT:1	= 23.0 m <sup>2</sup>
TOTAL GARAGE AREA UNIT:2	= 55.40 m <sup>2</sup>
5 STAR AREA UNIT NO.2	= 17.00 m <sup>2</sup>
LAUNDRY AREA UNIT:2	= 116.50 m <sup>2</sup>
DECK AREA UNIT:2	= 315.40 m <sup>2</sup>
TOTAL SITE COVER	= 1016.40 m <sup>2</sup>
TOTAL OPEN SPACE AREA	= 1016.40 m <sup>2</sup>

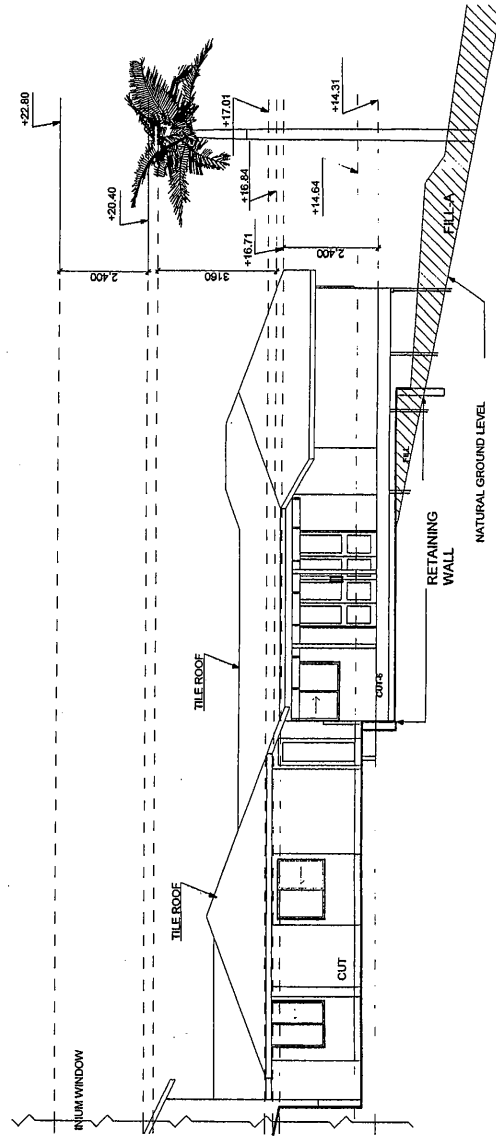
NOTE:  
 ALL CONSTRUCTION WORK, FOOTING, SLAB AND RETAINING WALLS, SHOULD AS PAR-ENGINEER DESIGN.  
 EACH UNIT HAS DOUBLE GARAGE.  
 LANDSCAPING DETAILS SHOWN ON SEPARATE SHEET.  
 DRIVEWAY DESIGNED TO USE FOR UNIT 1&2.

<b>STANDARD NOTES</b> 1. ALL CONSTRUCTION MUST BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA. 2. DO NOT SCALE THIS DRAWING. USE FIGURED DIMENSIONS. 3. CONTRACTORS SHALL CHECK ALL DIMENSIONS. 4. COVER ALL SITE INFORMATION PRIOR TO STARTING WORK. 5. THIS DRAWING IS COPYRIGHT. 6. WHEN IN DOUBT, ASK.		DESIGN & SET UP BY: <b>S. TODDIE</b> TEL: 07 55245076 FAX: 04005583 14 TERRANORA RD BANORA POINT	SUBJECT <b>ELEVATION 3</b>
		CLIENT <b>S &amp; P MANSOURI</b>	ADDRESS <b>DONEGAL COURT                  BANORA POINT</b>
		SCALE 1:100 SHEET NO 6 OF 8 DATE 2/3/05.	



**ELEVATION - 3**

SCALE 1:100



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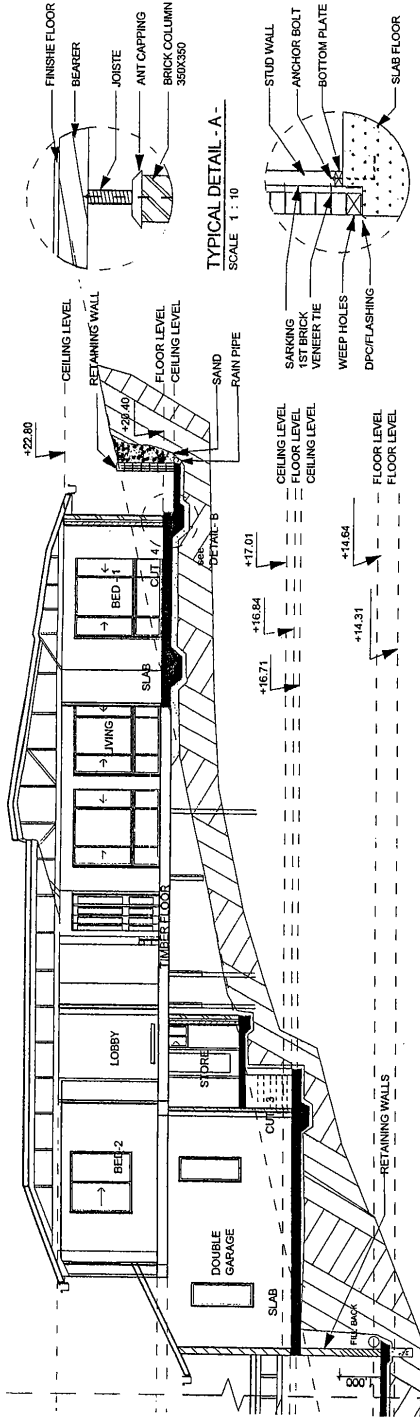
DESIGN & SET UP BY:  
**S. TODIEE**  
 TEL: 07 5524 5076  
 MOBILE: 0400558303  
 FAX: .....  
 14 TERRABORA RD  
 BANORA POINT

SUBJECT  
**SECTION B-B**

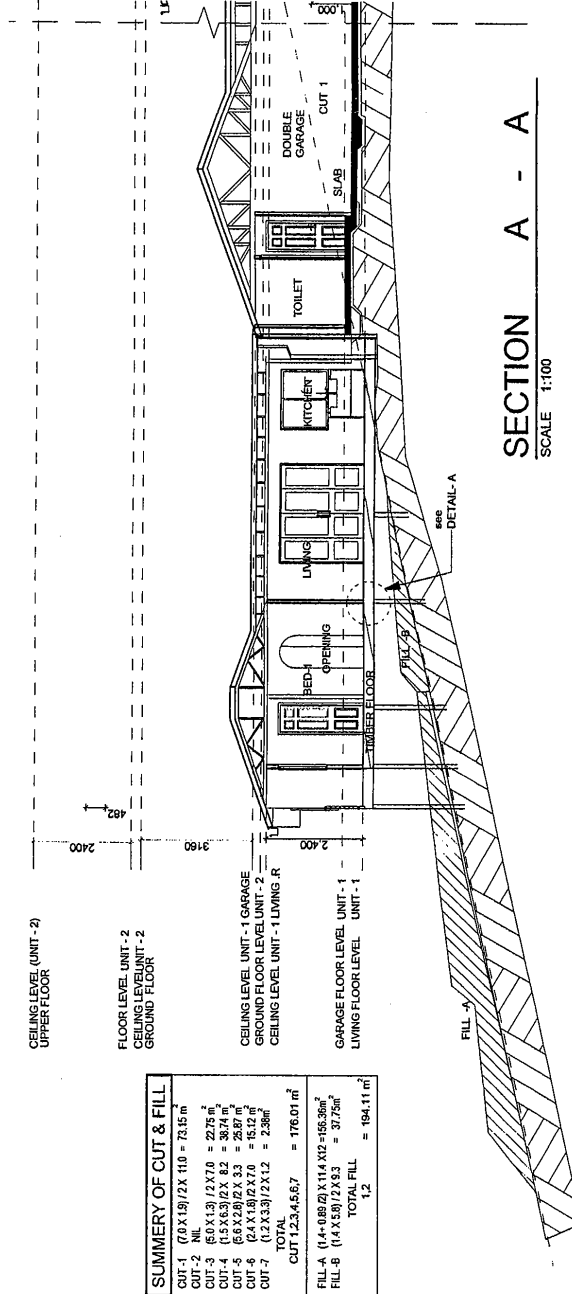
CLIENT  
**S & P MANSOURI**

ADDRESS  
**DONEGAL COURT  
 BANORA POINT**

SCALE 1:100  
 SHEET NO 7 OF 8  
 DATE 2/3/05



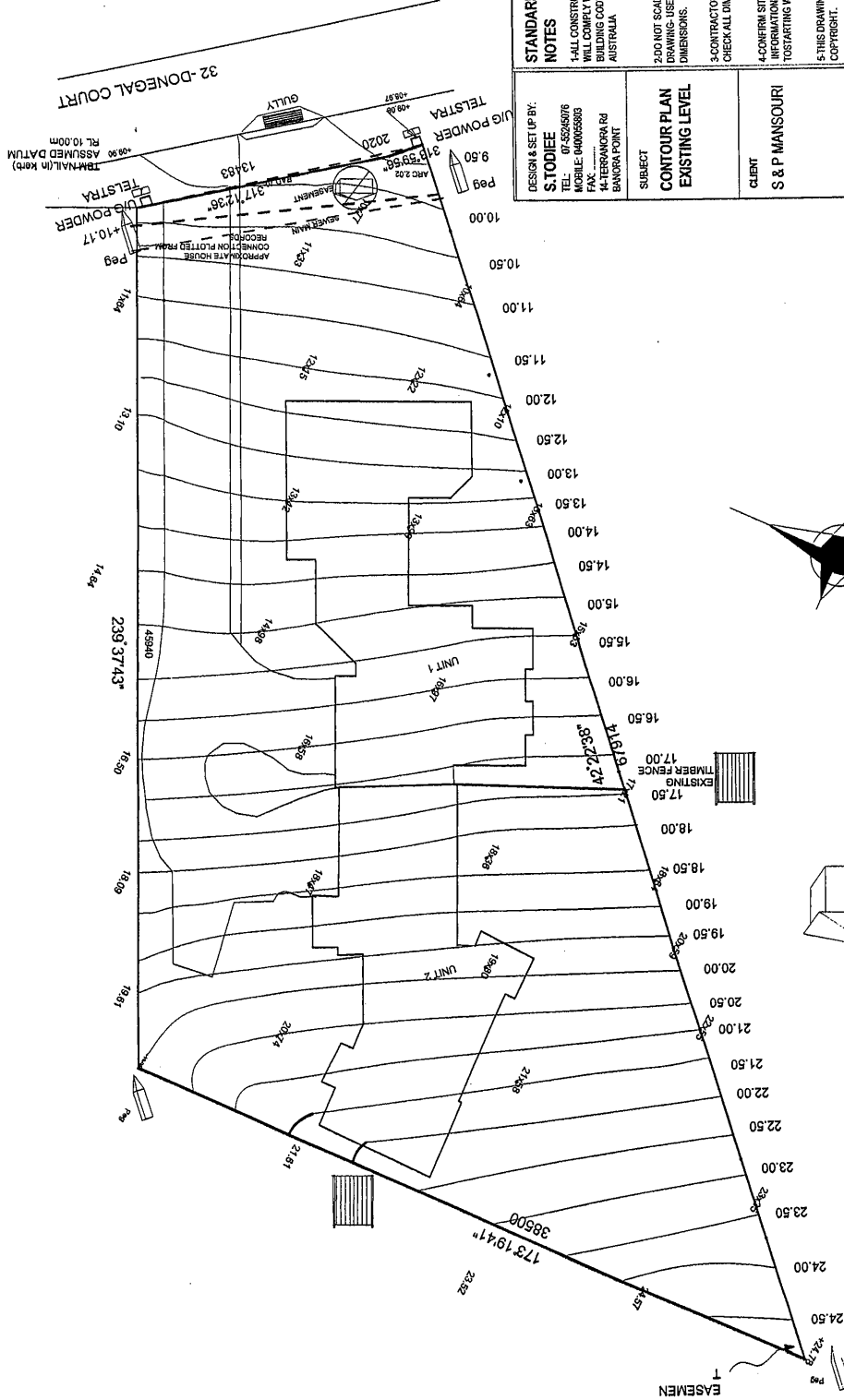
**TYPICAL DETAIL - B**  
 SCALE 1:10



**SECTION A - A**  
 SCALE 1:100

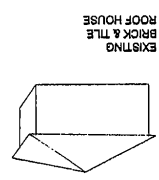
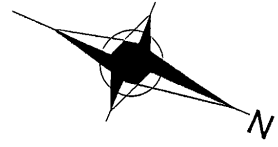
SUMMARY OF CUT & FILL	
CUT-1	(7.0 X 1.9) / 2 X 11.0 = 73.15 m <sup>3</sup>
CUT-2	6.0 X 1.3 / 2 X 7.0 = 22.25 m <sup>3</sup>
CUT-3	6.0 X 1.3 / 2 X 8.2 = 30.74 m <sup>3</sup>
CUT-4	(1.5 X 6.3) / 2 X 8.2 = 25.87 m <sup>3</sup>
CUT-5	(6.6 X 2.0) / 2 X 3.3 = 25.87 m <sup>3</sup>
CUT-6	(2.4 X 1.8) / 2 X 7.0 = 15.12 m <sup>3</sup>
CUT-7	(1.2 X 3.3) / 2 X 1.2 = 2.30 m <sup>3</sup>
TOTAL	CUT 123.456.7 = 176.01 m <sup>3</sup>
FILL-A	(14 X 0.80) / 2 X 11.4 X 2 = 158.30 m <sup>3</sup>
FILL-B	(14 X 5.8) / 2 X 9.3 = 37.75 m <sup>3</sup>
TOTAL FILL	= 194.11 m <sup>3</sup>
	1.2

CONTOUR PLAN (EXISTING LEVEL)  
SCALE 1:200



<b>STANDARD NOTES</b> 1-ALL CONSTRUCTION WILL COMPLY WITH THE BUILDING CODE OF AUSTRALIA 2-DON NOT SCALE THIS DRAWING-USE FIGURED DIMENSIONS. 3-CONTRACTORS SHALL CHECK ALL DIMENSIONS. 4-CONFIRM SITE INFORMATION PRIOR TO STARTING WORK 5-THIS DRAWING IS COPYRIGHT. 6-WHEN IN DOUBT, ASK.	
DESIGN & SET UP BY: <b>S. TODDIE</b> OF 55/608 MOBILE: 040668803 FAX: _____ 14-TERRANORA RD BANORA POINT	SUBJECT: <b>CONTOUR PLAN                  EXISTING LEVEL</b>
CLIENT: <b>S &amp; P MANSOURI</b>	ADDRESS: <b>DONEGAL COURT                  BANORA POINT</b>
SHEET NO B OF B DATE 2/3/05	SCALE 1:100

**LOT ON STREET SUBURB LOCAL AUTH AREA OF LAND**  
 813 DP 1013074  
 DONEGAL COURT  
 BANORA POINT  
 TWEED SHIRE COUNCIL  
 1331m



EXISTING BRICK & TILE ROOF HOUSE





PHOTOPLATE: 1



CLIENT: Todlee	JOB: Donegal Court	DATE: 24/03/2005	SCALE: not to scale
FILE: todleplat	IMS: N/A	SOURCE: J.G.A.	



**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 proposed development is permissible with the consent of Council. The proposed development is consistent with the primary objective of the zone.

The following Clauses of the Tweed Local Environmental Plan 2000 are relevant to the proposal:

**Clause 15** of the TLEP requires Council to ensure adequacy of services prior to determining the development 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 a part one (1) and part two (2) storey building. 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 56** Relates to the suspension of covenants, agreements and similar instruments. Clause 56 subclause (2) states: "For the purpose of enabling development to be carried out in accordance with this plan or a consent granted under the Act, any covenant, agreement or similar instrument that restricts development allowed by this plan shall not apply to the development to the extent necessary to serve that purpose." As a consequence of Clause 56 the Section 88B Instrument which applies to the land (limiting development to single dwellings) is suspended by the provisions of this Clause.

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 suitable for the function of the proposal and a detailed sedimentation and erosion control plan will be conditioned and 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 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**

The proposed development is not affected by any Draft Environmental Planning Instruments.

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

Development Control Plan No. 2 – Access and Parking Code

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 DCP 2.

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

Glen Ayre estate is identified within the prescribed area subject to the provisions of DCP No.3. The purpose of DCP No.3 is to present Council's objectives with regard to development in these areas. In this regard,

development must generally comply with the provisions of the relevant land use category. There are four (4) types of Residential Areas identified in the plan.

Glen Ayre estate (inclusive of the subject site) is identified as a Residential 'B' Area. According to the provisions of the DCP, the Residential 'B' category is intended to provide for a housing form that is medium density in character. The document states that;

*"Duplexes, cluster and integrated housing development may also be accommodated within this area, provided the density of any proposed development is similar to townhouse density.*

*Unless exceptional circumstances exist, these areas preclude the development of conventional detached dwellings.*

*Within the DCP area, provision has been made for approximately 120 hectares (of Residential 'B' land), which equates to 2880 dwellings accommodating up to 6500 persons."*

It is evident in the nature of the existing development within Glen Ayre estate that the provisions of DCP have not been adhered to in previous proposals. This may be linked to the constraints applicable to the area relating to the topography of the land and the limited capacity of Donegal Court in accommodating medium density development.

It is apparent however, that the planned population densities are not being met by the current pattern of development. The Section 88B Instrument in place over the estate further limits the potential for meeting these population quotas. In this context, the proposed attached dual occupancy presents an opportunity to make a minor addition to the desired density of the area.

Development Control Plan No.6 – Multi Dwelling Housing

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

<b>Standard</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
Floor Space Ratio	0.5:1 (665.5m <sup>2</sup> )	0.2:1 (266.2m <sup>2</sup> )	YES
Minimum Landscaped Area	30% site area (399.3m <sup>2</sup> )	Approximately 34% site area (452.5m <sup>2</sup> )	YES
Setbacks from street boundary	Primary frontage 6m	>6m to main wall	YES
Setbacks	900mm in accordance with BCA	>900mm	YES

<b>Standard</b>	<b>Requirement</b>	<b>Proposal</b>	<b>Complies</b>
<u>Streetscape</u>	The maximum width of the garages should be 50% of the frontage width.	Provision not applicable as garages are addressing side boundary.	YES
Streetscape	Garages should be setback behind the front façade of the building.	The garages are setback behind the front façade of the building.	YES
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 (266.2m <sup>2</sup> = 133.1m <sup>2</sup> per dwelling) with minimum dimension of 3m	Unit 1 = 145 m <sup>2</sup> Unit 2 = 240 m <sup>2</sup>	YES
	One part min 25m <sup>2</sup> with min dimension of 4m	>25m <sup>2</sup> & min. dimension of 4m	YES

### Streetscape

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 cut and fill proposed for the proposed attached dual occupancy is designed to cater for the topography of the land and to limit the effect of bulk and scale from the streetscape. The subject lot is considered to comply with all 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 Donegal Court. The proposed landscaping is seen to significantly soften the appearance of the development from the Donegal Court streetscape.

### Summary

In all 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 requested Council's Building Services Unit complete an ABSA certificate for the proposed development that outlines compliance with the requirements DCP 39 and the results are as follows:

Standard	Requirement	Proposal	Complies
Unit Energy rating	3.5 stars minimum	3.5 stars	<b>YES</b>

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

Development Control Plan No.42 – Public Notification Policy

The development application was notified to surrounding properties for a period of two weeks. During this period one written submissions was received in the form of a petition signed by thirty-three (33) residents from a total of seventeen (17) households. The main issues raised within the submissions included character, overdevelopment of the site and traffic issues. The issues raised are addressed further in this report.

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

A Geo-Technical Assessment has been undertaken on the site by Border-Tech. The Report contains recommendations concerning building foundations, site preparations and compaction. The Report makes comment that Border-Tech are aware of the Geo-Technical Testing and inspections that were carried out during the placement of the fill on site (during the creation of the lot) and consider the fill material ‘controlled’. Council’s Development Assessment Engineer has examined the submitted Geo-Technical Assessment and drawings and raised no objection to the proposal.

**(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(c) Urban Expansion under the TLEP 2000, with the area primarily expressing a detached residential development character. 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 Donegal Court are generally of a regular shape and are relatively similar in terms of lot layout and size, however some are larger, deeper lots. Accordingly, the majority of housing developments along Donegal Court incorporate larger building setbacks, with a variety of traditional and coastal building designs, a number of styles and building heights ranging from single to three storeys.

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.

The density of the development is one (1) unit per 665.5m<sup>2</sup> of site area, which given the physical constraints of the site is appropriate. There are eight (8) other allotments that have dwellings located upon them below 665m<sup>2</sup> site area within Donegal Court, which suggests that the development is compatible with the existing and the desired future character of the locality.

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

Suitability of the Lot for Dual Occupancy Development

The subject site has a land area of 1331m<sup>2</sup>. The topography of the site is relatively steep with levels ranging between 9.5m AHD and 24.5m AHD. The site slopes upward from the Donegal Court frontage at a gradient between 18-25%. The site enjoys a 15.5-metre frontage to Donegal Court and is approximately 45 metres deep. The applicant has provided a Geo-Technical report that concludes that the land is suitable for the proposed development. Council's Development Assessment Engineer has reviewed the supporting information and resolved to support the proposal subject to the recommendations put forward in the Geo-Technical report.

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 bushfire prone and does not have 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 lot size, shape, layout and surrounding development.

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

The proposed development was notified in accordance with Council's Development Control Plan No. 42 for a period of fourteen (14) days. One submission was received during this period in the form of a petition signed by thirty-three (33) residents from a total of seventeen (17) households in

Donegal Court. The petition against the proposed development provides no specific basis for objection.

Following are the objections raised and a response to the matters raised in the submission:

- All lots displayed on Tweed Shire Council approved plans were for single dwelling only.

**Response:** The Section 88B Instrument which applies to the land, limiting the nature of the development to single dwelling houses is suspended by the provisions under Clause 56 of the Tweed Local Environmental Plan.

- Donegal Court cul-de-sac does not have sufficient capacity for street parking for visiting persons and the increased traffic generated by additional dwellings/driveways.

**Response:** Council's Development Assessment Engineer has assessed the proposed development and raised no concerns over the parking proposed to service to the development. The proposed development meets with the requirements of Development Control Plan No. 2.

- The proposed subdivision will no doubt multiply traffic noise and flow, and will disrupt the peace and quite enjoyed by others within Donegal Court.

**Response:** The proposal will result in one (1) additional dwelling requiring access via Donegal Court. The proposed development is serviced by a single driveway. Two (2) onsite car parking spaces per unit are provided. Donegal Court is a cul-de-sac which does not carry through traffic. Council's Development Assessment Engineer has raised no traffic generation issues and concludes that the existing road system is capable of accommodating the additional traffic that will be generated by this development. It has been assessed that the additional traffic noise associated with the proposed development will be negligible.

- The investment made when purchasing and expected growth in our investment will not be achievable.

**Response:** There is no evidence to suggest that the proposed development will have a negative impact on surrounding property values. The scale of the proposed development is relatively minor, facilitating the provision of one (1) additional dwelling within the estate. There are no significant impacts foreseen as a result.

- We have concerns the applicants have no intention of residing in either dwellings themselves.



**Response:** This objection is not relevant to the merits of the application and does not warrant a response.

- Will other vacant allotments in Donegal Court be encouraged to apply for multiple dwellings and give our wonderful street the appearance of cluster housing, which we are certain was never the intention of the original developer or the residents now occupying Donegal Court.

**Response:** Most of the allotments within Donegal Court have dwellings already located upon them. Applications can be lodged for dual occupancies on allotments although are required to be assessed on their merits and met with Council's adopted policies and planning documents. The proposal is unlikely to create a precedent for similar development proposals on other vacant allotments in the estate. The site is unusually large with an area of 1331m<sup>2</sup>, which is double the size of a standard residential allotment. Other vacant lots in the locality are generally in the order of 600-800m<sup>2</sup>.

#### Summary

Whilst certain issues raised in the submission raise valid points, they are not considered substantial enough to warrant the refusal of the development application. The application demonstrates compliance with all relevant Council controls and policies pertaining to an attached dual occupancy. As a result, it is considered that the proposed development will not compromise the amenity of the local environment.

#### **(e) Public interest**

Although the proposal received a submission in the form of a petition 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 DCP's. 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 attached dual occupancy is therefore considered to warrant approval.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. Confidential Attachment - Floor plans of the development (see File DA05/0359)
-

**3 [PD] Review of Determination of Development Application DA04/0173 for Multi Dwelling Housing Comprising Three (3) Dwellings at Lot 3 DP 214331, No. 13 Moss Street, Kingscliff**

**ORIGIN:**

**Development Assessment**

**FILE NO: DA04/0173**

**SUMMARY OF REPORT:**

Council is in receipt of a Review of Determination for DA04/0173, which seeks to have Council reconsider its determination for the proposed development. In this regard a number of amendments have been carried out in order to ameliorate Council's concerns as previously identified.

The proposed building involves three (3) units in a part two and three storey building stepping down a sloped block. The site is zoned 2(b) medium density residential and has a height limit of two storeys. The application is accompanied with a SEPP 1 objection.

This report concludes that the amended development as proposed is satisfactory for approval and as such the SEPP 1 objection should be supported.

**RECOMMENDATION:**

**That: -**

- 1. State Environmental Planning Policy No. 1 objections to Clause 16 of the Tweed Local Environmental Plan 2000 regarding the height of the building be supported and the concurrence of the Director-General of the Department of Infrastructure, Planning and Natural Resources be assumed for the following reasons:**
  - **The development presents predominantly as two storey to Hungerford Lane;**
  - **The building retains as far as practical, view sharing with neighbouring properties;**
  - **The density of the building is compatible with the existing urban environment;**
  - **The development attains the objectives of the Residential 2(b) land-use zoning under the Tweed LEP 2000; and**
  - **The development achieves the relevant performance objectives of Development Control Plan No 6 – Multi Dwelling Housing and Development Control Plan No 43 – Kingscliff.**

2. Development Application DA04/0173 for multi dwelling housing comprising of three (3) dwellings at Lot 3 DP 214331, No. 13 Moss Street Kingscliff 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 KRESINA:DA:01; 02; 03; 04; 05; 06; 07; 08; 09; 10; 11; 12; and 17 prepared by Brian Kenny and dated 04.02.05 and Landscaping Statement of Intent prepared by Planit Consulting and dated 28 July 2005, 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. Prior to commencement of work pursuant to this consent a Construction Certificate shall be obtained for the works proposed and required by this consent.
  - a) copies of compliance certificates relied upon
  - b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
    - earthworks
    - stormwater drainage
    - water supply works
    - sewerage works
    - landscaping works
    - sedimentation and erosion management plans
    - location of all service conduits (water, sewer, Country Energy and Telstra)
    - the approved Traffic Control Plan

**Note:** The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier. [GEN0140]

5. The erection of a building in accordance with a development consent must not be commenced until:

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

[GEN0150]

- 6. The use of EXTERNAL ground anchors, sheet piling or any other like method that extends beyond the property boundary is not permitted or approved by this consent, except where the written permission to carry out such works and the details of works have been submitted and approved with the Construction Certificate. Any such works proposed in Council's road reserve shall require the submission and approval of a separate s.138 application, which is to be accompanied with all necessary engineering detail to the satisfaction of Council's Director of Engineering and Operations.
- 7. No roofing or shade structure shall be permitted on any deck or roof level.

8. No built form is permitted on the proposed Unit 3 patio located on Level 1.

[GENNS01]

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

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

[PCC0010]

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

[PCC0040]

11. Section 94 Contributions

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

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

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

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

- |   |         |
|---|---------|
| a. Tweed Road Contribution Plan:<br>S94 Plan No. 4 (Version 4.0)<br>Sector6_4 | \$1,456 |
| b. Open Space (Structured):<br>S94 Plan No. 5                                 | \$750   |

c.	Open Space (Casual): S94 Plan No. 5	\$160
d.	Shirewide Library Facilities: S94 Plan No. 11	\$662
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$140
f.	Community Facilities (Tweed Coast - North) S94 Plan No. 15 North Coast	\$492
g.	Emergency Facilities (Surf Lifesaving) (REMSHIRE) S94 Plan No. 16	\$237
h.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$439.91
i.	Cycleways S94 Plan No. 22	\$341
j.	Regional Open Space (Structured) S94 Plan No. 26	\$1,130
k.	Regional Open Space (Casual) S94 Plan No. 26	\$211

[PCC0050/PSC0005]

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

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

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

Water DSP5:	0.93 ET @ \$4230	\$3,934
Sewer Kingscliff:	1.5 ET @ \$6152	\$9,228

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

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

[PCC0070/PSC0004]

13. 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]

14. Permanent Stormwater Quality Treatment

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



(c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.

(d) Specific requirements:

(i) All runoff from undercover car parking must be treated to remove oil and sediment pollutants prior to discharge to the on site detention system. Permanent treatment shall be sized according to Council's Development Design Specification D7 - Stormwater Quality, Section D7.12.

[PCC0230]

15. 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]

16. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This may be achieved by on site detention (OSD), on site retention or a combination of both. Detention storage may be incorporated into surface depressions in landscaping or aboveground car parking areas. The maximum water depth under design conditions in aboveground vehicle parking areas shall be 200mm. OSD devices including discharge control pits (DCP) are to comply with standards in The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook, Third Edition, December 1999" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire. All these works and the connection to Councils drainage system shall be constructed in accordance with design calculations, plans and specifications to be submitted with the construction certificate application and approved by the Director, Engineering & Operations.

[PCC0260]

17. **Erosion and Sediment Control During the Construction Phase of Development**
- (a) **Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with *the "Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.**
- (b) **The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.**
- [PCC0320]
18. **Stormwater discharge pipe(s) traversing the cutting within the Moss Street road reserve and connecting to the kerb and gutter must be designed and constructed to minimise public nuisance and allow for future maintenance. Details shall be submitted with the s68 Stormwater Application.**
19. **A detailed geotechnical engineering assessment of the site is required with the Construction Certificate application. Consideration of geotechnical constraints must be included in the engineering design of excavation, shoring and retaining structures (including those integral to the building), to ensure no adverse impact on adjoining owners.**
- [PCCNS01]
20. **Prior to the issue of a Construction Certificate, the applicant shall submit to Council for approval construction details regarding the existing sewer main, as tabled within Council correspondence dated 22 July 2004.**
21. **Prior to the issue of a Construction Certificate, the applicant shall submit to Council for approval an appraisal carried out by a Geotechnical Consultant of the effect of the proposed excavation including any precautions considered necessary to protect such**

properties from damage in accordance with Tweed Shire Council's Building Excavation Dewatering Policy.

22. Prior to the issue of Construction Certificate the applicant shall submit to Council documentation demonstrating General Public Liability Insurance to the value of \$5,000,000 which includes loss of support to neighbouring properties which is attributed to excavation vibration associated with the project in accordance with Tweed Shire Council's Building Excavation Dewatering Policy.
23. Prior to the issue of a Construction Certificate, the applicant shall submit to Council for approval details of any proposed car park exhaust vent locations.
24. Prior to the issue of a Construction Certificate, the applicant shall submit for approval a detailed lighting plan to ensure no light spill onto adjoining properties.

[PCCNS02]

#### **PRIOR TO COMMENCEMENT OF WORK**

25. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.
26. 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.

[PCW0030]

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

[PCW0040]

27. 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]

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

[PCW0060]

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

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

[PCW0070]

30. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:

i. The person must, at the person's own expense:

- a. preserve and protect the building from damage; and
- b. if necessary, underpin and support the building in an approved manner.

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

[PCW0080]

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

[PCW0090]

32. Sewer main within site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.

[PCW0180]

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

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

[PCW0190]

34. 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]

35. 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]

36. 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]

37. Prior to the commencement of works sedimentation and erosion control measures shall be installed to the satisfaction of the Director of Environment and Community Services.

[PCWNS01]

#### **DURING CONSTRUCTION**

38. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

[DUR0010]

39. All engineering works required to be approved prior to the issue of a construction certificate are to be constructed in accordance with the approval.

[DUR0020]

40. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR0040]

41. The provision of five (5) off street car parking spaces. A minimum of one (1) unburdened space shall be marked as a visitor space and maintained accordingly. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls. Signage is to be provided requesting vehicles to dim their lights as they enter the car parking area.

[DUR0050]

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

[DUR0060]

43. 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]

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

[DUR0090]

45. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos. [DUR0100]
46. 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]
47. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate. [DUR0150]
48. 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]
49. 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]
50. If the work involved in the erection or demolition of a building:
- a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - b. building involves the enclosure of a public place,
- a hoarding or fence must be erected between the work site and the public place.
- If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- Any such hoarding, fence or awning is to be removed when the work has been completed. [DUR0220]



51. The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken. [DUR0430]
52. The concrete driveway across the footpath is to be constructed in accordance with the approved plan dimensions and be a minimum of 150 millimetres thick reinforced with F62 mesh. [DUR0450]
53. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the Director, Engineering & Operations. Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the vehicular access and its reconstruction. Paving bricks are not acceptable unless laid on a 100mm thick concrete base. [DUR0470]
54. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed. [DUR0490]
55. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Hungerford Lane hard behind the kerb. The compacted base is to achieve 95% of maximum dry density determined in accordance with AS1289 5.4.1 for a minimum 100mm depth. A full depth construction joint is to be provided at 6.0 metre intervals and 20 millimetre deep groove joints provided every 1.5 metres, the balance area to be graded to the kerb and turfed. The footpath is to have a 3% crossfall which must be attained at each side boundary. This may result in work to be undertaken on the footpath at adjoining properties which must not exceed 1:14 and must be reinstated with turf. The footpaving is to be located 800 millimetres from the property boundary. The concrete footpath gradient shall be parallel to the top of kerb for the full frontage of the site and maintained unvaried across the (any) driveway cross-section. An inspection of the formwork is to be arranged with Council's Engineering & Operations Division prior to concrete being placed. [DUR0520]

56. The earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with Appendix B, AS 3798-1996. In addition, the frequency of field density testing shall be to a Type 1 standard in accordance with Table 8.1 of AS 3798. The geotechnical report shall be accompanied by a certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798. [DUR0630]
57. All surface water collected from hard stand parking areas to be directed to Council approved pre-treatment facilities before discharge to approved discharge locations. Stormwater from covered or enclosed carpark areas shall not be discharged to the public sewer unless approved treatment facilities have been provided. Details are to be submitted to and approved by the Director of Environment and Community Services prior to installation [DUR0670]
58. 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]
59. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties. [DUR0860]
60. 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]
61. 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]
62. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.  
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

**B. Long term period - the duration.**

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0910]

63. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.  
[DUR0920]
64. Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director, Engineering & Operations.  
[DUR0930]
65. The burning of builders waste on site by open fire is prohibited.  
[DUR0940]
66. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.  
[DUR0960]
67. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.  
[DUR0980]
68. 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]
69. 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]
70. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.  
[DUR1040]

71. Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (*unless all the premises are occupied by a single household or firm as a residence or place of business*) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.

[DUR1070]

72. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR1110]

73. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- \* 43.5<sup>0</sup>C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- \* 50<sup>0</sup>C in all other classes of buildings.

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

[DUR1160]

74. 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]

75. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director, Engineering & Operations prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1210]

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

[DUR1230]

77. All wastewater from the vehicle washdown bay shall be treated to the satisfaction of the Director Engineering and Operations, prior to discharge to sewer.

[DURNS01]

78. Prior to the pouring of concrete for the development, the Principal Certifying Authority shall be provided with certification from a registered land surveyor that the proposal is in accordance with setbacks shown on the approved plans.

79. All windows located along the 2m northern side boundary setback of Unit 2 shall be fitted with obscured glass in order to reduce overlooking / privacy issues with adjoining neighbour.

80. All deck planter boxes shall be planted with mature plantings adjacent to the side boundaries.

[DURNS02]

81. The roof water is not to be discharged into the canal but is to be conveyed to the street gutter in accordance with Australian Standard AS/NZS3500.3.2.

[DUR0740]

82. The applicant shall provide suitable protection for the existing sewer main as detailed in the submitted design and tabled within Council correspondence dated 22 July 2004.

83. The existing pedestrian path, stair and deck located within the Moss Street reserve is to be removed. Any new structure is to be subject to a separate application under Section 138 of the Roads Act.

[DURNS03]

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

84. 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]

85. 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]

86. Prior to occupation of the building or the issue of a Subdivision Certificate, all disused invert crossings are to be removed and replaced with kerb and gutter and all disused driveway across the footpath are to be removed and replaced with topsoil and turf to the satisfaction of the Director, Engineering & Operations.

[POC0080]

87. 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]

88. 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]

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

[POCNS01]

## USE

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

[USE0010]

91. 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]

92. A Strata Certificate shall not be issued for a Strata Plan or a Strata Plan of Subdivision unless the provision of the Strata Schemes (Freehold Development) Act 1973 and/or the Strata Schemes (Leasehold Development) Act 1986 have been complied with.

[USE0140]

93. 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]

94. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.

[USE0170]

95. All wastes shall be collected, stored and disposed to the satisfaction of the Director of Environment and Community Services. Wastes shall be presented at the kerb in a Council approved wheelie bin for collection. A screened, graded and drained bin storage area shall be provided within the boundary of the property.

96. Lighting shall not be permitted to impact the amenity of any other premise.

[USENS01]

**REPORT:**

**Applicant:** Gary Kresina  
**Owner:** Queensland Fresh Pty Ltd, Temaway Pty Ltd, Guarda Holdings Pty Ltd and Bensted Investments Pty Ltd  
**Location:** Lot 3 DP 214331 No. 13 Moss Street, Kingscliff  
**Zoning:** 2(b) Medium Density Residential  
**Cost:** \$950,000

**BACKGROUND:**

Council is in receipt of a Review of Determination for DA04/0173, which sought approval for the erection of a multi dwelling housing development comprising 3 x three (3) bedroom units, within a two and three-storey building. The subject site is regular in shape and located along the prominent Moss Street, Kingscliff. The site has a 12m frontage to Moss Street to the east and Hungerford Lane to the west, with an approximate depth of 50.5m, creating a total site area of 607m<sup>2</sup>.

Council's Development Assessment Panel originally refused the application on 14 January 2005 for the following reasons: -

1. It is not considered that the circumstances of the proposed development warrant support of the State Environmental Planning Policy objection to the two storey height limit.
2. The development application is contrary to the 2(b) Medium Density zone objectives contained within Clause 11 of Tweed local Environmental Plan 2000.
3. The development application is contrary to the two (2) storey building height restrictions contained within Clause 16 of Tweed local Environmental Plan 2000.
4. The development application is contrary to Clause 8 of Tweed Local Environmental Plan 2000.
5. The development application is contrary to State Environmental Planning Policy No. 71 – Coastal Protection, specifically the following matter for consideration:
  - d) *the suitability of development given its type, location, and design and its relationship with the surrounding area.*
6. The development application is contrary to Development Control Plan No. 6 – Multi Dwelling Housing, specifically including (but not limited to) Part 3 – Design Elements.

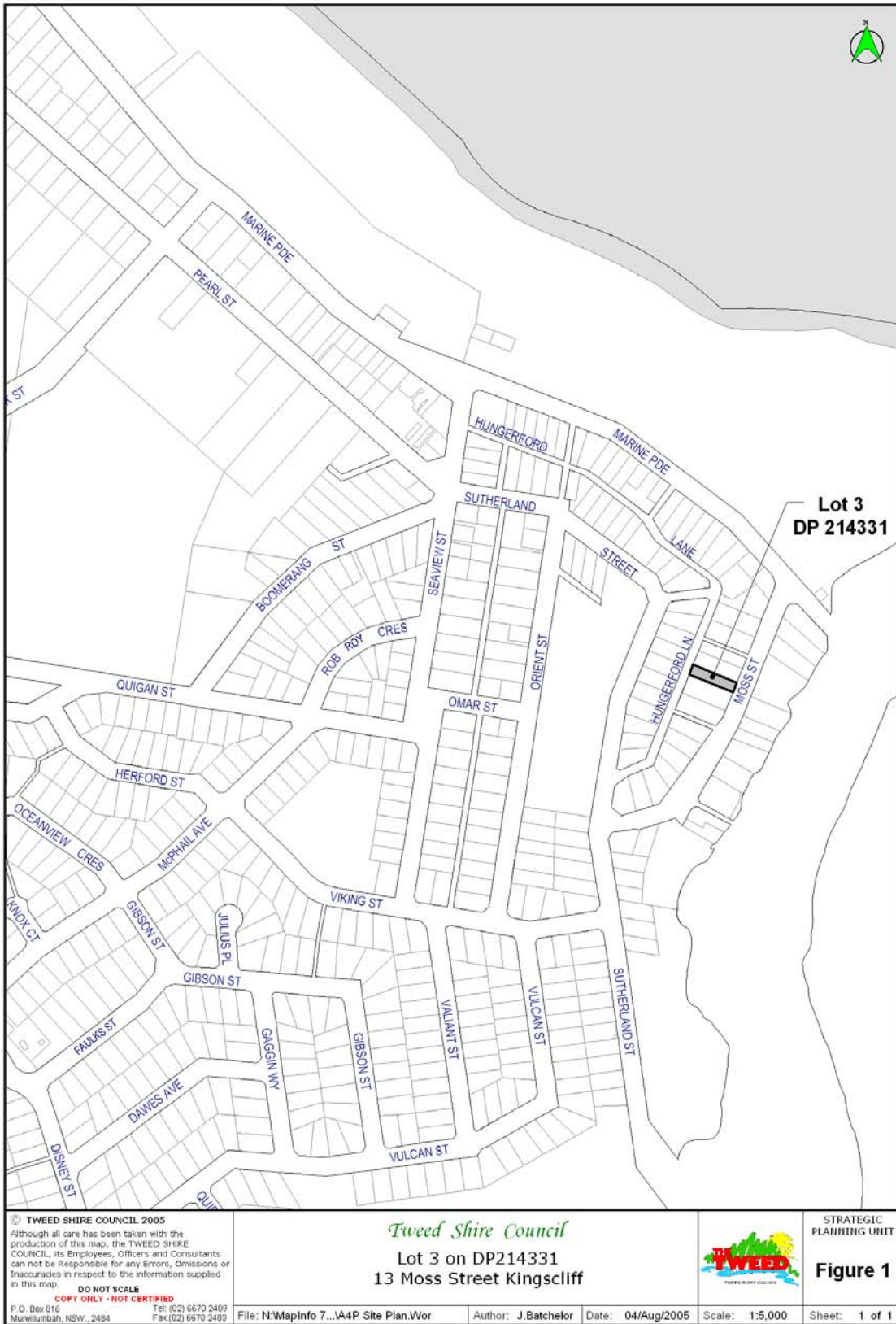


7. The development application is contrary to Development Control Plan No. 43 – Kingscliff, specifically including (but not limited to) the nominated criteria for a Type 5 Building;
8. The development application does not comply with the vision or aims for the Kingscliff area, for example the preservation of the traditional character of Hungerford Lane; and
9. The development application is not considered to be in the public interest.

The Review of Determination was formally re-advertised and re-notified to the adjoining landowners and to those who originally objected to the proposed development. The re-advertisement resulted in Council receiving a total of four submissions objecting to the proposal.

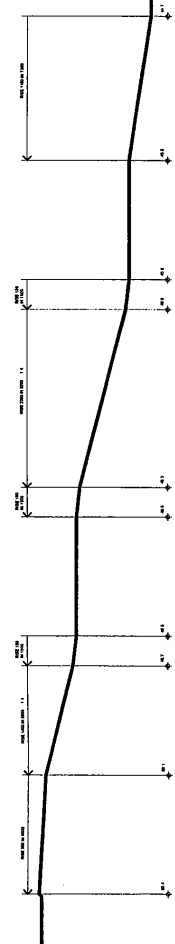
Since the original determination of the application the applicant has provided an amended proposal in response to the reasons for refusal, in order to substantiate why the application should be approved. The outstanding issues have been assessed in detail below.

**SITE DIAGRAM:**

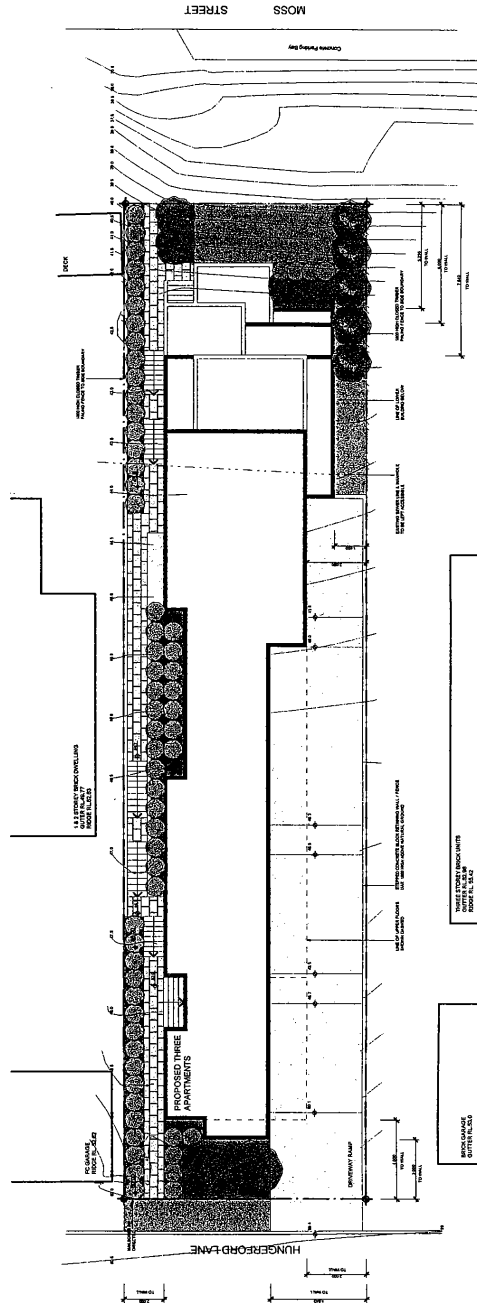


**PROPOSED DEVELOPMENT SUMMARY**  
 SITE AREA : 612.8m<sup>2</sup>  
 NO. OF UNITS : 3 (2 x 3 BED + 1 x 1 BED)  
 GFA : 458.8m<sup>2</sup>  
 MAX. FSR : 1:1  
 ACTUAL FSR : 0.75:1  
 LANDSCAPING  
 REQUIRED : 240.0m<sup>2</sup>  
 ACTUAL : 240.0m<sup>2</sup>  
 CARPARKING  
 REQUIRED : 5 SPACES  
 ACTUAL : 5 SPACES

**ORIGINAL DEVELOPMENT SUMMARY**  
 SITE AREA : 612.8m<sup>2</sup>  
 NO. OF UNITS : 3 x 3 BED UNITS  
 GFA : 503.0m<sup>2</sup>  
 MAX. FSR : 1:1  
 ACTUAL FSR : 0.82:1  
 LANDSCAPING  
 REQUIRED : 240.0m<sup>2</sup>  
 ACTUAL : 236.5m<sup>2</sup>  
 CARPARKING  
 REQUIRED : 5 SPACES  
 ACTUAL : 6 SPACES



**SECTION THRU DRIVEWAY**



TOTAL ORIGINAL BUILT AREA  
1066.2m<sup>2</sup>  
 TOTAL PROPOSED BUILT AREA  
768.4m<sup>2</sup>  
 Location  
 LOT 3 DP 214331  
 NO. 12 MOSS STREET  
 KINGSCLIFF NSW

**SITE PLAN**  
 project  
**PROPOSED  
 THREE  
 APARTMENTS**

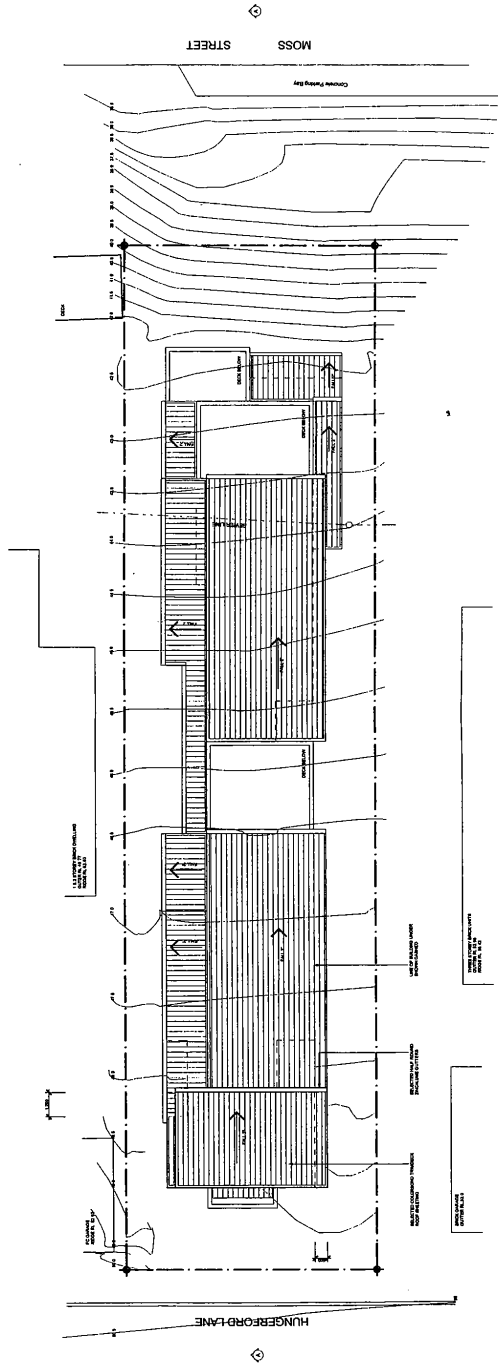
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KRESINA:DA:01

**NOTES**  
 Verify all dimensions and levels before commencing work. All structural details to engineer's specifications.  
 All materials and workmanship to comply with relevant codes and by-laws

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 byron bay to brisbane  
 concept to construction



**ROOF PLAN**

location  
 LOT 3 DP 214331  
 NO. 12 MOSS STREET  
 KINGSCLIFF NSW

project  
**PROPOSED  
 THREE  
 APARTMENTS**

date  
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 scale  
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 drawing no.  
 KRESINA:DA:08

**NOTES**

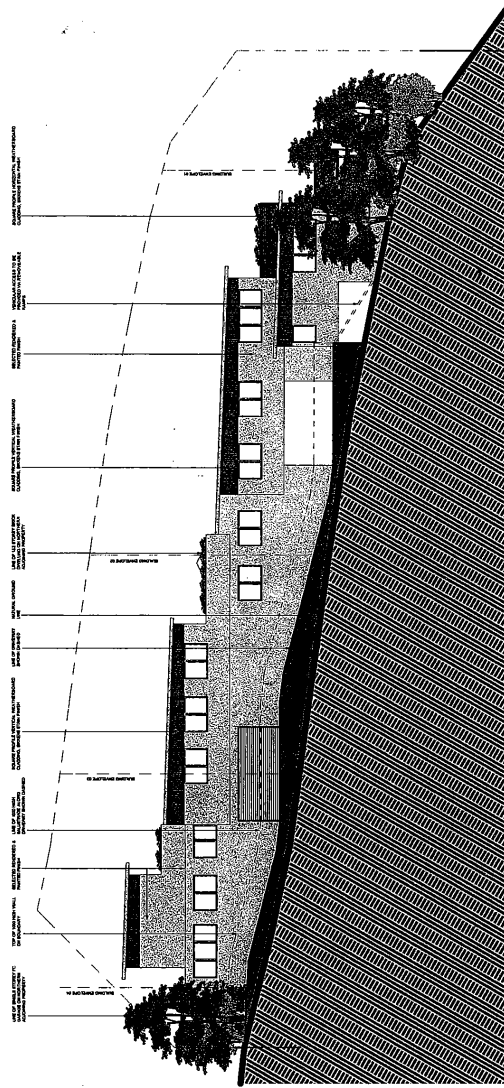
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**SOUTH ELEVATION**

Location  
**LOT 3 DP 214331  
 NO. 12 MOSS STREET  
 KINGSCLIFF NSW**

Project  
**PROPOSED  
 THREE  
 APARTMENTS**

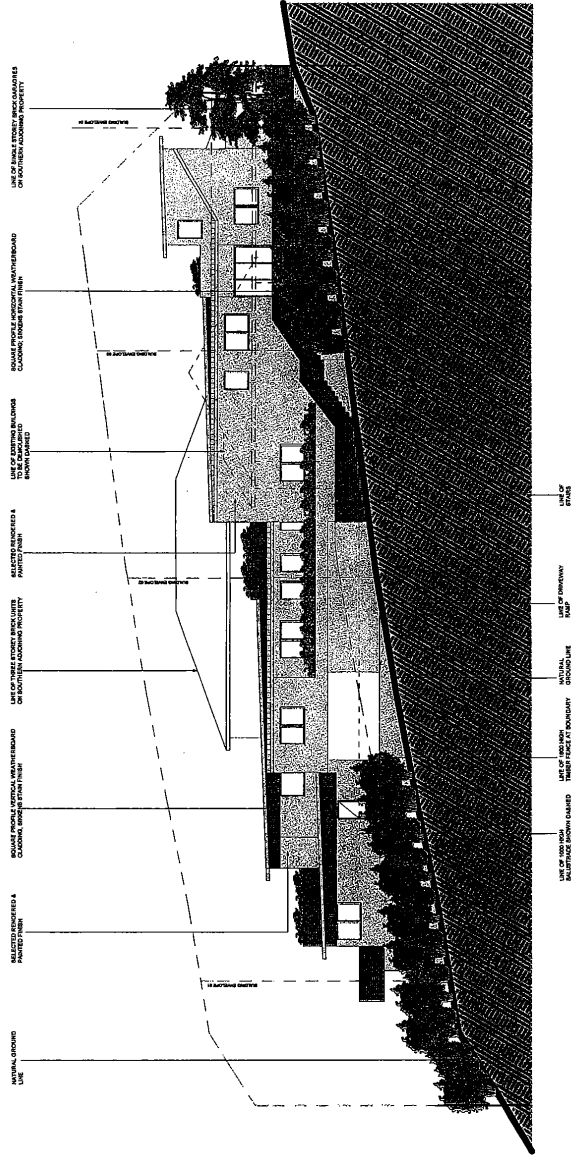
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**NORTH ELEVATION**

location  
**LOT 3 DP 214331  
 NO. 12 MOSS STREET  
 KINGSCLIFF NSW**

project  
**PROPOSED  
 THREE  
 APARTMENTS**

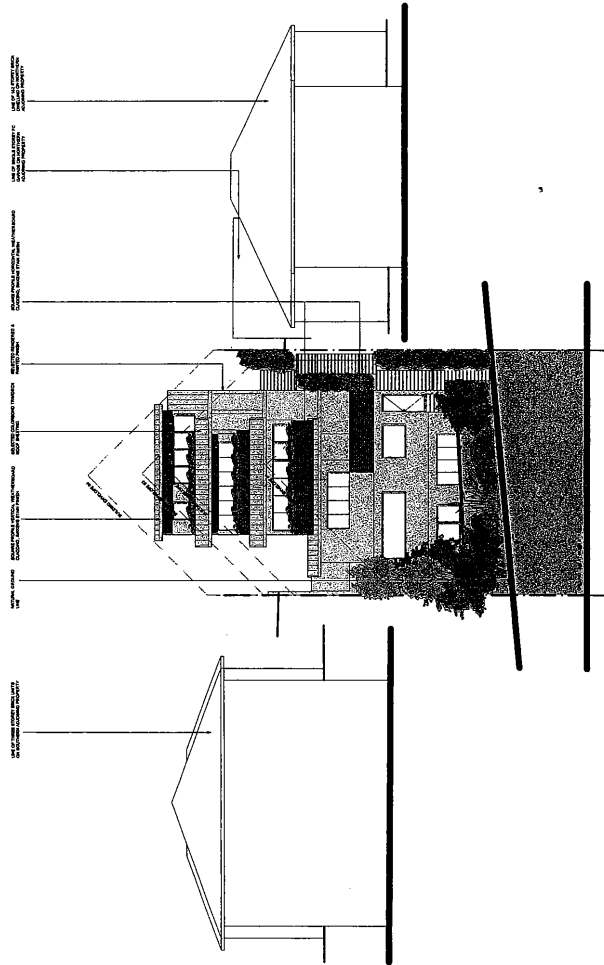
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**EAST ELEVATION**

location  
 LOT 3 DP 214331  
 NO. 12 MOSS STREET  
 KINGSCLIFF NSW

project  
**PROPOSED  
 THREE  
 APARTMENTS**

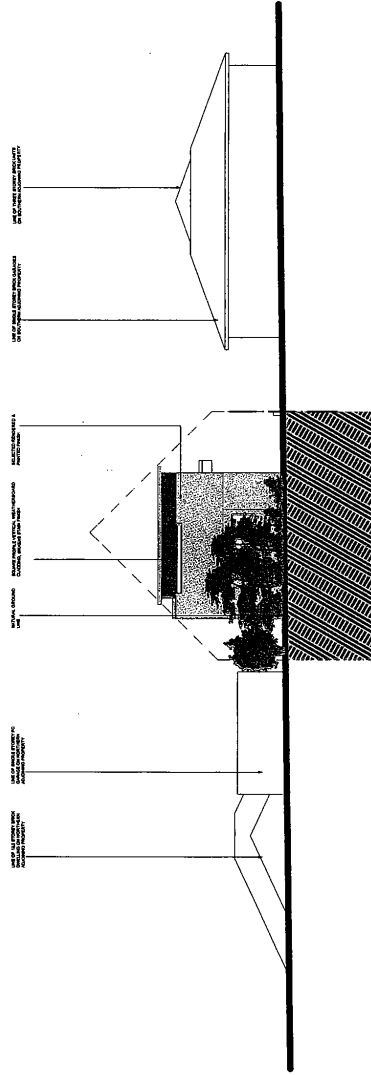
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**WEST ELEVATION**

location  
 LOT 3 DP 214331  
 NO. 12 MOSS STREET  
 KINGSCLIFF NSW

project  
 PROPOSED  
 THREE  
 APARTMENTS

date  
 04-02-05  
 scale  
 1:200  
 drawing no.  
 KRESINA:DA:12

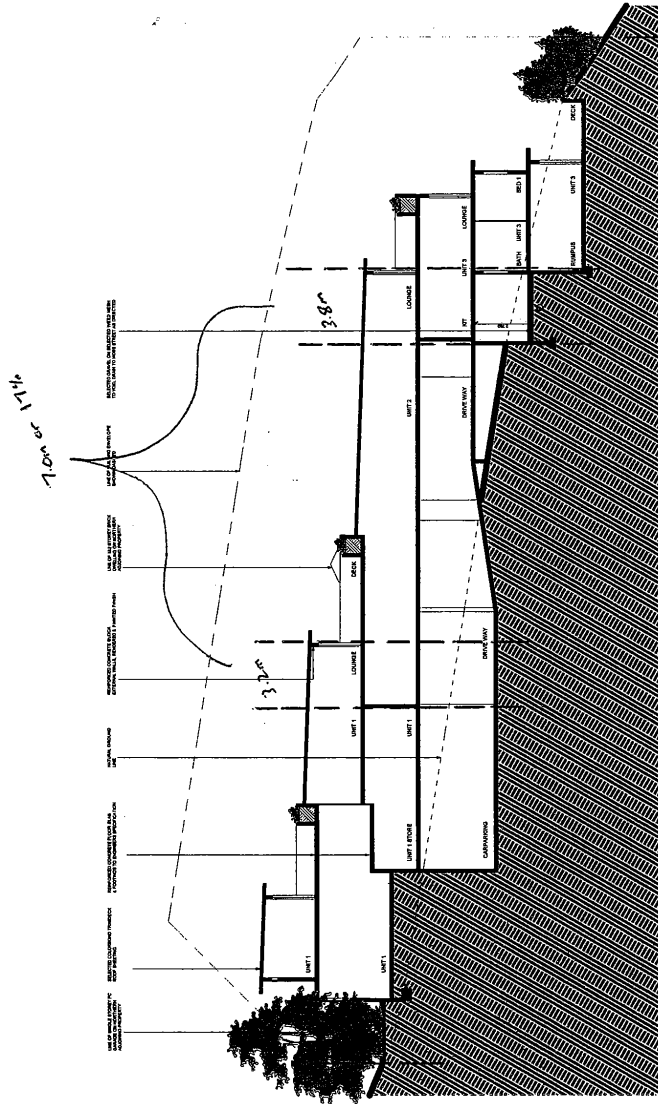
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**SECTION AA**

location  
 LOT 3 DP 214331  
 NO. 12 MOSS STREET  
 KINGSCLIFF NSW

project  
**PROPOSED  
 THREE  
 APARTMENTS**

date  
 04.02.05  
 scale  
 1:200  
 drawing no.  
 KRESINA.DA.17

**NOTES**  
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 All materials and workmanship to comply with relevant codes and by-laws.

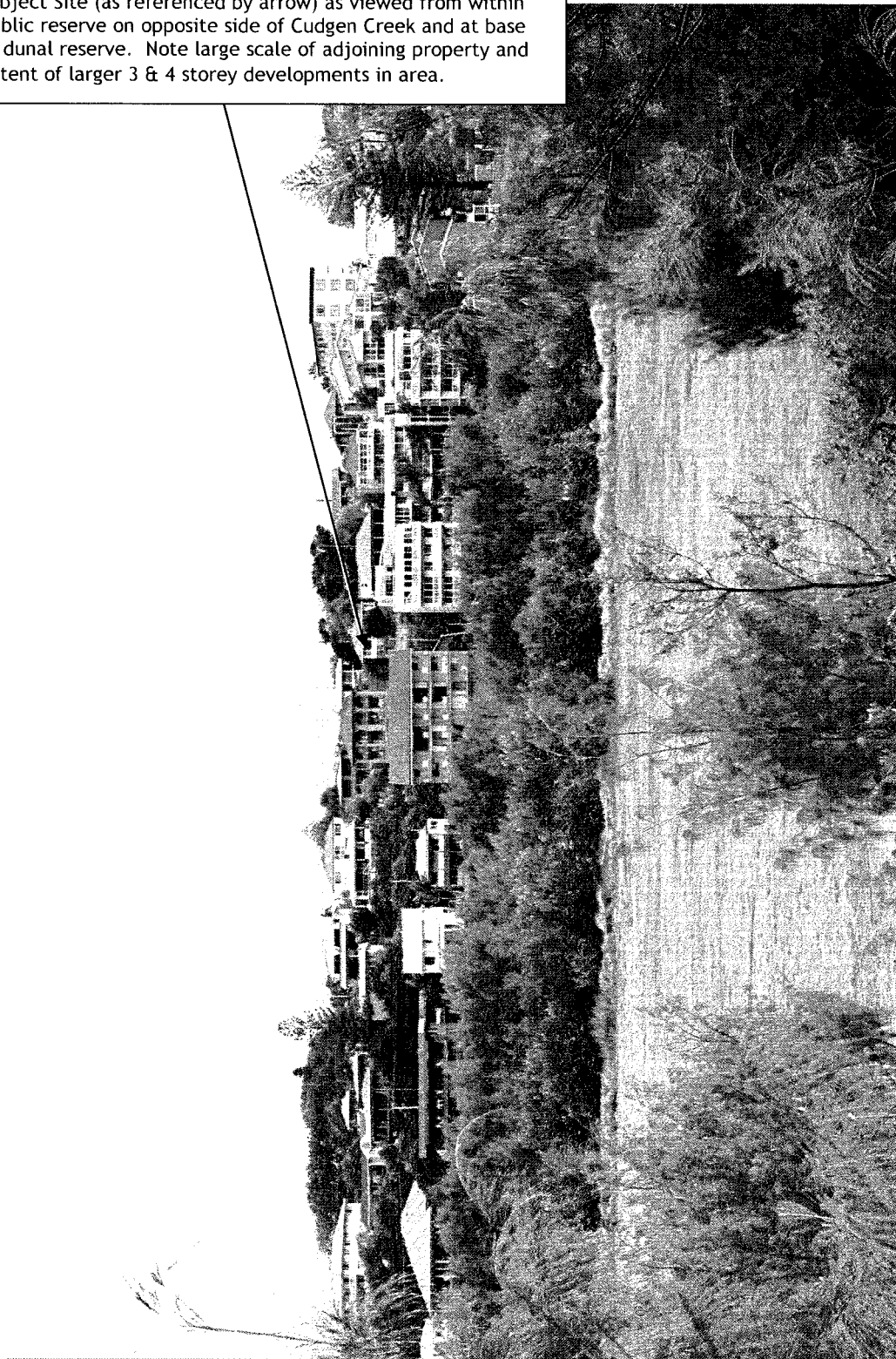
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Subject Site (as referenced by arrow) as viewed from within public reserve on opposite side of Cudgen Creek and at base of dunal reserve. Note large scale of adjoining property and extent of larger 3 & 4 storey developments in area.



## **SUBMISSION UNDER SECTION 82A REVIEW OF DETERMINATION**

In addition to a SEPP 1 Objection to vary the two (2) storey height limit under Clause 16 of the TLEP, the original development application was also considered to have an unacceptable level of non-compliances with Council's development control plans. These were in relation to site access, landscaping, side setbacks, building envelope and building height requirements. The number of these non-compliances indicated an over development of the site and was subsequently refused. However, the applicant has submitted an amended design that has largely addressed these issues.

### Tweed Local Environmental Plan 2000

The subject land is zoned 2(b) Medium Density Residential under the Tweed Local Environmental Plan 2000. The primary zone objective relates the provision of medium density housing, achieving good urban design outcomes. The proposed modifications have addressed the potential impact upon adjoining allotments. The building has been further setback and articulated along the northern elevation, in an effort to lessen the bulk of the proposed development upon the adjoining residence.

Clause 15 of the TLEP relates to essential services. The original application was designed to accommodate the existing sewer main, which traverses the site. Council's Water and Sewer Operations Engineer requires the building design to allow a void over the sewer line, as well as continuous access to the sewer main, involving removable ramps at the end of the driveway. The applicant has agreed with the requirements from Council regarding the sewer main and has confirmed that further construction details will be provided prior to a construction certificate being issued.

Clause 16 of the TLEP requires development to be undertaken in accordance with a building height plan, which identifies the site as being limited to two storeys with an objective to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land. The applicant has acknowledged that the proposed development incorporates elements of three storeys. Subsequently, the applicant has lodged a SEPP 1 Objection to this standard, which is documented below.

### State Environmental Planning Policy No. 1 – Development Standards

As noted above, a SEPP 1 Objection has been made in relation to the proposed development incorporating elements of three (3) storeys when a height limit of two (2) storeys applies to the site, pursuant to Clause 16 of the Tweed Local Environmental Plan 2000.

Although there are elements of three storeys within the proposed development, the applicant has endeavoured to limit the amount of non-compliance with the provisions of Clause 16. The amendments include:

- A reduction in height for the two storey component of the building fronting Hungerford Lane from 8.0m to 7.0m; and

- A reduction in the size of the basement levels in order to reduce the element of three-storey component and allow an area for deep landscaped planting along the Hungerford Lane frontage.

The applicant has also attempted to step the development down the subject site in order to comply with the building height provisions. However, gradient restraints for the driveway and the requirement for a void area over the existing sewer main traversing the site have resulted in elements of three storeys within the development.

One of the areas of non-compliance is located centrally in the proposed building through the lounge of Unit 1, Bedroom 1 of Unit 2 and the central portion of the lower basement. This has been calculated as 3.9m in length. The second area of non-compliance is a 4.2m length located over the void area below Unit 2. There is also a 3.2m section of non-compliance within Unit 3. However, the applicant does not consider the rumpus / storage area (shown on the Level 1 Floor Plan) to be a storey and is consistent with the exemption requirements contained within the LEP's definition of a storey.

It should be noted that this application is subject to the Savings and Transitional provisions of Clause 16 (3)(a) & (b) of the TLEP. That is, the definition of storey in this instance includes the measuring of height from natural ground level not as that in the present case under the gazetted LEP 46 amendment, which refers to finished ground level. In this regard, the actual three-storey component of the development, by definition, is relatively small and estimated at approximately 20% (including eaves). This would increase to an estimated 28% if the amended definition were applicable.

Despite this, the proposed development will present as a two-storey development from Hungerford Lane. The building is to be setback a minimum of 3.0m from the road frontage, to allow deep planting within the landscape area between the building and road, thereby providing a screen effect to the development from the laneway. Although the adjoining allotments present as only single storey from the laneway, the elevation of the proposed building is only 6m above the road level and set well back from the road, unlike other developments in the vicinity, which have built up to the rear boundary.

The only other vantage point that the site is clearly visible from is beyond Cudgen Creek to the east. From this point, the proposed development would be relatively similar in height to other residential development in the area.

Having regard for the underlying objective of the development standard, that is to control the height of buildings and ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land, the applicant has submitted the following in support of the SEPP 1 objection:

- *The proposed areas of non-compliance are located where there is significant drop off points on the site or where gradients dictate that further excavation of the garage cannot be entertained.*
- *The proposed areas of non-compliance are relatively minor in the context of the overall development, and with regard to the constraints posed by the need to*

*provide internal access and garage facilities and the slope of the land, are considered to be a reasonable response to the two (2) storey limit.*

- The proposed area of non-compliance will present at all times as two (2) storeys only (both immediately adjacent to the site and from a distance). This assertion is made in relation to available views of the structure from adjoining properties and adjacent public areas alike.*
- The provision of a compliant two (2) storey form would effectively limit the density on the site to a single dwelling, thereby compromising the statutory objectives of the zone.*
- The surrounding area is clearly characterised by the presence of three (3) and four (4) storey developments (by definition). The latter is demonstrated within each of the adjacent developments, those opposite the site the site within Moss Street and others with frontage to Hungerford Lane. In this context, Council's attention is drawn to the underlying objective of the standard.*
- The proposed development is generally consistent with the desired future character of the area.*
- The proposed variation does not raise any matters of significance relative to state or regional environmental planning.*

In conclusion, it is considered that the development is of a scale and design that complements the locality without undue or unnecessary impact and that strict compliance with the two-storey height limit is both unreasonable and unnecessary in the circumstances of this case. The Development Assessment Unit recommends that the concurrence of the Minister administering the Environmental Planning and assessment Act, 1979 be assumed in this instance.

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

The proposed development is not State Significant development, and as such, Council is the consent authority. A SEPP 1 accompanies the application, however, the development is only 10.67m in height and therefore, the state significant development provisions are not triggered.

The amended application is considered to adequately satisfy the matters for consideration. Specifically, the proposed development is considered compatible with the intent for the development of the locality. Issues of streetscape have been addressed in the report.

#### Development Control Plan No. 6 – Multi Dwelling Housing

This section of the report only makes mention of the areas of non-compliance raised in the original report. All other relevant provisions were previously assessed and are considered to be complied with.

#### **Landscaped Area**

Based on the size and number of units in the proposed development, the acceptable solution for landscaping is 240m<sup>2</sup> (3x80m<sup>2</sup>) in area. The original application indicated the

landscaping as 236.5m<sup>2</sup>, which appeared to include the private open space areas on each deck level. The amended layout has reduced the gross floor area of the proposal (from 0.82:1 to 0.75:1) and indicates the landscaped area as **223.65m<sup>2</sup>** exclusive of the balcony areas. This area also includes the open void at ground level, along the path of the existing sewer line.

The applicant has provided the following comment in regard to the minor level of non-compliance with the acceptable solution, based on an assessment of the proposal against the performance criteria for landscape design:

- *The performance criteria underpinning the landscape control largely requires the scale of buildings to be consistent with that demonstrated within surrounding buildings. In this regard, the number of surrounding buildings that provide for in excess of two (2) storeys and a considerable mass is significant. In this regard, it is reasonable to state that the proposed development is indeed indicative of a lesser and more human scale than that presented in many surrounding developments.*
- *The second performance criteria relates to the need for new developments to be consistent with the desired future character of the area. In this regard, the subject site provides for a total of three (3) high quality apartments within an identified medium density area. The desired future character of the area, as promoted by Council's LEP and DCP's 6 & 43 has also been extensively considered within the design of the development. The extent of landscaping is very consistent with that accepted on nearly all medium density developments approved by Council in recent times, with complete compliance very rarely achieved. Indeed, in comparison to many other development approved within Kingscliff, the proposal provides for in excess of that. Given the variations sought are largely related to the constraints of the land and not as a result of a drive to gain additional floor space, it is reasonable to conclude that the proposal is consistent with the desired future character of the area.*

The proposed level of landscaping is considered satisfactory, having regard to the scale of the development; the existing and future redevelopment of the area; and, the additional provision of private open space balcony areas for each unit.

### **Building Envelope**

The original development application had a number of minor encroachments of the roof area, as shown on the western elevation, taken from Hungerford Lane. Other smaller encroachments were evident throughout the roofline of the development as it stepped down the slope.

The amended plan now complies with the acceptable solutions for building envelope provisions within DCP 6. This is due to the building height being reduced along the Hungerford Lane frontage and the northern side setbacks being increased. There are still very minor fascia and gutter encroachments shown on the western elevation. However, DCP 6 allows such encroachments beyond the building envelope.

## Side Setbacks

The acceptable solutions for residential flat buildings require a minimum of 3m setbacks from side boundaries. The original proposal had an unacceptable northern side setback of only 1.5m for a distance of approximately 41m as well as a 1.5m setback along the lower portion of the southern boundary for a distance of approximately 8.5m.

The applicant has increased the setback of the proposal to 3m for a large portion of the building (approximately 8.4m in length), directly opposite the existing single dwelling immediately adjacent to the north. The remainder of the building is setback between 2m and 4m from the northern side boundary. This has allowed a landscape strip along this boundary for almost the entire length of the boundary. Where landscaping is not shown, a 2.2m high fence has been proposed in order to minimise any potential privacy issues between the two allotments.

Minor amendments also include: the deletion of side windows immediately adjacent the northern neighbour; and, the majority of pedestrian walkways relocated to against the built form thereby allowing increased landscaping for screening purposes.

Having regard to the performance criteria underpinning the control, the applicant has offered the following in support of the variation:

- *The variation is primarily limited to the northern boundary, thereby ensuring that any additional overshadowing that is caused will primarily be cast upon the development itself. The small encroachment nominated on the southern side of the building is set well down the slope, thereby ensuring that no adverse impacts will result in relation to the property adjoining to the south (which is located well up the slope).*
- *The northern façade has been stepped in additionally so as to distribute the mass of the building when viewed from adjacent properties, whilst windows have been minimised. In this regard, all balconies and potential overlooking opportunities have been incorporated in to the body of the building and oriented directly to the east (away from adjacent neighbours). Accordingly and with regard to the lack of shadow impacts on this property and that to the south, no significant reasons are evident to demand full compliance with this requirement.*
- *All private open space deck and balcony facilities have primarily been restricted to the south eastern aspect. Where deck facilities have been provided immediately adjacent to the northern boundary they have also been provided with planter boxes so as to ensure privacy and continued amenity.*
- *The proposed setback is consistent with the setback provisions of the Building Code of Australia.*
- *The proposed encroachment is an unavoidable by product of the narrow width of the allotment (12.0m) and the minimum density zoning of the site. In this regard, were the proposal to provide for the compliant 3.0m setbacks on each elevation, then this would leave only 6.0m of building platform within which to design. Coupled with the need to provide internal parking and access facilities (so as to facilitate forward entry and exit), the proposed development is constrained to the point where any effort to realise the medium density zoning*



*of the land will naturally result in the creation of setback encroachments. The designer has acknowledged the latter and has attempted to minimise any impacts associated with the encroachment by way of limiting same to the northern boundary. This is demonstrated by the fact that the building possesses a width of only 5.6m in the main.*

Although not in strict compliance with the acceptable solutions for side setbacks within DCP6, the proposed development is considered to be satisfactory in terms of the performance criteria for the siting and design of buildings and the potential impact to adjoining residences.

### **Private Open Space**

The original application was deficient in the provision of open space for Unit 3. The amended proposal still has some minor variations to the minimum requirements, which is: *an area of 25m<sup>2</sup> with a minimum dimension of 4m and directly accessible from a living area of the dwelling.*

Unit 1 has a lower level balcony area of 23.0m<sup>2</sup> (with a minimum dimension of 3.6m) leading off the lounge. The applicant has requested a variation, particularly given there is an additional balcony (22.2m<sup>2</sup>) off the upper level bedroom. Unit 2 meets the minimum requirements. Unit 3 has an upper level balcony only 12m<sup>2</sup> in area off the lounge. However, this is compensated by the provision of a courtyard / patio area of 48m<sup>2</sup> off the lower level rumpus room. The combined private open space areas for each unit are considered to be acceptable.

### **Summary**

Although the proposal does not comply with the numerical requirements of DCP No. 6, the merits of this application do warrant approval given the application is considered to adequately satisfy the objectives and performance criteria contained within DCP 6.

### Development Control Plan No. 43 – Kingscliff

The subject site is in the Kingscliff Hill Precinct and is identified as requiring a Type 5 Building. The proposed development does not strictly comply with the building type as the building incorporates elements of three (3) storeys and the building setbacks are not wholly in accordance with the setback requirements of DCP 6.

The objectives of the Kingscliff Hill precinct are to:

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

- Preserve the traditional character of existing laneways.

The proposed development steps down the site in an effort to respect the slope of the land and the building preserves, where reasonable, existing view lines for adjacent properties. The adjoining allotments to the north and south enjoy existing spectacular views to the east, which will not be hindered by the proposed development. Having regard to the lands medium density zoning, the development is considered relatively unobtrusive. The character of Hungerford Lane is difficult to define, given the area accommodates a mix of older and newer style developments varying in scale and form. The proposed development is considered to satisfactorily attain the objectives of the DCP.

#### Compatibility with Adjoining Land Uses

The subject land is located on the prominent Moss Street / Hungerford Lane, Kingscliff. The adjoining development to the south is a two and three storey residential flat building, and the adjoining property to the north consists of an existing two-storey dwelling. The style of the local area is changing to accommodate development of a higher density, in line with the 2(b) Medium Density Residential zoning of the locality.

Landscaping and screen fencing are proposed in order to minimise any potential amenity / privacy issues with the adjoining property to the north. The solid masonry walls have been deleted from the proposal along the southern boundary, in an effort to provide a more open environment. The majority of the proposed building is setback 4.5m from the southern boundary so that overshadowing issues are minimised.

#### Overshadowing

Amended shadow diagrams indicate that the level of overshadow upon the adjoining property to the south is minimal and well within the requirements of DCP6. The private open space balconies of the existing unit development will be subject to very little overshadow at any one time. The communal open space area at the rear of the building will also be subject to a degree of overshadow along the northern boundary, which is considered to be acceptable.

#### Bulk, Scale & Design

The applicant has attempted to break up or distribute the building mass across the site by incorporating various building elements and where possible, the provision of independent roof lines for each of the three proposed dwellings. The amended proposal has been articulated on both horizontal and vertical planes with each external wall length being limited to avoid featureless and stark façades. The proposed landscaping features will aid in screening the development and minimise the bulk and scale of the proposal.

#### View Loss

Although the main views experienced by the adjoining properties are to the east, the northern adjoining allotment would experience an additional loss of existing views to the south east of Cudgen Creek. It should be noted that even if the proposed development were to comply with the relevant setback requirements, the adjoining property would still experience some loss of view, given the existing single dwelling on the subject site is located much further to the west of the site in comparison to the proposed development.

Whilst it is acknowledged that some views will be lost to neighbouring properties, a reasonable level of view sharing will exist.

Privacy

The proposed development incorporates patio and deck areas for each of the units. The decks are orientated to the east, towards the ocean and Cudgen Creek views, and incorporate landscaping along each of the northern and southern sides to further mitigate potential privacy concerns with adjoining properties. The number of windows along the northern boundary have been reduced in order to limit any potential privacy issue with the northern neighbour. All windows located along the 2m setback of Unit 2 will be required to use obscured glass in order to further reduce any overlooking / privacy issues with the existing dwelling located directly opposite these windows.

Traffic / Access

As noted in the original assessment report, the subject site has presented access issues for the proposed development, given the 12m width of the allotment. Amended plans were submitted, which involve a car parking layout for the level 3 garage that now complies with the minimum numerical standards for AS2890 and DCP 2. Council's Development Assessment Engineer supports the amended plans, subject to the applicant strictly meeting the minimal dimensions shown on the amended plans. The level 4 garage still presents issues with multiple movements being required to enter and exit the garage, but this is considered to be acceptable, given it is proposed as a single vehicle space for Unit 1 and does not involve visitor car spaces.

**Submissions**

The Review of Determination was formally re-advertised and re-notified to the adjoining landowners and to those who originally objected to the proposed development. The re-advertisement resulted in Council receiving a total of four submissions objecting to the proposal.

The grounds for objection are discussed in the table below.

<b>OBJECTION</b>	<b>IMPACT ASSESSMENT</b>
<i>Misrepresentation in the development application referring to adjoining dwelling to north as 3 stories rather than 2.</i>	The applicant has acknowledged that the adjoining building is 2 storeys and has apologised for any reference to it as 3 storeys.
<i>Variation to side setbacks under DCP6 – no relief from sheer bulk of building.</i>	A detailed assessment of the variation to side setback requirements has been noted in the report. The amended plans have endeavoured to reduce the bulk of the building by decreasing the height and increasing the setback of the proposal, particularly the area directly adjacent to the dwelling on the adjacent northern boundary. The roof plan gives a clearer view of the articulation of the proposed building.
<i>Orientation of adjoining dwelling is not oriented only to east, away from the subject site. Existing amenity would be compromised by</i>	The applicant has acknowledged that the adjoining allotment does currently enjoy views from the north-east to the south-east. However, the site does possess an overwhelming orientation to the east, as do all allotments along Moss Street. The position of the existing single dwelling on the subject site allows the northerly neighbours to have relatively unrestricted views to the south-east. The proposed development is considered a reasonable design

OBJECTION	IMPACT ASSESSMENT
<i>proposal.</i>	response having regard to land use zoning and site constraints. The building has been designed to maximise the available opportunities afforded to the site without unnecessarily impacting upon neighbouring properties. Varying levels of view sharing will exist to neighbouring properties.
<i>Future development of adjoining allotments is compromised if setback encroachment is allowed.</i>	Each application is assessed on its merits. A compliant proposal on an adjoining allotment may not substantially impact upon the subject site. In any case, the proposed development has incorporated elevated roof terraces which would be relatively unaffected by any potential overshadowing from the north.
<i>Impact from setback encroachment upon privacy of dwelling and recreational areas.</i>	The applicant has endeavoured to ameliorate any potential overlooking issues by way of landscaping and increased fencing along the northern boundary. The proposed deck areas have incorporated planter boxes along the sides to minimise any privacy concerns. Amendments also include the deletion of side windows immediately adjacent to the dwelling on the northern elevation.
<i>Northern boundary walkway is a source of noise and lighting impact.</i>	The western and eastern portions of the walkway are adjacent to the proposed building, allowing landscaped screening along the boundary. The central portion of the walkway is located adjacent to the boundary. This is screened by way of a 1.8m high timber boundary fence. The fence is to be increased to 2.2m high adjacent to the turning area of the underground parking area.
<i>Car park walls encroaching 3m setback to north – amenity impacted by ventilation, lights &amp; noise. Location of exhaust vents?</i>	The proposal includes semi mature screen plantings and integrated privacy screen in an effort to minimise noise and headlights from vehicles as they enter and leave the level 3 car park. Exhaust vent locations have not been detailed in this stage of the development. A condition of consent has been imposed regarding the location of the exhaust vents prior to construction.
<i>Overdevelopment of site better suited to dwelling house or dual occupancy.</i>	Whilst it is acknowledged that the subject site does have considerable constraints, the land is zoned Medium Density under the TLEP 2000 and the proposed development is considered to be generally consistent with the zone objectives. A dwelling house would face similar issues such as access and height restrictions given the topography of the site. A single dwelling or dual occupancy would also allow 900mm side setbacks.
<i>Sheer bulk of building – loss of cooling southerly breezes.</i>	The proposed amendments are considered to be acceptable in terms of bulk and scale. Although the existing breezes from the south will be reduced to some degree, the proposal does allow for cooling breezes to the adjoining residences by way of a stepped building design and an open carpark area below Unit 2.
<i>Does not conform to DCP43 – out of character with 2 storey character of the surrounding area. Application has focused on older developments built prior to DCP43 coming into effect.</i>	The applicant has acknowledged that the proposal does include elements of 3-storey development and is therefore inconsistent with the relevant provisions of DCP43. The character of the laneway is difficult to define given the mix of older developments and the steady redevelopment of medium density sites. However, as noted in the report the proposed development would appear to be 2-storey from Hungerford Lane and is well setback from the laneway frontage.
<i>Photos in application misleading – appear to have been taken at ground level, making adjacent existing buildings appear taller.</i>	The applicant has verified that the photos shown in the Statement of Environmental Effects are entirely realistic and although taken by a person short in stature, were taken standing up and from within and around the subject site.
<i>Doesn't comply with Type 5 building requirements of DCP43.</i>	As noted above, the proposed development does contain elements of 3-storey and therefore does not comply with the Type 5 building requirements of DCP43. A SEPP1 objection has been lodged regarding the 3-storey component and this has been addressed in the report.

<b>OBJECTION</b>	<b>IMPACT ASSESSMENT</b>
<i>Encroachment of 6m setback from Moss St. Loss of views, light &amp; airflow from planter boxes on balconies.</i>	The proposed development has not sought a variation to the 6m setback to Moss Street frontage. The Level 1 unit is setback 6m from the boundary. Although the open deck area on Level 3 does encroach the setback area by approximately 1m, this type of structure is considered to be consistent with Council's Building Line Policy.
<i>Loss of view. DCP 43 requires retention of views from adjoining lands</i>	As noted in the report, the development will impact upon some views currently enjoyed. However, varying levels of view sharing will exist to neighbouring properties.
<i>Non-compliance with 0.5:1 GFA requirement.</i>	The applicant has acknowledged that a variation is sought in this instance. Whilst the proposed GFA of 0.75:1 exceeds the floor space ratio requirements of DCP6, a GFA of up to 1.2:1 is generally considered acceptable for medium density development.
<i>Void area below building to be included in landscaping area. Planter boxes should not be included as landscaping.</i>	Landscaping issues have been addressed in detail within the report. The applicant has provided a Statement of Landscape Intent Plan, which notes the void area as being planted with applicable ground cover or grass species. The planter boxes have not been included as landscaping, rather calculated as part of the private open space for each unit, which is acceptable.
<i>Relocation/maintenance of existing power supply across subject site.</i>	Country Energy is the authority responsible for any matters relating to power supply. They have advised that they will move the cable encroaching the subject site if an agreement can be reached with the owners of 11 Moss St regarding a suitable method of replacement.
<i>Excessive excavation within close proximity of adjoining house to north.</i>	Council's Infrastructure Engineer has advised that the retaining walls throughout the site will generally be integral to the building, which is acceptable under DCP47. Geotechnical constraints must be included in the engineering design of building elements at the construction certificate stage. Council's Excavation Policy ensures that the necessary studies and precautionary action is taken to ensure neighbouring properties are protected. Appropriate conditions of consent have been imposed.
<i>How will Council ensure setbacks are adhered to during construction?</i>	A condition of consent has been imposed so that prior to the pouring of concrete for the development, the Principal Certifying Authority be provided with certification from a registered land surveyor that the proposal is in accordance with setbacks shown on the approved plans.
<i>Variation to LEP &amp; DCP43 height limitation for the area.</i>	As noted in the report, the applicant has lodged a SEPP1 objection to the height limits over the subject site.
<i>Misleading statement in saying that northern boundary encroachment is unavoidable.</i>	The current design of the building is limited by the site constraints, with the applicant justifying the non-compliance of side setback requirements in order to achieve a density suitable for the medium density zoning. Whilst the northern boundary encroachment is not entirely unavoidable, the proposed amendments in this respect are considered to be acceptable.
<i>Proposed amendments are cosmetic.</i>	The proposed amendments are considered to be quite substantial, in an effort to comply with the relevant Council provisions. The amendments include: reduction in height; reduction in GFA and FSR; increased landscaping; increased setbacks; and reduction in excavation / basement area.
<i>Overlooking of private open space of property immediately to south.</i>	Within medium density areas, it is inevitable that private open space may be impacted upon to some degree. However, the proposed development has positioned all elevated terraces to capture the views to the east, rather than the adjoining open space areas. Each terrace is setback a minimum of 3m from the side boundaries and has 1m wide planter boxes to act as a buffer. A condition of consent has been imposed requiring mature plantings within the planter boxes adjacent to the side boundaries.

<b>OBJECTION</b>	<b>IMPACT ASSESSMENT</b>
<i>Extensive loss of coastal views from properties directly opposite on Hungerford Lane. No consultation as mentioned in SEE.</i>	It is acknowledged that some view loss will occur in relation to existing residences to the west across Hungerford Lane. However, considering there is an existing dwelling and garage on the subject site, the proposed development is considered to be satisfactory in this regard. The proposal is compliant with the 2-storey height limit on Hungerford Lane and has 2m setbacks on the northern and 4.5m on the southern boundary. Therefore, it is considered that the proposed development would allow an acceptable level of view sharing with neighbouring properties.
<i>Overshadow of building and gardens due to encroachment of side setback.</i>	Amended shadow diagrams indicate that the level of overshadow upon the adjoining property to the south is minimal and well within the requirements of DCP6. The private open space balconies of the existing unit development will be subject to very little overshadow at any one time. The communal open space area at the rear of the building will also be subject to a degree of overshadow along the northern boundary, which is considered to be acceptable.
<i>Visitor parking not adequate – impact upon Hungerford Lane. Gated parking will inhibit visitor parking.</i>	The proposed development complies with DCP 2 requirements for off-street vehicle parking. The proposed building is setback a minimum of 3m from the laneway frontage, as opposed to the existing garage built to the boundary. Council's Traffic and Transport Engineer has advised that the traffic generated from the proposed 3 units would not significantly contribute to increased traffic in the laneway. Only the Level 4 garage for the owner of Unit 1 (no visitor parking) will have a garage door. The proposed level 3 carpark, which involves visitor parking will not be gated in any form, and would not inhibit visitor parking.
<i>Exhibited elevations had no building heights or dimensions. Exterior details omitted. Application incorrectly described as 12 Moss Street.</i>	<p>The applicant has provided appropriately scaled plans, which were considered satisfactory for assessment purposes. RL levels were identified for each floor level of the building as well as the corner of the site at Hungerford Lane and Moss Street frontages. The site plan identified the height of adjoining buildings. In terms of omission of floor plans in advertising material, it should be noted that except in specified circumstances, eg. designated development, Councils' are bound by legislation not to provide internal floor plans. Given the elevations were to an accurate scale, it would have been possible to measure the proposed height of the building from the elevations.</p> <p>Although the applicant has noted the site as No. 12 Moss Street on all drawings, it should be noted that the proposed development was correctly advertised as No. 13 Moss Street. The applicant has apologised for referencing the incorrect property address, noting that the legal property description was correctly referenced therefore the application remains valid.</p>
<i>Possible 3 storey development on Hungerford Lane.</i>	The proposed development presents as two storeys to Hungerford Lane. The applicant has lodged a SEPP1 objection to the proposed three storey elements within the building.
<i>Need to address cumulative visual impact of 2 storey development along Laneway and desired future character (DCP43).</i>	Although the existing buildings on the subject site and adjoining properties present as single storey to the laneway, the proposed building will only present as two storeys. Given there are existing two storey buildings along Hungerford Lane; and the building is to be setback a minimum of 3m from the road frontage with landscaping, the proposed development is not considered to be out of character with surrounding development in the laneway.
<i>Non-compliant eave heights with DCP 48.</i>	At the time of lodgement for the proposed development, DCP 48 Tweed Coast Building Heights was only in draft form. Given the slope of the land, the proposal does result in a number of minor areas of non-compliance with the plan. This is in relation to the maximum height (to underside of eaves) being 7.8m from natural ground level, rather than 7.0m from finished ground level. As the proposal is essentially two storeys and complies with the building envelope provisions, the non-compliances with Draft DCP 48 are considered to be acceptable.

<b>OBJECTION</b>	<b>IMPACT ASSESSMENT</b>
<i>Unclear if proposal has addressed criteria in cl.8 of SEPP71.</i>	The proposed development is considered to have adequately addressed the criteria within Clause 8 of SEPP 71.
<i>Roof terraces to be covered/ enclosed in future.</i>	A condition of consent is the prohibition of any roof structure of the proposed deck areas for Units 1 and 2.
<i>Need to address cumulative traffic impact of additional vehicle access to Hungerford Lane.</i>	Council's Traffic and Transport Engineer has advised that the traffic generated from the proposed 3 units would not significantly contribute to increased traffic in the laneway.

**OPTIONS:**

1. Approve the application in accordance with recommendations of this report.
2. Refuse the application and confirm the previous reasons for refusal.
3. Defer the application and provide reason for doing so.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should the applicant be dissatisfied with the decision for the Review of Determination the applicant may determine to lodge an appeal with the Land & Environment Court.

**POLICY IMPLICATIONS:**

Support for the SEPP 1 objection on the proposed format of the development is not considered likely to have adverse policy implications.

**CONCLUSION:**

The arguments presented by the applicant for the S82A review are considered sufficient to warrant approval of this application. The merit assessment of the applicable issues relating specifically to height limits, building envelope, setbacks, privacy, and loss of views are not considered to be unsustainable or result in an over development of the site. Therefore, the SEPP 1 objection should be supported and the application approved, subject to conditions of consent.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. Development Assessment Panel report of 14 January 2005. (DW 1145656)

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**4 [PD] Draft Development Control Plan No 50 - Bogangar/Cabarita Beach Locality Plan**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/DCP/50**

**SUMMARY OF REPORT:**

Council at its Planning Committee meeting held 17 August 2005 resolved as follows: -

***"RECOMMENDED** that Council defers consideration of this item to the next meeting of the Planning Committee."*

The report is now resubmitted for consideration of the Planning Committee.

Development Control Plan (DCP) No 50 was placed on public exhibition between 11 May 2005 and 10 June 2005. During this period 26 submissions were received. The main issues raised during the exhibition period focussed on two issues in particular, development of Council owned land within the Pandanus Parade Precinct, and 'tourist accommodation' development controls. As a result of these particular issues it is proposed to develop a masterplan for the Pandanus Parade Precinct. The issue of tourist accommodation is the subject of another report on Council's agenda and is intended to be addressed through a separate DCP specific for tourist accommodation land uses.

The DCP process for Bogangar/Cabarita Beach was always intended to be a two stage process. The issues raised as part of Stage 1 can be addressed as part of Stage 2 of the project. Adoption of the draft Plan will enable Council to implement planning controls in the locality whilst Stage 2 of the project is completed.

**RECOMMENDATION:**

**That Council:-**

- 1. Adopts Draft Development Control Plan No 50 - Bogangar/Cabarita Beach Locality Plan as referred to in Attachment 1 of this report.**
- 2. Commences preparation of Stage 2 of the project: -**
  - a. Completes a Development Control Plan for the whole of Bogangar and Cabarita Beach villages.**

- b. Prepares a masterplan for the Pandanus Parade precinct that provides options as to how best to utilise the site.**
- 3. Prepares a Development Control Plan for Tourist Accommodation.**

## **REPORT:**

### **Introduction**

Draft Development Control Plan (DCP) No 50 was placed on public exhibition between 11 May 2005 and 10 June 2005. During this period 26 submissions were received. A copy of draft DCP No 50 is provided as Attachment 1 to this report.

The purpose of this report is to summarise and provide commentary on the submissions received during the exhibition period and recommend whether any amendments need to be made to the draft Plan or what other actions may be required. A matrix summarising each of the submissions received is provided in Appendix A.

### **Background**

A Steering Committee was established for the preparation of a Development Control Plan for the villages of Bogangar and Cabarita Beach. The Steering Committee was made up of local residents, business people and representatives from interest groups from the Bogangar/Cabarita area.

The purpose of the draft DCP is to establish design guidelines to manage future development within the Village. The draft Plan also establishes a strategy and planning framework for the Village.

Prior to placing the draft Plan on exhibition, Council amended two specific elements within the draft DCP from that which was adopted by the majority of the Steering Committee members. The two significant changes made are detailed below:

#### **1. Pandanus Parade Precinct**

The changes made to the draft DCP specifically affect 4 lots within this precinct (Lot 11, Section 5, DP 31209, Lot 10, Section 5, DP 31209, Lot 4, Section 5, DP 29748, and part Lot 5, Section 5, DP 29748) and the Pandanus Parade carriageway.

A majority of the Committee voted to restrict development of this public land and retain this land solely for car parking and open space purposes and to embellish Pandanus Parade through the implementation of a streetscape plan.

Council adopted the town planning recommendation to amend the draft DCP to enable a mix of uses on this public land. The draft Plan was advertised for the site to be developed for multi-dwelling units, tourist accommodation and commercial uses in addition to car parking and open space. The draft Plan also provides for the pedestrianisation (mall) of Pandanus Parade. The objective for the Pandanus Parade Precinct is to develop a village hub/square creating a focal point for the village. The draft Plan recommends that this area be the subject of a comprehensive Masterplan and Streetscape Plan for the area.

## **2. Tourist Accommodation**

The majority of the Steering Committee voted to apply multi dwelling design guidelines to tourist accommodation. This has resulted in the absence of design controls to manage tourist accommodation.

Currently, Council has few controls regulating tourist accommodation. This makes it difficult for Council's Development Assessment Officers to assess such developments, and leads to a lot of debate and confusion when attempting to advise on tourist development.

The changes made to the draft DCP result in tourist accommodation being assessed under the same development controls as those applied to multi-dwelling units. This change is intended to:

- Provide consistency when applying uniform development controls to these two similar styles of development;
- Provide certainty to all concerned (developers, Council and general public);
- Establish controls/guidelines for Council officers upon which to assess tourist accommodation development;
- Establish a degree of control to ensure development is consistent with the character and amenity of the area;
- Provide certainty to a desirable outcome for the area.

### **Submissions**

Of the 26 submissions received the majority of the submissions generally supported the draft DCP with the exception of the amendments made to the draft DCP relating to the Pandanus Parade Precinct. The change made to the draft DCP concerning Tourist Accommodation didn't raise as much public debate and was generally supported. Other issues raised included car parking provisions on Hastings Street, streetscape and traffic calming issues along Coast Road, building heights, provision of a Masterplan and review of design criteria.

### **Pandanus Parade Precinct**

Twenty three (23) submissions were received objecting to the changes made to the draft DCP that would enable the partial development of Council owned land and the part pedestrianisation of Pandanus Parade. The majority of submitters opposed any sale of this land and expressed that this land should be retained in public ownership for the purposes of public car parking and community open space.

Three (3) submissions supported the partial development of community land and the creation of a mall within the Pandanus Parade Precinct, and that this be developed through a Masterplan or as a result of an urban design study for the area.

The Pandanus Parade Precinct represents a focal hub for the Cabarita Beach/Bogangar Villages. It is located adjacent to Cabarita Beach, the Surf Club, the Cabarita Beach Hotel, is central to the Village business district, and is readily accessible to motor

vehicles, pedestrians and cyclists via Tweed Coast Road and the foreshore. The Steering Committee's recommendation is to retain land for car parking and open space purposes, and that this should be undertaken through beautification of the subject site and the streetscaping of Pandanus Parade.

The Council's amendment would realise the Steering Committee's objectives, but would also provide for part of the land to be developed for mixed use purposes, potentially a village square and possible part pedestrianisation of Pandanus Parade.

Important to note within this Precinct is that Council owned land is currently zoned 5(a) Special Uses. Development of any part of the land for mixed use development or any use other than car parking would require a LEP Amendment (rezoning of the land to 3(b) General Business). This process would also require public consultation and further community scrutiny.

The fear in the community is the Council's amendment to the draft Plan would lead to the entire site being built upon, hence losing all community/public space on site.

Given the prime location of the site and the opportunity to create a focal point for the village it is considered the site lends itself to something more than car parking, a land use which is generally considered to be a visually ugly, regardless of tree planting to help beautify it.

Council's amendment to the draft Plan would provide for the majority of car parking spaces be replaced underground. Part of the land being utilised for open space (village square) in conjunction with transferring part of Pandanus Parade into a mall, with the remainder of the land being developed for mixed use purposes (commercial/retail at ground level with tourist accommodation above). From an urban design and planning perspective this would provide for a more effective use of the land and would create a more useable and vibrant community focus for the Village.

The draft Plan intends to achieve this through the development of a Masterplan and Streetscape Plan for the Precinct. Given the number of submissions received objecting to this concept, it may be worthwhile to bring forward the preparation of a Masterplan for the site to provide the community with a visual illustration/representation of what can occur within the Precinct. The Masterplan process can develop several options on how to develop the site, stimulating community discussion, and providing Council and the community with clearer direction on how to best utilise the site.

Submissions were received requesting the public land be reclassified from "operational" to "community" land in accordance with the Local Government Act 1993. This would pre-empt the masterplanning process, and should not be considered at this stage.

**Recommendation:** That Council prepares a Masterplan for the site that provides options as to what could occur within the Precinct.

## **Tourist Accommodation**

Seven (7) submissions were received supporting Council's amendment to the draft Plan concerning tourist accommodation.

Three (3) submissions were received requesting tourist accommodation and design guidelines be reviewed and ensure that these controls provide for flexibility for such uses.

The draft Plan looks to apply the same development guidelines for tourist accommodation as that which are already applied to multiple dwelling units.

However, tourist accommodation and multiple dwelling units are distinct and different land uses. Although the structure itself may not differ significantly the actual use of the building does. Hence, arguments for concessions such as car parking, private open space, S94 Contributions etc, have merit.

Given the contention that currently exists concerning tourist accommodation and the absence of design guidelines specific to this type of development, it would be worthwhile to undertake a more detailed urban design study/review of tourist accommodation and multiple dwelling units within the study area.

The issue of tourist accommodation is not one that is specific to Bogangar/Cabarita Beach. It is a shirewide issue and is the subject of a separate report on Council's agenda. It is intended to prepare a shirewide DCP specific to Tourist Accommodation.

**Recommendation:** Council undertakes a review of development controls pertaining to tourist accommodation.

## **Car Parking - Hastings Street**

Four (4) submissions were received concerning car parking provisions on Hastings Road. The draft Plan identifies two parcels of land (Council owned) designated for public car parking purposes. The draft Plan also provides for one of those parcels of land to be utilised for the purposes of a multi-purpose car park. There is flexibility in the Plan that provides for the other Lot to be used for another purpose if it is determined that the car parking needs of the locality are satisfied by the multi-storey car park.

The submissions received request that both these Lots be held in Council ownership for car parking purposes indefinitely. This suggests that they would prefer stricter wording in the draft Plan to retain both parcels of land in public ownership.

Further, both parcels of land are currently zoned 5(a) Special Uses - Car Park. As the land is situated within the coastal zone in accordance with SEPP 71 - Coastal Protection - the subject land would require on LEP Amendment (rezoning of the land) and hence go through the necessary legislative process in accordance with the Environmental Planning and Assessment Act 1979 including consultation with relevant state government agencies and public exhibition of the draft Plan.

**Recommendation:** The draft Plan provides enough flexibility on how the two identified Lots can be used to accommodate car parking in the Village. No change to the draft Plan as a result of this issue is considered necessary.

### **Study Boundary Area**

One (1) submission was received requesting the draft Plan is too narrow and should be expanded to include the whole of the Bogangar/Cabarita Beach Village.

Preparation of the Locality Plan was guided by a Steering Committee established by Council. Given the immediate pressures being felt within the coastal area and business core of the Village it was resolved to divide the project up into two (2) stages. The first stage was to develop and implement planning controls within the core study area as quickly as possible to appropriately manage immediately foreseeable development. The second stage was to expand the draft Plan to cover the remainder of the Village where development pressures were not as strong.

It would have been ideal to prepare a draft Plan that covered the entire Village, but the focus at the time was to quickly get in place planning controls to address the pressures being felt in the core study area. Nothing prevents the second stage being completed now or later. Given that previous sections of this report recommend further studies to be undertaken (Masterplan of the Pandanus Parade Precinct and review of urban design guidelines pertaining to tourist accommodation), it is considered that the second stage of the project should be undertaken and completed in the interim to provide a holistic document.

**Recommendation:** That the second stage of the project be completed whilst the other studies (masterplan, tourist accommodation controls) are undertaken.

### **Drafting Anomaly**

A typing/printing anomaly was identified on Page 30 of the draft DCP. The last sentence on this page is unfinished. It is supposed to read:

*"This additional setback (approximately 4-6m) provides for an expensive wider streetscape that is not generally associated with commercial precincts".*

**Recommendation:** Rectify typing anomaly in accordance with above and draft DCP 50 in Attachment 1.

### **Other Issues**

Other issues raised during the exhibition period included:

- Undertaking a review of traffic/transport issues within the study area (including review of pedestrian and cycle linkages, traffic calming);
- Preparation of a streetscape Plan;
- Beautification of Foreshore Precinct.

All these issues are identified within the draft Plan and are intended to be implemented through further studies upon adoption of the draft Plan.

**Recommendation:** No change to the draft Plan is necessary.

### **Conclusion**

Some issues have been raised during the exhibition of the draft Plan that need to be considered:

- Masterplan preparation for Pandanus Parade Precinct;
- Review of urban design/planning provisions relating to tourist accommodation and multiple dwelling units;
- Expansion of the study area to cover the whole of Bogangar and Cabarita Beach area.

Options on how to proceed with the project include:

- Adopt draft Plan;
- Adopt draft Plan and complete further studies (masterplan, tourist accommodation, planning controls and include broader Bogangar/Cabarita Beach area) as Stage 2 of the project .
- Defer adoption of draft Plan until completion of further studies;
- Not to adopt draft Plan.

### **Recommendation:**

1. Council adopts draft Development Control Plan No 50 - Bogangar/Cabarita Beach Locality Plan as referred to in Attachment 1 of this report.
2. Commences preparation of Stage 2 of the project:
  - a. completes a Development Control Plan for the whole of Bogangar and Cabarita Beach villages.
  - b. prepares a masterplan for the Pandanus Parade precinct that provides options as to how best to utilise the site.
3. Prepares a Development Control Plan for Tourist Accommodation.



**Appendix 1**

**Summary Of Cabarita DCP Submissions**

No.	Issue	Response	Actioning DCP
1.	<ol style="list-style-type: none"> <li>1. Objected to Explanatory note at beginning of DCP because changes did not reflect majority Committee views.</li> <li>2. Pandanus Parade Precinct – retain carpark and grassed open space. (Redesign).</li> <li>3. Supports DCP building height provisions. Review DCP design provisions to ensure ugly unit development is not repeated.</li> </ol>	<ol style="list-style-type: none"> <li>1. Explanatory note can be amended or deleted.</li> <li>2. Urban design review/masterplan of precinct.</li> <li>3. Review design guidelines.</li> </ol>	<ol style="list-style-type: none"> <li>1. Amend Explanatory Notes.</li> <li>2. Undertake masterplan for the Precinct.</li> <li>3. Review design guidelines</li> </ol>
2.	<ol style="list-style-type: none"> <li>1. Generally supports DCP.</li> <li>2. Pandanus Parade Precinct should be the focus of urban design study.</li> <li>3. Review tourist accommodation design guidelines and provides for flexibility for such uses.</li> <li>4. Review pedestrian and Cycle linkages</li> <li>5. Retain both car parking sites on Hastings Road.</li> <li>6. Traffic/Transport review.</li> <li>7. Preparation of a streetscape analysis.</li> </ol>	<ol style="list-style-type: none"> <li>1. OK</li> <li>2. 2, 4, 5, 6 and 7 are already part of DCP planning framework. Possibly bring forward masterplan preparation for Pandanus Parade Precinct.</li> <li>3. Review urban design guidelines specific for Tourist Accommodation.</li> </ol>	<ol style="list-style-type: none"> <li>1. Undertake masterplan for the Precinct.</li> <li>2. Undertake urban design review urban design guidelines specific to tourist accommodation.</li> </ol>
3.	<ol style="list-style-type: none"> <li>1. Retention of Pandanus Parade carpark as open space and community use</li> <li>2. Retention of Hastings car parks</li> </ol>	<ol style="list-style-type: none"> <li>1. Prepare masterplan for the Precinct.</li> <li>2. DCP flexibility provides for this.</li> </ol>	<ol style="list-style-type: none"> <li>1. Undertake masterplan for the Precinct.</li> </ol>
4.	<ol style="list-style-type: none"> <li>1. Retention of Pandanus Parade carpark as open space and community use</li> <li>2. Retention of Hastings car parks</li> </ol>	<ol style="list-style-type: none"> <li>1. Prepare masterplan for the Precinct.</li> <li>2. DCP flexibility provides for this.</li> </ol>	<ol style="list-style-type: none"> <li>1. Undertake masterplan for the Precinct.</li> </ol>

No.	Issue	Response	Actioning DCP
5.	1. Objection to development of Pandanus Parade Carpark and closing Pandanus Parade to traffic.	1. Prepare masterplan for the Precinct.	1. Undertake masterplan for the Precinct.
6.	<p>1. Supports partial development of Pandanus Parade car park and creating the street into a pedestrian mall. Provides vision of how it should be done.</p> <p>2. Tourist development in 3(b) zone should allow for 25% of residential accommodation devoted to permanent residence.</p> <p>3. Supports building height controls. Look at building design guidelines to provide for a variety of rooflines.</p> <p>4. Traffic Calming and diverting should be examined on Coast Road.</p>	<p>1. Provide urban design/masterplan for the Precinct.</p> <p>2. Review of tourist accommodation design guidelines</p> <p>3. Review urban design guidelines.</p> <p>4. Provided for in DCP already.</p>	<p>1. Undertake masterplan for the Precinct.</p> <p>2. Undertake urban design review urban design guidelines specific to tourist accommodation and multiple dwelling units.</p>
7.	<p>1. General endorsement of draft DCP.</p> <p>2. Implementation of an Implementation plan that includes traffic flow, pedestrianisation and streetscape should be commenced upon adoption of DCP.</p> <p>3. Supports Commercial boundaries of DCP.</p> <p>4. Association divided on Pandanus Parade precinct. Should it be developed or not?</p> <p>5. Tourist development in 3(b) zone should allow for 25% of residential accommodation</p> <p>6. Supports building height controls. Look at building design guidelines to provide for a variety of rooflines.</p> <p>7. Supports beautification of Foreshore Precinct.</p> <p>8. Support multi-story car park, however other land should also be kept.</p>	<p>1. OK</p> <p>2. Provided for in DCP already.</p> <p>3. OK</p> <p>4. Masterplan for the Precinct</p> <p>5. Review of design controls for tourist accommodation.</p> <p>6. Review design controls</p> <p>7. Provided for in DCP already.</p> <p>8. Provided for in DCP already. May need to be amended to be more specific/certain.</p>	<p>1. Undertake masterplan for the Precinct.</p> <p>2. Undertake urban design review urban design guidelines specific to tourist accommodation and multiple dwelling units.</p>



No.	Issue	Response	Actioning DCP
z	<ol style="list-style-type: none"> <li>1. Objects to Pandanus Parade mixed use development proposal.</li> <li>2. Land should remain under public ownership and for community purposes.</li> <li>3. Supports Tourist accommodation design guidelines to reflect Multiple dwelling unit provisions.</li> </ol>	<ol style="list-style-type: none"> <li>1. Prepare masterplan for the Precinct.</li> <li>2. Prepare masterplan for the Precinct.</li> <li>3. OK</li> </ol>	<ol style="list-style-type: none"> <li>1. Undertake masterplan for the Precinct.</li> </ol>
14.	<ol style="list-style-type: none"> <li>1. Objects to Pandanus Parade mixed use development proposal.</li> <li>2. Land should remain under public ownership and for community purposes.</li> <li>3. Supports Tourist accommodation design guidelines to reflect Multiple dwelling unit provisions.</li> </ol>	<ol style="list-style-type: none"> <li>1. Prepare masterplan for the Precinct.</li> <li>2. Prepare masterplan for the Precinct.</li> <li>3. OK</li> </ol>	<ol style="list-style-type: none"> <li>1. Undertake masterplan for the Precinct.</li> </ol>
15.	<ol style="list-style-type: none"> <li>1. Objects to Pandanus Parade mixed use development proposal.</li> <li>2. Land should remain under public ownership and for community purposes.</li> <li>3. Supports Tourist accommodation design guidelines to reflect Multiple dwelling unit provisions.</li> </ol>	<ol style="list-style-type: none"> <li>1. Prepare masterplan for the Precinct.</li> <li>2. Prepare masterplan for the Precinct.</li> <li>3. OK</li> </ol>	<ol style="list-style-type: none"> <li>1. Undertake masterplan for the Precinct.</li> </ol>
16.	<ol style="list-style-type: none"> <li>1. Objects to Pandanus Parade mixed use development proposal.</li> <li>2. Land should remain under public ownership and for community purposes.</li> <li>3. DCP requires better clarification of building height provisions.</li> <li>4. Wording missing in Tweed Coast Precinct section of DCP.</li> </ol>	<ol style="list-style-type: none"> <li>1. Prepare masterplan for the Precinct.</li> <li>2. Prepare masterplan for the Precinct.</li> <li>3. Building height provisions are clear and consistent with DCP 48 – Tweed Coast Building Heights</li> <li>4. Typographical error</li> </ol>	<ol style="list-style-type: none"> <li>1. Undertake masterplan for the Precinct.</li> <li>2. Amend draft Plan to amend change.</li> </ol>
17.	<ol style="list-style-type: none"> <li>1. Objects to Pandanus Parade mixed use development proposal.</li> <li>2. Supports the implementation of a streetscape plan.</li> </ol>	<ol style="list-style-type: none"> <li>1. Prepare masterplan for the Precinct.</li> <li>2. Prepare masterplan for the Precinct.</li> </ol>	<ol style="list-style-type: none"> <li>1. Undertake masterplan for the Precinct.</li> </ol>

No.	Issue	Response	Actioning DCP
	3. Supports Tourist accommodation design guidelines to reflect Multiple dwelling unit provisions.	3. OK	
18.	<p>1. Objects to the DCP being amended from that adopted by the Committee.</p> <p>2. Objects to Pandanus Parade mixed use development proposal.</p> <p>3. Land should remain under public ownership and for community purposes.</p> <p>4. Raises traffic impact issues.</p> <p>5. Provision of vegetation in Pandanus and Palm Avenue.</p>	<p>1. Prepare masterplan for the Precinct.</p> <p>2. Prepare masterplan for the Precinct.</p> <p>3. Prepare masterplan for the Precinct.</p> <p>4. Traffic Issues addressed in draft Plan. Further traffic studies and streetscape plans are a requirement of the Plan.</p> <p>5. Prepare masterplan for the Precinct.</p>	1. Undertake masterplan for the Precinct.
19.	<p>1. Objects to Pandanus Parade mixed use development proposal.</p> <p>2. Objects to the DCP being amended from that adopted by the Committee.</p> <p>3. Proposal to replace current beach access via Pandanus Parade and establish car parking is contradictory to inconsistent with Council's draft Coastal Management Plan and NSW Government Policy in regard to beach access.</p> <p>4. Community opposition to sale of public land.</p>	<p>1. Prepare masterplan for the Precinct.</p> <p>2. Prepare masterplan for the Precinct.</p> <p>3. It is not the intent of the draft plan to restrict access to the beach. All beach access is to be maintained and enhanced. It is not understood how the draft Plan is contradictory to the subject Plans mentioned. No change to the draft Plan is necessary as a result of this issue.</p> <p>4. Prepare masterplan for the Precinct.</p>	1. Undertake masterplan for the Precinct.
20.	<p>1. Objects to the DCP being amended from that adopted by the Committee.</p> <p>2. Objects to Pandanus Parade mixed use development proposal.</p>	<p>1. Prepare masterplan for the Precinct.</p> <p>2. Prepare masterplan for the Precinct.</p>	1. Undertake masterplan for the Precinct.

No.	Issue	Response	Actioning DCP
21.	Objects to Pandanus Parade mixed use development proposal.	Prepare masterplan for the Precinct.	Undertake masterplan for the Precinct.
22.	Objects to Pandanus Parade mixed use development proposal. Land should remain under public ownership and for community purposes.	Prepare masterplan for the Precinct.	Undertake masterplan for the Precinct.
23.	Objects to Pandanus Parade mixed use development proposal. Land should remain under public ownership and for community purposes.	Prepare masterplan for the Precinct.	Undertake masterplan for the Precinct.
24.	<ol style="list-style-type: none"> <li>1. Generally supports majority of draft DCP except for the Pandanus Parade Precinct mixed use development proposal.</li> <li>2. Supports Tourist accommodation design guidelines to reflect Multiple dwelling unit provisions.</li> </ol>	<ol style="list-style-type: none"> <li>1. Prepare masterplan for the Precinct.</li> <li>2. OK</li> </ol>	<ol style="list-style-type: none"> <li>1. Undertake masterplan for the Precinct.</li> </ol>
25.	Generally supports majority of draft DCP except for the Pandanus Parade Precinct mixed use development proposal.	Prepare masterplan for the Precinct.	Undertake masterplan for the Precinct.
26.	<p>Planit Consulting submitted a report on behalf of the Cabarita Beach/Bogangar Residents Association. The submission addresses a number of issues including: establishing design criteria for tourist accommodation and improving those for multiple dwelling units, retail analysis, traffic analysis, Pandanus Parade Precinct, density provisions, building height, coastal erosion, rezoning provisions. It provides a series of recommendation including:</p> <ol style="list-style-type: none"> <li>1. Exclusion of retail, commercial and residential uses within the public land on Pandanus Parade and retaining land for community purposes;</li> </ol>	<ol style="list-style-type: none"> <li>1. Prepare masterplan for the Pandanus Precinct.</li> </ol>	<ol style="list-style-type: none"> <li>1. Undertake masterplan for the Precinct.</li> </ol>

No.	Issue	Response	Actioning DCP
2.	Preparation of a masterplan;	2. Prepare masterplan for the Pandanus Precinct.	2. Undertake urban design review urban design guidelines specific to tourist accommodation and multiple dwelling units.
3.	Preparation of design criteria;	3. Preparation of design criteria specific to Tourist accommodation and multiple dwelling units;	
4.	Traffic analysis;	4. Traffic analysis and streetscaping provisions are already provided for in draft DCP;	
5.	Exclusion of references to rezonings;	5. The draft Plan was intended to provide a vision and planning framework for future management of the locality rather than to act as a typical DCP. The provisions aren't considered contrary to the EP&A Act 1979 or the LEP because the draft Plan still emphasises the need for the necessary rezoning process to be observed.	
6.	Undertaking retail study;	6. A draft retail study has been provided for the Shire that includes the study area. The proposals outlined in the draft Plan are consistent with the draft retail study.	
7.	Undertaking streetscape plan;	7. Traffic analysis and streetscaping provisions are already provided for in draft DCP;	
8.	Reclassify public land at Pandanus Parade from operational to community land;	8. Reclassification of land may pre-empt the masterplanning process for the area.	
9.	Amend DCP to cover whole of Cabarita.	9. Stage 2 of the project was always intended to cover the remainder of the village.	9. Stage 2 of the project to encapsulate the remainder of the Bogangar/Cabarita Beach village.

<b>No.</b>	<b>Issue</b>	<b>Response</b>	<b>Actioning DCP</b>
	Planit also presented findings of a survey undertaken by the Cabarita-Bogangar Residents' Association in May 2005 (approximately 180 responses). The findings of the survey were to retain the Council owned land in Pandanus Parade in public ownership and retaining the area for car park and green area; not closing Pandanus Parade; better tourist development controls; no to a multi-storey car park, no to 3 storey development in residential areas. Other issues were raised which were outside the scope of the draft DCP.		

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. See Planning Committee item of 17 August 2005 for attachment.
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**5 [PD] Draft Tweed Local Environmental Plan 2000, Amendment No 61 -  
Reclassification of Land at Marie Street, Tweed Heads to Operational  
Land**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/LEP/2000/61 Pt1**

**SUMMARY OF REPORT:**

Draft Tweed Local Environmental Plan 2000, Amendment No 61, was publicly exhibited between 1 June 2005 and 20 July 2005. A Public Hearing was held on Thursday, 21 July 2005 at the Tweed Civic Centre. During the public exhibition no submissions were received and there were no representations made at the Public Hearing.

It is concluded that the public consultation process has not identified any issues indicating the reclassification should not proceed as proposed in the draft LEP.

**RECOMMENDATION:**

**That in accordance with Section 68 of the Environmental Planning and Assessment Act 1979, Draft Tweed Local Environmental Plan 2000, Amendment No 61, be forwarded without amendment to the Director of the Department of Infrastructure, Planning and Natural Resources for a report to the Minister under Section 69 of the Act.**

## REPORT:

### Background

Council, at its meeting of 1 September 2004, considered a report with respect to one (1) parcel of community land under its ownership in Marie Street, Tweed Heads. The parcel of land was created as public garden and recreational space. Council subsequently resolved as follows:

*“That Council,*

- 1. Advises the Director General, Department of Infrastructure Planning & Natural Resources that it intends to prepare a draft LEP to reclassify land at Lot 21 Section 15 DP 28390, 1 Marie Street / Hillcrest Avenue, Tweed Heads South from Community Land to Operational Land.*
- 2. Engages a suitable planning consultant to undertake the project, funded by the proponent.”*

Pursuant to point 2 of the above resolution, Council further resolved at its meeting of 16 February 2005 that Jim Glazebrook & Associates Pty Ltd is the preferred Consultant to finalise the subject Local Environmental Plan.

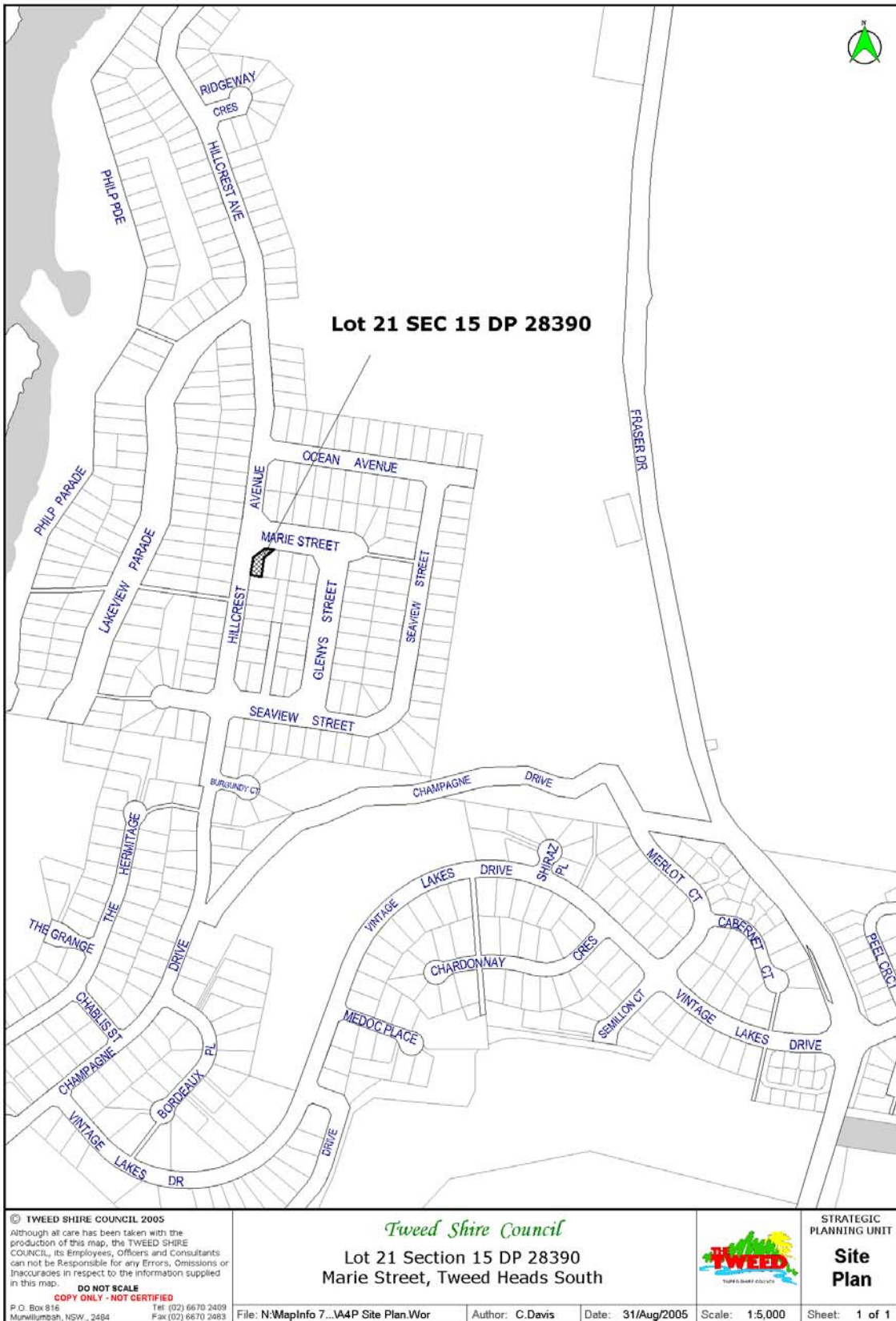
Following issuance of a Section 65 Certificate the draft LEP was notified to surrounding landowners, advertised in the Tweed Link newspaper and publicly exhibited for a period of 50 days from 1 June 2005 to 20 July 2005. The exhibition process was undertaken in accordance with DIPNR’s guidelines for “LEPs and Council Land”.

Notice of a Public Hearing, as required by Section 29 of the Local Government Act 1993, was also given in conjunction with the public notification and exhibition process. The Public Hearing was held on Thursday, 21 July 2005 in the Tweed Heads Civic Centre.

### Purpose Of Report

The purpose of this report is to facilitate Council’s consideration of any submissions arising from public notification/exhibition of the draft LEP and the report of the Public Hearing. A copy of the draft LEP is attached (Attachment 1).

Locality Plan



© TWEED SHIRE COUNCIL 2005  
 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.  
**DO NOT SCALE**  
**COPY ONLY - NOT CERTIFIED**  
 P.O. Box 816 Murwillumbah, NSW, 2464 Tel: (02) 6670 2409 Fax: (02) 6670 2483

*Tweed Shire Council*  
**Lot 21 Section 15 DP 28390**  
**Marie Street, Tweed Heads South**

File: N:\MapInfo 7...A4P Site Plan.Wor Author: C.Davis Date: 31/Aug/2005

	STRATEGIC PLANNING UNIT
	<b>Site Plan</b>
Scale: 1:5,000	Sheet: 1 of 1

## **Notification/Exhibition Of Draft LEP**

In response to the notification/exhibition process no submissions were received.

The reclassification of the land would permit its sale and/or subsequent development. Any development of the land may require the submission and approval of a development application. Amongst other things, such an application would need to address the zoning of the land, viz. Open Space 6(a). This draft LEP does not pre-empt any considerations in that regard.

Department of Infrastructure Planning and Natural Resources advised on 15 November 2004 that there were no relevant state issues with the reclassification of the land and accordingly S62 consultation was not required.

## **The Public Hearing**

The Public Hearing was chaired by Martin Findlater of BlueLand Engineers Pty Ltd. It was held on Thursday, 21 July 2005 (commencing 6.30pm) at the Tweed Heads Civic Centre.

The report of the Public Hearing was delivered to Council on 9 August 2005. A copy of this report is attached (Attachment 2). The report makes the following findings, conclusion and recommendation:

*“Section 68(2) of the Environmental Planning & Assessment Act (1979) require a report of the public hearing to be furnished to the Council. The findings and recommendations presented in this report do not represent an expert’s opinion.*

*The findings detailed below are my assessment of the opportunity provided for the public to express a view and the reasonableness and relevance of those views.*

*Those findings are:*

- 1. The public have been provided with a reasonable opportunity to comment on the proposed reclassification of Lot 21 Section 15 DP 28390 from community land to operational land.*
- 2. The public have not expressed any expectation regarding the use of the land.*

## **Conclusion**

*My conclusion based on the findings of the public hearing are:*

- 1. Lot 21 Section 15 DP 28390 can be reclassified to operational.*

**Recommendation**

*I recommend Lot 21 Section 15 DP 28390 be reclassified to operational.”*

Council placed a public notice in the Tweed Link advising that the Public Hearing Report would be available for viewing, and notified the surrounding landowners.

**Conclusion**

It is concluded that the public consultation process has not identified any issues which indicate that the reclassification should not proceed as proposed in the draft LEP.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. Draft Tweed Local Environmental Plan 2000, Amendment No 61 (DW 1250941)
  2. Report of Public Hearing held on 21 July 2005 (DW 1247376)
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**6 [PD] Amendment to Section 94 Contribution Plan No 16 - Emergency Facilities (Surf Lifesaving)**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/S94/16**

**SUMMARY OF REPORT:**

At its Ordinary meeting of 6 April 2005, Council resolved to amend and exhibit Section 94 Contribution Plan No 16 – Emergency Facilities (CP16).

CP16 required amending to include the following additional items:

- 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).

This Plan was exhibited between 13 April 2005 and 11 May 2005. There were no responses to draft CP16.

Following this exhibition, a request was received from the Cabarita Surf Club for an additional \$150,000 to be used towards the construction of the new Cabarita Surf Club to cover an increase in building and material costs. The total expenditure from S94 for the Club would be \$650,000 and this additional amount is covered under the Plan as the interest component of \$149,121 is now not required. Therefore, this additional funding to Cabarita Surf Club does not affect the levy rate.

At its meeting on 6 July 2005 Council resolved to re-exhibit the Contribution Plan to include the additional \$150,000. The Plan was exhibited between 13 July and 10 August 2005.

There were no submissions to the re-advertised Plan.

**RECOMMENDATION:**

**That Council: -**

- 1. Adopts the amended exhibited Section 94 Contribution Plan No 16 – Emergency Facilities (Surf Lifesaving).**
- 2. Gives public notice in the Tweed Link of its decision in accordance with the Environmental Planning and Assessment Regulations 2000, specifying that the amended Section 94 Contribution Plan comes into effect on the date of the notice.**



**REPORT:**

At its Ordinary meeting of 6 April 2005, Council resolved to amend and exhibit Section 94 Contribution Plan No 16 – Emergency Facilities (CP16).

CP16 required amending to include the following additional items:

- An increase in equipment and facility costs;
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At its meeting on 6 July 2005 Council resolved to re-exhibit the Contribution Plan to include the additional \$150,000. The Plan was exhibited between 13 July and 10 August 2005.

There were no submissions to the re-advertised Plan.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**7 [PD] Section 94 Plan No. 18 - Council Administration Offices and Technical Support Facilities, 2005/25 Amendment**

**ORIGIN:**

**Planning & Infrastructure**

**FILE NO: GT1/S94/18 Pt1**

**SUMMARY OF REPORT:**

There is a need for additional Council administration office space and depot/stores to service an expected 40,000 population growth in Tweed Shire over the next 20 years. Draft version 2.0 of *Section 94 Plan No 18 – Council Administration Offices and Technical Support Facilities* has been revised to increase developer contributions to finance these facilities.

The draft plan has been exhibited and no submissions have been received. It is proposed to now adopt the plan.

**RECOMMENDATION:**

**That Council, in accordance with clause 31 of the Environmental Planning and Assessment Regulation 2000, approves draft version 2.0 of Section 94 Plan No.18 – Council Administration Offices and Technical Support Facilities, to repeal and replace the existing version with Sections 2.1, 2.2 and 2.3 to be correctly numbered.**

**REPORT:**

**1. Background**

**1.1 Current Version of Contributions Plan**

The current version of Section 94 Plan No 18 – Council Administration Offices and Technical Support Facilities was adopted in 17 June 1998 and was for a 20 year time horizon.

This plan provided for:

• Building Extensions and Fit out	2,130,000
• Car Parking Contribution	600,000
• Customer Service Facilities	540,000
• New Stores, Depots	750,000
Total	4,020,000

This version of the plan established that 60% of these facilities are attributed to new development and 40% are attributed to the existing (pre June 1998) population.

These works have been largely completed and there is currently a capital loan debt for these works of \$2,800,000.

**1.2 Review of CP18**

From 2005 to 2025 the population of Tweed Shire is expected to grow by 40,000 and this is expected to generate a need for additional Council staff at the rate of 8 staff per 1,000 persons or a total of 320 persons being 142 indoor and 178 outdoor at a 45:55 ratio.

The projected increase in indoor staff at a rate of 8 staff per 1,000 population and a 45:55 indoor/outdoor staff ratio is estimated at:-

2005	288
2025	<u>430</u>
Increase	142

The projected increase in outdoor staff at a rate of 8 staff per 1,000 population and a 45:55 indoor/outdoor staff ratio is estimated at:-

2005	352
2025	<u>530</u>
Increase	178

The projected staff increases are estimated to require an additional 2,414m<sup>2</sup> of gross office space and an additional depot/store (probably located in the west of the Tweed Coast region) of 1.5ha.

The entire demand for additional office space and depot/stores is generated by population/development growth and therefore eligible for financing via Section 94 of the Environmental Planning and Assessment Act 1979.

Note: This varies from the 1998 plan where there was a portion of catch up attributable to the existing (pre 1998) population.

## **2. Draft Version 2.0 of Contributions Plan No.18**

### **2.1 Works Program and Estimated Costs**

The estimated costs and proposed works program for the amended plan are:

Current Plan (16 June 1998) 60% of debt		1,680,000
New offices internal staff (as per report August 2004)	5,581,326	
New depot (see estimate in draft CP18)	4,959,599	10,540,925
<b>Total cost of Works program</b>		<b>12,220,925</b>

### **2.2 Staging**

The works are expected to be staged as follows:-

Short term building works	\$967,626	2005/06
Long term building	\$4,613,700	2008/09
Depot	\$4,959,599	2007/08

### **2.3 Finance, Loans Interest Costs**

Loan funds will be required to finance the above staging program. The resultant debt will be paid off in the later part of the 20 year plan.

Based on a population growth of 2,000 persons per year, the above capital works staging program, and an interest rate of 6.5%, the estimated total interest cost for the life of the plan has been calculated at \$5,530,000.

### **2.4 Proposed Revised Contribution Rates**

Calculated contribution rate:-

Contribution rates shall be calculated in accordance with the following formula

$$C = \frac{(CF + OP + F) \times (100 + A)\%}{n} \text{ where}$$

C = amount of contribution per person

CF = Cost of facilities (\$10,540,925)

OP = Balance from original plan (\$1,680,000)

F = Interest finance cost (\$5,530,000)

A = Administration levy %(10%)

n = Population growth

$$\begin{aligned}
 C &= \frac{(10,540,925 + 1,680,000 + 5,530,000) \times 110\%}{40,000} \\
 &= \frac{17,750,925 \times 1.1}{40,000} \\
 &= \$488 \text{ per person}
 \end{aligned}$$

Comparing proposed and current contribution rates:-

	<b>Version 2.0 - Current (1998)</b>	
Per person	\$488	118.90
Per lot or large dwelling (2.6 persons)	\$1,268.80	344.81*
Per Medium density unit (1.7 persons)	\$829.60	261.58**
Per tourist accommodation unit (1.5 persons) Person)	\$732.00	238.00***
Per small industrial unit	\$253.00	69.00
Per small commercial or retail unit	\$253.00	69.00
Larger commercial, retail or industrial per 300m2	\$176.00	48.00

Notes:-

\* based on 2.9 persons per dwelling

\*\* based on 2.2 persons per dwelling

\*\*\* based on 2 persons per tourist accommodation unit

The full text of *Section 94 Plan No 18 – Council Administration Offices and Technical Support Facilities Version 2.0* is included with this agenda.

### **3. Public Exhibition**

The draft contribution plan was placed on public exhibition from 20 July 2005 to 18 August 2005. No submissions have been received. A numbering error has been identified and corrected in section 2.

Draft version 2.0 of the plan, with minor numbering corrections is recommended for approval.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The adoption of draft version 2.0 of *Section 94 Plan No 18 – Council Administration Offices and Technical Support Facilities Version 2.0* will enable Council to finance its administration office building and depot construction program required to service population growth in the 2005 to 2025 period from this future development/population by means of s94 contributions.

If the draft revision is not adopted, these works would require financing from the general fund and from existing ratepayers who are not contributing to the demand for these extra services.

**POLICY IMPLICATIONS:**

The adoption of Draft Section 94 Plan No 18 – Council Administration Offices and Technical Support Facilities Version 2.0 will continue Council's user pays policy for services needed to service population/development growth.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. Draft Section 94 Plan No 18 – Council Administration Offices and Technical Support Facilities Version 2.0 (DW1257235)
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**8 [PD] Tweed Shire Community Based Heritage Study**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/LEP/2000**

**SUMMARY OF REPORT:**

Council engaged David Scobie Architects to prepare a Community Based Heritage Study for the Tweed. That work has now been completed and is summarised in a report attached to this Agenda.

The Study could not have been completed without the assistance of local volunteers whose considerable effort should be commended.

The study considered a total of 405 potential heritage items and resulted in the following conclusions:

- 259 items for inclusion in the Shire's Heritage List.
- 48 items for further consideration at a later stage.
- 23 items for inclusion as a record only.
- 78 items for removal from further consideration.
- Creation of six (6) Conservation Areas.

Two (2) broadly based implications are evident as a result of these conclusions including:

- The provision of appropriate resources to implement the various elements of the Study's recommendations.
- The preparation of an Amendment to Tweed LEP 2000 to include the identified heritage items in Schedule 2 of the LEP.

The provision of appropriate resources to implement the Study should be considered as part of the 2006/07 Budget process.

An assessment of the items identified for inclusion in the Shire's Heritage List concluded that whilst all of the nominated items are significant to the history of the Tweed Region 17 of the items cannot be included in an Amendment to Tweed LEP 2000 for reasons identified in this report.

It is recommended that Council support the proposed Amendment and proceed with the preparation of a draft Plan to be exhibited concurrently with the rest of the Community Based Heritage Study to ensure that the maximum amount of protection is available for each of the items listed.

**RECOMMENDATION:**

That :

1. Council expresses its appreciation to all those community members who have been involved with the preparation of the Tweed Shire Community Based Heritage Study, particularly Kath Prichard, Mary Lee Connery and Bill Bainbridge.
2. Council prepares, in accordance with Section 54 of the Environmental Planning and Assessment Act 1979, an Amendment to Tweed Local Environmental Plan 2000:
  - To list the following items in Schedule 2 Heritage Items of Tweed LEP 2000:

No	Item	Street Address	Locality Description
1.	Osprey Nests as mapped from time to time by the National Parks & Wildlife Service	Tweed Shire	Various locations within the Shire
2.	Rare & Significant Trees as mapped from time to time by Council	Tweed Shire	Various locations within the Shire
3.	Fig Trees (Navigation Markers)	Tierney Park Wupawn Place Banora Point	Lot 150 DP 258995 Lot 264 DP 261752
4.	Sextons Hill Aboriginal Midden Complex	60 Elsie Street Banora Point East	Lot 1 DP 285117
5.	Bilambil Community Hall & War Memorial Roll	Bilambil Road Bilambil	Lot 1 DP 937212
6.	Bungalora Residence	858 Terranora Road Bungalora	Lot 1 DP 359085
7.	Burringbar Railway Station (site)	Broadway Street Burringbar	Railway reserve (between Broadway St - Station St)
8.	Burringbar Community Hall	1 Tweed Valley Way Burringbar	Lot 1 DP 972819
9.	St Brigid's Roman Catholic Church	61-63 Broadway Street Burringbar	Lot 11 DP 571794 Lot 9 Sec 2 DP 6696
10.	Cattle Bridge (highway overpass)	Tweed Valley Way	Located over Tweed Valley Way approx. 80m south of Broadway Street / Tweed Valley Way intersection
11.	St Michael & All Angel's Church, and Pedal Organ	67 Burringbar Road Burringbar	Lot 1 DP 119104
12.	Burringbar War Memorial	Masterton Park Broadway Street	Railway Reserve (between Broadway

No	Item	Street Address	Locality Description
		Burringbar	St - Station St)
13.	Harry Hatton's Fig Tree	Kyogle Road Byangum	Road Reserve adjacent Tweed River approx. 500m south of Byangum Bridge
14.	Byrrill Creek Road / Kyogle Road Bridge	Byrrill Creek Road Byrrill Creek	Located over Tweed River approx. 400m north of Byrrill Creek / Tweed River intersection
15.	Remains of 1 <sup>st</sup> Byrrill Creek Road / Kyogle Road Bridge	Byrrill Creek Road Byrrill Creek	Located within/adjacent to Tweed River approx 450m north of Byrrill Creek / Tweed River intersection
16.	'Sapere Aude - Dare to be Wise' Residence	131 Cedar Creek Road Cedar Creek	Lot 1 DP 591245
17.	Chillingham Community Hall & War Memorial Roll	Cnr Satinwood Place / Numinbah Road Chillingham	Lot 2 DP 129078
18.	Chillingham Public School Residence	1420 Numinbah Road Chillingham	Lot 92 DP 755696
19.	Chillingham Store & Post Office	1374 Numinbah Road Chillingham	Lot 15 DP 631225
20.	Former Numinbah Methodist Church (currently Chillingham + Tyalgum Community Pre-school)	1411 Numinbah Road Chillingham	Lot 1 DP 516332
21.	Chinderah Cemetery	Tweed Coast Road Chinderah	Lot 493 DP 720407 Lot 49 DP 8417838
22.	Cudgen Burial Ground	Tweed Coast Road Chinderah	Lot 493 DP 720407 Lot 49 DP 841783
23.	Fig Tree	66 Chinderah Bay Drive Chinderah	Lot 2 DP 781464
24.	Residence	9628 Chinderah Bay Drive Chinderah	Lot 1 DP 120220
25.	Residence	36 McLeod Street Condong	Lot 1 DP 1018106
26.	Remains of the Condong Sugar Mill Rail Line	Tweed Valley Way Condong - Murwillumbah	Lot 21 DP 255029 Lot 1 DP 517631 Lot 1 DP 661221 Lots 1 + 2 DP 133982 Located parallel to Tweed Valley Way between Cane Road + Murwillumbah Station
27.	Crabbes Creek Community Hall	29 Crabbes Creek Road Crabbes Creek	Lot 1 DP 851314

No	Item	Street Address	Locality Description
28.	Fmr Macedonian Church Hall (currently private residence)	47 Crabbes Creek Road Crabbes Creek	Lot A DP 397718
29.	Korn's Crossing Bridge	Numinbah Road Crystal Creek	Located over Rous River approx. 250m west of Numinbah Road / Chilcotts Road intersection
30.	Dry Stone Walls	Cudgen Road Cudgen	Lots 7 + 8 DP 812933 Walls run adjacent Cudgen Road
31.	Norfolk Pine Memorial Avenue	Collier Street Cudgen	16 Norfolk Pines planted on either side of road + within adjacent oval (Lot 1 DP 186456) - individually named
32.	Memorial Fig Trees	Cnr Cudgen Road / Crescent Street Cudgen	10 Fig Trees planted within road reserve adjacent to Lot 1 DP 749295 - Lot 4 DP 5999 Cudgen Road and Lot 25 Sec 1 DP 2634 - Lot 101 DP 1071381 Crescent Street - individually named
33.	Cudgen War Memorial & Public School Rolls	Collier Street Cudgen	Lot 71 DP 755701 Lot 1 DP 407094
34.	Remains Cudgen Sugar Mill	Tweed Coast Road Cudgen	Lot 3 DP 828298
35.	Togo's Hill & Mango Trees	312 Cudgen Road Cudgen	Lot 1 DP 387413
36.	Palm Grove known as 'Skinners Reserve'	Dulguigan Road Dulguigan	Lot 480 DP 800941
37.	Gravesite of Mr Paddy Smith	Dulguigan Road Dulguigan	Lot 6 DP 807962
38.	Dum Dum Homestead & Workers Cottage	973 Kyogle Road Dum Dum	Lot 13 DP 882836
39.	Dunbible Creek Railway Bridge	Stokers Road Dunbible	Located over Dunbible Creek approx. 320m south of Stokers Road rail crossing (Casino - Murwillumbah Rail line)
40.	Dungay Cattle Dip Site	441 Tomewin Road Dungay	Lot 4 DP 818088
41.	Dungay Public School & War Memorial Roll	305 Tomewin Road Dungay	Lot 2 DP 360748 Lot 101 DP 820547
42.	Duranbah Public School Honour Roll	256 Duranbah Road Duranbah	Lot 256 DP 755701 Lot 331 DP 755701
43.	Fmr Fernvale Public School	Fernvale Road Murwillumbah	Lot 181 DP 755698 Lot 7005 DP 92890
44.	Fingal Head Aboriginal & Islander Memorial Cemetery	Letitia Road Fingal Head	Lot 708 DP 726472

No	Item	Street Address	Locality Description
45.	Loading Ramp of the Cave Point Quarry	Fingal Road Fingal Head	Lot 7012 DP 1065742 Mounded section of parkland adjacent Tweed River approx. 100m south of Fingal Road / Bambery Street intersection
46.	Plaque & basalt stone monument marking the site of American WW 2 Camp	Fingal Road Fingal Head	Road Reserve adjacent Tweed River approx. 30m south of Lot 19 DP 248900. Near entrance of Wommin Lagoon into the main channel of river.
47.	Fingal Head Lighthouse & foundations of adjoining Cottage	Lighthouse Parade Fingal Head	Lots 1, 2 + 3 DP 847751
48.	Sponsors Lagoon Aboriginal Midden Complex	Main Road Fingal Head	Lots 212 + 403 DP 755740 Lot 741 DP 48821
49.	Boiler	Kerosene Bay Fingal Head	Lot 738 DP 48821 Located north-eastern end Kerosene Bay adjacent Tweed River
50.	Hastings Point Headland	Tweed Coast Road Hastings Point	Lot 7007 DP 1056445 Lot 284 + 7034 DP 755701
51.	Kingscliff Amenities Hall	Marine Parade Kingscliff	Lot 7028 DP 755701
52.	Kingscliff War Memorial	Marine Parade Kingscliff	Lot 169 DP 755701
53.	Fig Tree Roundabout	Intersection Marine Parade / Seaview Street Kingscliff	Road Reserve centre of intersection
54.	The Studio ( <i>Slab Hut</i> ) & Surrounding Remnant Sub-Tropical Rainforest	63 Numinbah Road Kynnumboon	Lot 6 DP 263221
55.	'Lisnagar House' & Dairy	Intersection Numinbah Road / Tomewin Road / Queensland Road Kynnumboon	Lot 7 DP 817563
56.	Residence	412 Limpinwood Valley Road Limpinwood	Lot 2 DP 628429
57.	Limpinwood Community Hall	Limpinwood Valley Road Limpinwood	Lot 731 DP 863375
58.	Hotel Victory	5909 Tweed Valley Way Mooball	Lot 1 DP 123205 Lot 1 DP 393596 Lot 1 DP 329318
59.	Kelly Bros. Store	5913 Tweed Valley Way Mooball	Lots 1 + 2 DP 316479

No	Item	Street Address	Locality Description
60.	'The Vicarage' Residence	19 Bent Street Murwillumbah	Lot 2 DP 357316
61.	Residence	2 Bent Street Murwillumbah	Lots 1 + 2 Sec 17 DP 758739
62.	Kingsford Flats	35 Commercial Road Murwillumbah	Lot 2 DP 576041
63.	Residence	91-93 Commercial Road Murwillumbah	Lots 15 +16 Sec 33 DP 9772
64.	Residence	51 Ewing Street Murwillumbah	Lot 2 DP 592794
65.	Residence	44 Riverview Street Murwillumbah	Lots 6 +7 Sec 26 DP 8950
66.	Block A Murwillumbah High School	Riverview Street Murwillumbah	Lot 6 DP 820602
67.	Murwillumbah Hospital Complex	Ewing Street Murwillumbah	Lot 1 DP 722529
68.	Fmr Murwillumbah General Cemetery (currently Sacred Park Memorial)	Cnr Banner Street / Murwillumbah Street Murwillumbah	Lots 1 + 4 Sec 14 DP 758739 Lot 7012 DP 92892
69.	Murwillumbah Showground Complex	37 Queensland Road Murwillumbah	Lot 1 DP 725221 Lot 1 DP 128281 Lot 167 DP 729468
70.	St Andrews Presbyterian Church Group & War Memorial Roll (includes Jessie McMillan Hall)	16 Wollumbin Street Murwillumbah	Lots 1, 2, 3 + 4 DP 615412
71.	Murwillumbah Railway Station & Yard Group	Tweed Valley Way Murwillumbah	Lot 100 DP 865105 Lot 1 DP 938031
72.	The Grainery	1 Charles Lane Murwillumbah	Lots 2 + 3 DP 21815 Lot 8 DP 343522
73.	Fmr Tweed River Regional Art Gallery (currently Council building)	3-5 Tumbulgum Road Murwillumbah	Lot 2 DP 907903
74.	All Saints Anglican Church & War Memorial Roll	26-32 Byangum Road Murwillumbah	Lot 1 DP 301393 Lots A + B DP 335911
75.	Murwillumbah War Memorial	Murwillumbah Civic Centre Tumbulgum Road Murwillumbah	Lot 1 DP 863851
76.	Original Mt Saint Patricks Catholic School Building	42-46 Ewing Street Murwillumbah	Lot 1 DP 873014
77.	Concrete Roadway	Queensland Road Murwillumbah	Residual stretch of concrete road adjacent Murwillumbah Showground
78.	41 <sup>st</sup> Battalion Drill Hall	85 Ewing Street Murwillumbah	Lot 3 DP 90208

No	Item	Street Address	Locality Description
79.	Canary Island Palms (Phoenix Canariensis)	Commercial Road Murwillumbah	Lot 1 DP 523131 adjacent Commercial Road (between Prince St - Condong St) Road Reserve adjacent Tweed River (between King St - Prince St)
80.	Water Pumping Station	533 North Arm Road Murwillumbah	Lot 6 DP 1039957
81.	Tumbulgum Cemetery (Tweed Junction Cemetery)	Dulguigan Road North Tumbulgum	Lot 7003 DP 1052274
82.	Remains North Tumbulgum Ferry Approach	Tweed River North Tumbulgum	Northern bank Tweed River adjacent Rous River / Tweed River intersection
83.	Mustering Yard & Lilly Pilly Tree	Intersection Numinbah Road / Pat Smiths Creek Numinbah	Mustering Yard: Lot 1 DP 735072 approx 150m north east of intersection Lilly Pilly Tree: Road Reserve north west corner of intersection
84.	Oxley Cove Aboriginal Memorial	Bosun Boulevard Oxley Cove	Lot 3 DP 613036 Small clearing adjacent large sign identifying location of telecommunication cables under river.
85.	Piggabeen Community Hall & Piggabeen / Cobaki War Memorial Roll	525 Piggabeen Road Piggabeen	Lot 203 DP 755740
86.	Pottsville Kiosk	Tweed Coast Road Pottsville	Lot 7037 DP 755701 Located northern end Caravan Park
87.	Pottsville War Memorial	ANZAC Park Cnr Tweed Coast Road / Coronation Street Pottsville	Lot 8207 DP 755701 Located northern end of oval adjacent Pottsville Community Hall
88.	Palmvale Community Hall	1026 Reserve Creek Road Reserve Creek	Lot 1 DP 319447
89.	Bails & Dairy	442 Smiths Creek Road Smiths Creek	Lot 2 DP 624744
90.	Ironbark Monument in recognition of the Tweed Shire's Logging Industry	Cnr Alma Street / Tweed Valley Way South Murwillumbah	Lot 1 DP 779815 Lots 1 + 2 DP 779813 Lots 1 + 2 DP 779841
91.	Commercial Premises (currently Bruce Monement Autos)	27 Prospero Street South Murwillumbah	Lot 31 Sec 3 DP 2974

No	Item	Street Address	Locality Description
92.	Commercial Premises	21-25 Prospero Street South Murwillumbah	Lot 30 Sec 3 DP 2974
93.	'Holston' Building	21-25 Prospero Street South Murwillumbah	Lots 28 + 29 Sec 3 DP 2974
94.	'Hartman's' Building	17-19 Prospero Street South Murwillumbah	Lot 27 Sec 3 DP 2974
95.	'Leigh Bawdon' Residence	76 River Street South Murwillumbah	Lot 1 DP 338825
96.	Fmr Johansen General Store (currently Stokers Siding Pottery)	224 Stokers Road Stokers Siding	Lot 2 DP 211544
97.	Johansen's Family Home (St Elmo's)	1071 Smiths Creek Road Stokers Siding	Lot 2 DP 321698
98.	School Bell of Stokers Siding Public School	252 Stokers Road Stokers Siding	Lot 1 DP 950649 Located atop single post in front of main school building
99.	Fmr Livestock Slaughter House	103 Stokers Road Stokers Siding	Lot 6 DP 870581
100.	Fmr St John the Baptist Church (currently private residence)	238 Stokers Road Stokers Siding	Lot 1 DP 133946
101.	Stokers Siding / Dunbible Community Hall & War Memorial Rolls	244 Stokers Road Stokers Siding	Lot 2 DP 307029
102.	Wooden Bridges made by the Forestry Commission	Mt Jerusalem National Park Stokers Siding / Smiths Creek / Chowan Creek / Rowlands Creek / Doon Doon	Precise Location yet to be determined
103.	Tree Stump & Spring Board	Mt Jerusalem National Park Stokers Siding / Smiths Creek / Chowan Creek / Rowlands Creek / Doon Doon	Precise Location yet to be determined
104.	Tumbulgum War Memorial	Brian Breckenridge Field Bawden Street Tumbulgum	Lot 8272 DP 755698
105.	Border Fence Posts	Boundary Street Tweed Heads	Lot 7061 DP 1068882 Located along northern boundary of property east of Air Sea Rescue Station / Captain Cook Memorial Lighthouse



No	Item	Street Address	Locality Description
106.	Captain Cook Memorial Lighthouse	Boundary Street Tweed Heads	Lot 7061 DP 1068882
107.	Lovers Rock	Coral Street Tweed Heads	Lot 7033 DP 1053088 Rock formation adjacent Point Danger Volunteer Marine Rescue Station
108.	Cooloon Cemetery	Cnr Charles Street / Florence Street Tweed Heads	Lot 449 DP 755740 Lot 7072 DP 1053084
109.	St Cuthbert's Anglican Church, War Memorial Roll & Stained Glass Window	13 Powell Street Tweed Heads	Lot 121 DP 548088
110.	Queensland / New South Wales Border Marker	Boundary Street Tweed Heads	Road Reserve within central traffic island adjacent Twin Towns RSL Club
111.	Engraved granite stone monument marking the first shipwreck ( <i>Ebenezer</i> ) at Tweed Heads	Coral Street Tweed Heads	Lot 704 DP 877249
112.	Residence	27 Florence Street Tweed Heads	Lot 18 Sec 4 DP 4043
113.	Residence	18 Hill Street Tweed Heads	Lot 1 DP 417176
114.	Whitehall Lodge	27 Bay Street Tweed Heads	Lot 2 DP 525905
115.	Plaque & basalt stone monument marking the grave sites of early pioneers & Terranora Cemetery / Taranora Graveyard	Philp Parade Tweed Heads South	Road Reserve adjacent Tweed River + Lot 7024 DP 92687
116.	T S Vampire Dry Dock	Dry Dock Road Tweed Heads South	Lot 7039 DP 92898 Lot 7023 DP 1054058
117.	Site of the First Settlement on the Tweed ( <i>Cedar Getters Campsite</i> )	Taranora Park Dry Dock Road Tweed Heads South	Road Reserve adjacent Tweed River & Pacific Highway Overpass
118.	Terranora Broadwater Aboriginal Midden Complex	Lakeview Parade Tweed Heads South	Series of shell strata embedded eastern most bank of Terranora Broadwater adjacent to Lots 27-35 Sec 18 DP 28390
119.	Minjungbal Historic Site & Bora Ring	Cnr Kirkwood Road / Duffy Street Tweed Heads South	Lot 679 DP 40090 Part Lot 8033 DP 755740
120.	Boyd's Fishermen's Shed (currently part Tweed Heads Maritime Museum)	Pioneer Park Kennedy Drive Tweed Heads West	Lot 3 DP 44829
121.	Cobaki Broadwater Midden Complex	Coolangatta Airport Tweed Heads West	Lot 2 DP 535537
122.	Fmr Court House Building (currently part Tweed Heads Maritime Museum)	Pioneer Park Kennedy Drive Tweed Heads West	Lot 3 DP 44829

No	Item	Street Address	Locality Description
123.	'Murwillumbah' Drogher Deck House (currently part Tweed Heads Maritime Museum)	Pioneer Park Kennedy Drive Tweed Heads West	Lot 3 DP 44829
124.	Tyalgum Cemetery	Cnr Tyalgum Road / Swifts Road Tyalgum	Lots 7003, 7004 + 7005 DP 1072104 Un-named Road Reserve Access road through adjoining property - Lot 7002 DP 1072103
125.	'Willis' Residence	7 Coodgie Street Tyalgum	Lot 11 Sec 8 DP 759012
126.	'Campbell' Residence	238 Tumbulgum Road Tygalgah	Lot 1 DP 308105 Lot 1 DP 117073 Lot 2 DP 557660
127.	Plane Trees	1205 Kyogle Road Uki	Lot 20 DP 790517
128.	Doon Doon / Commissioners Creek War Memorial Roll	1454 Kyogle Road Uki	Lot 71 DP 755730 In the care of Historical Society
129.	Korrumbyn Creek Dam	Mount Warning Road Uki	Lot 32 DP 859810
130.	Log Loading Ramps made by the Forestry Commission	Amaroo Walk Wollumbin National Park Mount Warning	Precise Location yet to be determined

- To include the following conservation areas and items in Schedule 2 Heritage Items of Tweed LEP 2000:

No	Item	Street Address	Locality Description
A	Condong Mill Precinct	McLeod Street Condong	
A01	Condong General Store & Storage Sheds	McLeod Street Condong	Lot 101 DP 1058418 Adjacent northern side Condong Bowling Club
A02	Condong Sugar Mill	123-153 McLeod Street Condong	Lot 1 + 2 DP 1058392 Lot 1 + 2 DP 118552 Lot 194 DP 727289
A03	Manager's Residence	99-121 McLeod Street Condong	Lot 1 DP 717109
A04	Tennis Court & Gazebo	99-121 McLeod Street Condong	Lot 1 DP 717109
A05	Remains of the Condong Sugar Mill Rail Line	Cnr Cane Road / McLeod Street Condong	Lot 17 DP 255029
A06	Residence	65 McLeod Street Condong	Lot 7 Sec 1 DP 5119 Lot 61 DP 134163

No	Item	Street Address	Locality Description
A07	Fig Tree	Cnr Tweed Valley Way / Clothiers Creek Road Condong	Road reserve south west corner of intersection
A08	Fig Tree	Tweed Valley Way Condong	Lot 101 DP 1058418 Adjacent Tweed Valley Way approx. 140m north of Cane Road
B	Hartigan's Hill Precinct	Eyles Avenue / Myrtle Street Murwillumbah	
B01	Murwillumbah Public School Hall	Prince Street Murwillumbah	Lot 1 DP 937265
B02	Residence	1 Eyles Avenue Murwillumbah	Lot A DP 331415
B03	'Goldsborough' Residence	4 Eyles Avenue Murwillumbah	Lots 5 + 6 Sec 28 DP 8950
B04	Fmr HL Anthony Residence	13 Eyles Avenue Murwillumbah	Lots 7 + 8 Sec 24 DP 5042
C05	Residence	15 Eyles Avenue Murwillumbah	Lot 2 DP 212720
B06	Residence	1 Myrtle Street Murwillumbah	Lot 1 DP 18923
B07	Residence	3 Myrtle Street Murwillumbah	Lot 3 DP 18923
B08	Residence	5 Myrtle Street Murwillumbah	Lot 4 DP 18923
B09	Residence	7 Myrtle Street Murwillumbah	Lot 5 DP 18923
B10	Residence	9 Myrtle Street Murwillumbah	Lot C DP 356395
B11	Residence	11 Myrtle Street Murwillumbah	Lot B DP 356395
B12	Residence	19 Myrtle Street Murwillumbah	Lot B DP 102792
B13	Residence	21 Myrtle Street Murwillumbah	Lot C DP 102792
B14	Residence	23 Myrtle Street Murwillumbah	Lot 1 DP 301212
B15	Residence	25 Myrtle Street Murwillumbah	Lot 2 DP 301212
B16	Residence	27 Myrtle Street Murwillumbah	Lot A DP 336592
B17	Residence	10 Myrtle Street Murwillumbah	Lots 11 + 12 Sec 24 DP 5042
B18	Residence	12 Myrtle Street Murwillumbah	Lot 3 DP 6623
B19	Residence	18 Myrtle Street Murwillumbah	Lots 7 + 8 DP 6623
B20	Residence	20 Myrtle Street Murwillumbah	Lot 9 DP 6623
B21	Residence	22 Myrtle Street Murwillumbah	Lot 10 DP 6623
B22	Residence	24 Myrtle Street Murwillumbah	Lot A DP 366412
B23	'Tombonda' Residence	26 Myrtle Street	Lots B + C

No	Item	Street Address	Locality Description
		Murwillumbah	DP 366412
<b>C</b>	<b>Murwillumbah Main Street Precinct</b>	<b>Murwillumbah Street / Wharf Street Murwillumbah</b>	
C01	Remaining Wharf Pylons	Tumbulgum Road Murwillumbah	Located within Tweed River adjacent western bank approx. 100m north of Murwillumbah Bridge
C02	Fmr Rural Bank (currently Elders Real Estate)	1 Wharf Street Murwillumbah	Lots 1 + 2 DP 780225
C03	Commercial Premises (currently Town Motel - Daily News Office)	3-9 Wharf Street Murwillumbah	Lots 1 + 2 DP 780226
C04	Commonwealth Bank Building	11 Wharf Street Murwillumbah	Lots 1 + 2 DP 780227
C05	Hotel Murwillumbah	13 Wharf Street Murwillumbah	Lot 2 DP 521302
C06	Tweed Arcade	27 Wharf Street Murwillumbah	Lots 1 + 2 DP 779896 Lots 2 + 9 Sec 16 DP 758739 Lot 1 DP 779873 Lot 1 DP 779900 Lot 1 DP 114501
C07	Murwillumbah Town Clock	Murwillumbah Street Murwillumbah	Located within traffic island intersection Murwillumbah Street / Queen Street
C08	Murwillumbah Ambulance Station	27 Queen Street Murwillumbah	Lot 1 DP 327471
C09	Fmr Salvation Army Citadel (currently antiques store)	21 Queen Street Murwillumbah	Lot A DP 395020
C10	Broadway Building	5 Queen Street Murwillumbah	Lots A + B DP 392514
C11	Amenities Block	Queen Street Murwillumbah	Road Reserve approx. 30m north of town clock
C12	BGF Building	1-3 Murwillumbah Street Murwillumbah	Lot A DP 934804
C13	Murwillumbah Police Station & Courthouse	61-83 Murwillumbah Street Murwillumbah	Lot 4 Sec 1 DP 758739
C14	Commercial Premises (currently P Smith & Sons Real Estate - the Cumquat Tree Store)	85-95 Murwillumbah Street Murwillumbah	Lots 4-9 DP 772895
C15	ANZ Bank Building	99-101 Murwillumbah Street Murwillumbah	Lot 2 DP 772895
C16	Imperial Hotel	115 Murwillumbah Street Murwillumbah	Lot 2 DP 596914

No	Item	Street Address	Locality Description
C17	Murwillumbah Fire Station	133 Murwillumbah Street Murwillumbah	Lot 15 Sec 1 DP 758739 Lot A DP 320549
C18	Government Offices	135 Murwillumbah Street Murwillumbah	Lot 14 Sec 1 DP 758739
C19	'Robey' Steam Engine	2 Queensland Road Murwillumbah	Lot 1 Sec 30 DP 758739 Located Cnr Queensland Road / Bent Street
C20	Fmr Council Chambers & Eungella War Memorial Roll (currently Tweed River Historical Museum)	2 Queensland Road Murwillumbah	Lot 1 Sec 30 DP 758739
C21	Sacred Heart Roman Catholic Church Group	143 Murwillumbah Street Murwillumbah	Lot 2 DP 225827
C22	'Moirra' Residence	1 Byangum Road Murwillumbah	Lot 1 DP 726726 Lot 2 Sec 22 DP 4364
C23	Uniting Church Group & Methodist Circuit War Memorial Roll	2-4 Byangum Road Murwillumbah	Lots 1 + 2 DP 726871
C24	Commercial Premises (currently B & P Surveyor's Office)	142 Murwillumbah Street Murwillumbah	Lot 1 DP 726862
C25	Commercial Premises (currently Main Street Medical Centre)	140 Murwillumbah Street Murwillumbah	Lot 10 Sec 4 DP 2087
C26	Commercial Premises (currently St Vincent De Paul Centre)	138 Murwillumbah Street	Lot 2 DP 726862
C27	Commercial Premises (currently Loades' Butchery - Banana NSW Office)	132 Murwillumbah Street Murwillumbah	Lot 3 DP 726862
C28	Commercial Premises (currently James Cavanagh Op Shop - Global Antiques Store)	Murwillumbah Street Murwillumbah	Lot 4 DP 726862
C29	Regent Cinema Building	3-5 Brisbane Street Murwillumbah	Lots 1 + 2 DP 772368 Lot 1 DP 780041
C30	Westpac Bank Building	116 Murwillumbah Street Murwillumbah	Lot 1A DP 404253
C31	Commercial Premises (currently Fresh Homewares / Essentials Discount Store)	110-112 Murwillumbah Street Murwillumbah	Lot 1 DP 335913 Lot 2 DP 705548
C32	Commercial Premises (currently Walter Salmon Pharmacy)	108 Murwillumbah Street Murwillumbah	Lot 2 DP 335913
C33	Commercial Premises (currently Bridgelands Retravision)	104-106 Murwillumbah Street Murwillumbah	Lot 1 DP 167095 Lot A DP 301008
C34	Commercial Premises (currently John Taylor Beta Electrical / Andersons Jewellers)	100-102 Murwillumbah Street Murwillumbah	Lot 1 DP 772881 Lot 1 DP 957864

No	Item	Street Address	Locality Description
C35	Commercial Premises (currently Cellars Bottle Shop)	98 Murwillumbah Street Murwillumbah	Lot 1 DP 772861
C36	Commercial Premises (currently Rawards Mensland)	96 Murwillumbah Street Murwillumbah	Lot 1 DP 111656
C37	Commercial Premises (currently Austral Café)	86 Murwillumbah Street Murwillumbah	Lot 1 DP 772800
C38	Commercial Premises (currently Con Varela Pharmacy - AON Risk Services)	80, 82 + 92 Murwillumbah Street Murwillumbah	Lot 1 DP 419204 Lots 1 + 2 DP 419205
C39	Commercial Premises (currently R.M. Williams Work 'n' Country Store)	74 Murwillumbah Street Murwillumbah	Lot A DP 383297
C40	Commercial Premises (currently Murwillumbah News Newsagency)	66 Murwillumbah Street Murwillumbah	Lot 1DP 772755
C41	Commercial Premises (currently Salvation Army Store)	64 Murwillumbah Street Murwillumbah	Lot A DP 409152
C42	Courthouse Hotel	60-62 Murwillumbah Street Murwillumbah	Lot B DP 409152
C43	Commercial Premises (currently Dinki Di Discounts Store)	56-58 Murwillumbah Street Murwillumbah	Lots 1 + 2 DP 772753
C44	Commercial Premises (currently Hair Salon - TURSA Training & Employment)	44-54 Murwillumbah Street Murwillumbah	Lot 1 DP 737195
C45	Commercial Premises (currently Toy Kingdom Toy Store)	36-42 Murwillumbah Street Murwillumbah	Lot 1 DP 772600
C46	National Australia Bank Building	36-42 Murwillumbah Street Murwillumbah	Lot 1 DP 772600
C47	Tweed House	34 Murwillumbah Street Murwillumbah	Lots 1 + 2 DP 726591
C48	Commercial Premises (currently JH Williams & Sons Garden Centre)	26-30 Murwillumbah Street Murwillumbah	Lot 1 DP 394862 Lot 1 DP 525697
C49	Commercial Premises (currently Buzz Bar Music Store)	20 Wharf Street Murwillumbah	Lot 1 DP 328121
C50	Commercial Premises (currently JH Williams & Sons Solver Decorator Centre)	16-18 Wharf Street Murwillumbah	Lot 1 DP 499529
C51	Commercial Premises (currently Solutions Surf)	14 Wharf Street Murwillumbah	Lot 1 DP 772598
C52	Commercial Premises (currently Blue Frog Café - Shells on Broadway Eatery)	4-10 Wharf Street Murwillumbah	Lot 1 DP 104284
C53	Marville Building	5 Wollumbin Street Murwillumbah	Lot 2 DP 657260
C54	Commercial Premises	1-3 Wollumbin Street Murwillumbah	Lot 1 DP 772596

No	Item	Street Address	Locality Description
C55	Austral Building	1-3 Wollumbin Street Murwillumbah	Lot 1 DP 772596
C56	Astor Flats	10-12 Commercial Road Murwillumbah	Lot 1 DP 518429
C57	Mulvin House	6-8 Commercial Road Murwillumbah	Lot 1 DP 780238
C58	Credit Union House	2-4 Commercial Road Murwillumbah	Lot 1 DP 780240
D	Tumbulgum Village Precinct	Riverside Drive Tumbulgum	
D01	Tumbulgum Community Hall & War Memorial Roll	Riverside Drive Tumbulgum	Lots 30, 31 + 63 Sec 1 DP 1223
D02	Tumbulgum Tavern	126-134 Riverside Drive Tumbulgum	Lots 9-13 Sec 1 DP 1223
D03	St Peters Anglican Church	122-124 Riverside Drive Tumbulgum	Lots 7 + 8 Sec 1 DP 1223
D04	Tumbulgum Tea House & Residence	106 Riverside Drive Tumbulgum	Lot 201 DP 865762
D05	Tumbulgum Ferry Approach	Cnr Riverside Drive / Fawcett Street Tumbulgum	Southern bank Tweed River opposite Tumbulgum Tea House & Residence
E	Tyalgum Village Precinct	Coolman Street Tyalgum	
E01	Tyalgum Community Hall & War Memorial Roll	1 Cudrigan Street Tyalgum	Lot 9 Sec 5 DP 759012
E02	Tyalgum Hotel	35-41 Coolman Street Tyalgum	Lots 4, 5, 6 + 7 Sec 8 DP 759012 Lot 1 DP 253165
E03	Fmr Village Bakery (currently coffee shop & specialty gifts store)	23-25 Coolman Street Tyalgum	Lot 4 Sec 6 DP 759012 Lot A DP 354819 Lot 5 DP 662423
E04	Tyalgum Store	29 Coolman Street Tyalgum	Lots 1 + 2 DP 772864
E05	Fmr Tyalgum Butter Factory (currently Bartrim's Garage)	6 Coolman Street Tyalgum	Lot 1 DP 228337
F	Uki Village Precinct	Kyogle Road Uki	
F01	Holy Trinity Anglican Church	1473 Kyogle Road Kyogle	Lot 116 DP 755730
F02	General Store Shed including Painted Flood Markers (1954 & 1956)	1466 Kyogle Road Uki	Lots 7 + 8 DP 8107 Located at rear of property adjacent Milsoms Lane
F03	Remains of Moore Bros. Flying Fox	Milsoms Lane Uki	Creek side of Road Reserve approx. 20m west Cnr Milsoms Lane / Norco Street

No	Item	Street Address	Locality Description
F04	Uki Community Hall / Uki School of Arts & War Memorial Rolls	1462 Kyogle Road Uki	Lot 233 DP 721129
F05	Mount Warning Hotel	1497-1501 Kyogle Road Uki	Lot 11 DP 838447 Lot 102 DP 1061154 Lot 9 DP 825218
F06	Fmr Uki Butter Factory	1454 Kyogle Road Uki	Lot 71 DP 755730
F07	Uki Post Office & Newsagency	1464 Kyogle Road Uki	Lot 232 DP 721129
F08	Fmr Sisters of St Joseph's Convent (currently private residences)	9 Old Convent Lane Uki	Lot 1 DP 1002893
F09	St Columba Roman Catholic Church	7 Old Convent Lane Uki	Lot 4 DP 563015
F10	Fmr English, Scottish & Australian Bank (currently Uki Gallery)	1468 Kyogle Road Uki	Lot 6 DP 8107
F11	Uki War Memorial featuring Town Clock	Kyogle Road Uki	Road Reserve within traffic island intersection Kyogle Road / Norco Street / Rowlands Creek Road

3. Council requests the Director-General of the Department to waive the requirement for an Environmental Study in view of the prepared Community Based Heritage Study, which will be exhibited with the proposed draft Plan.
4. Council does not include the following items in an Amendment to Schedule 2 of Tweed LEP 2000 as recommended in the Community Based Heritage Study but forwards them to the Marine Archaeologist of the NSW Heritage Office because their location is not within the Tweed Shire:

No	Item	Locality Description
1.	"Dellie" Shipwreck	Offshore Fingal Head Beach Coral Sea
2.	"Alberta" Shipwreck	Sutherland Reef Coral Sea
3.	"Tyalgum" Shipwreck	Offshore Duranbah Beach Coral Sea

5. Council does not include the following items in an Amendment to Schedule 2 of Tweed LEP 2000 as recommended in the Community Based Heritage Study but includes them with those items deferred for further consideration at a later stage because their location could not be accurately identified from the data available:

No	Item	Street Address	Locality Description
1.	Residence	Condong	Unknown
2.	Residence	Byangum Road Murwillumbah	Unknown



6. Council does not include the following items in an Amendment to Schedule 2 of Tweed LEP 2000 as recommended in the Community Based Heritage Study because it would result in an unnecessary duplication of Council's planning provisions:

No	Item	Street Address	Locality Description
1.	Cudgen Nature Reserve including Forest Hill	Bogangar / Kings Forest	Lots 224, 225, 307, 325, 334, 375, & 8182-8184 DP 755701 Lot 3 DP 729138 Lot 497 DP 721310 Lot 5 DP 865915
2.	Cook Island Nature Reserve	Coral Sea	
3.	Night Cap National Park	Doon Doon / Midginbil / Kungur Creek	Lots 79, 86, & 89 DP 755710 Lot 1357 DP 3050
4.	Limpinwood Nature Reserve	Limpinwood	Lots 109, 153, & 8277 DP 755696
5.	Numinbah Nature Reserve	Numinbah / Upper Crystal Creek	Lots 91 & 92 DP 755715 Lots 120, 129, 130, & 8279 DP 755696
6.	Stotts Island Nature Reserve	Tweed Valley Way Stotts Creek	Lot 8283 DP 755698
7.	Ukerebagh Nature Reserve & Ukerebagh Aboriginal Midden Complex	Water Street Tweed Heads South	Lot 8282 DP 755740
8.	Tweed River Valley	Tweed Shire	
9.	Mt Warning National Park, Wollumbin National Park & Wollumbin State Conservation Area	Tyalgum / Mount Warning / Cedar Creek / Brays Creek	Lots 11, 17, 41, 42, 51, 52, 53, 61, 67, & 68 DP 755694 Lots 80, 88, 89, 99, 8244, & 8276 DP 755754 Lot 1 DP 748903 Lot 32 DP 859810 Lot 83 DP661879 Lot 4339 DP 3050
10.	Border Ranges Region including Mebbin National Park	Tyalgum Creek / Pumpenbil / Mebbin	Lots 1-3 DP 728118 Lots 38, 39, 82, & 8273 DP 755748
11.	Billinudgel Nature Reserve & Wooyung Aboriginal Place	Old Coast Road / Jones Road Wooyung	Lot 1 DP 779830 Lot 59 DP 775721 Part Lot 7011 DP 755721
12.	Wooyung Nature Reserve	Tweed Coast Road Wooyung	Lots 7001 & 8209 DP 755721 Part Lots 7011 & 7012 DP 755721

7. The establishment of a Heritage Advisor, Heritage Advisory Committee, Local Heritage Fund, Heritage Publications, and Conservation Area

**Development Control Plans be considered as part of the 2006/07 Council Budget and Management Plan.**

## **REPORT:**

### **Introduction**

Council engaged David Scobie Architects to prepare a Community Based Heritage Study for the Tweed. That work has now been completed and is summarised in a report attached to this Agenda.

The purpose of this report is outline to the Planning Committee and Council the major points and findings of the Community Based Heritage Study, and to identify the next stage involving the implementation of the Study's recommendations.

Completion of the Community Based Heritage Study would not have been possible without the dedicated assistance and work undertaken by local volunteers, in particular Kath Prichard and Mary Lee Connery who were appointed as local coordinators. Together with Bill Bainbridge they undertook the major tasks of research work for both the Study and the accompanying history whilst another 53 local volunteers drawn from local historical societies, community organisations and individuals provided additional support. The significant contribution of these people is acknowledged and commended by Council.

### **Potential Heritage Items**

During the Study a total of 405 individual items were considered. All but a few of these were visited on more than one occasion, photographed, their history determined where possible and recorded, and statements of significance prepared for each one.

The recommendations in respect of these items from David Scobie is as follows:

- 259 items for inclusion in the Shire's Heritage List.
- 48 items for further consideration at a later stage.
- 23 items for inclusion as a record only.
- 78 items for removal from further consideration.

Details relating to all of the items are set out in the attached Study Report.

### **Conservation Areas**

The Community Based Heritage Study recommended that six (6) conservation areas be established within Tweed Shire including the following:

- Condong Mill Precinct
- Hartigans Hill Precinct
- Murwillumbah Main Street Precinct
- Tumbulgum Village Precinct
- Tyalgum Village Precinct
- Uki Village Precinct

A full description of each area is included in the attached Study Report.

### **Thematic History**

The Community Based Heritage Study included the preparation of a Thematic History of the Tweed and was a joint project compiled by two (2) professional historians and the local Heritage Study Group. Completion of the Thematic History required extensive research pertaining to the history of the Shire from resources in the care of local historical societies, community organisations and individuals.

The Thematic History highlights many important themes in the development of the Tweed Shire from Prehistory and from the first European settlement in the district in the 1830's to the present.

Themes represented include:

- The Physical Context - The Tweed Caldera, Flora and Fauna and the Human Impact.
- The Bundjalung and their landscapes.
- Explorers, Surveyors and Settlers.
- European Settlement - cedar getting, river villages, federation and the wars, and the post war periods.
- Travelling - roads, rivers, railways and airways.
- Harvesting the Land and Sea - sugar, bananas, dairy and beef cattle, fishing, forestry and mining.
- Servicing Communities - religion, health services, government services, utilities, telecommunications, commercial and community services.
- Leisure - entertainment, sports, arts and culture, tourism.

### **Community Based Heritage Study Recommendations**

The attached Study Report concludes in the proposal of 12 recommendations for heritage in the Tweed, which are as follows:

1. Council advertise the listing of recommended heritage items and invite public comment on the items, their significance and the identification of any gaps in the listing.
2. Council adopt the listing of recommended items and that it be given draft status prior to being incorporated into the schedule of the Tweed Shire LEP.
3. An Officer from Council staff be designated with the responsibility for the carriage of heritage related issues. The Officer is to receive further training through regular attendance at Heritage Office training functions.
4. The Heritage Office add the schedule to the NSW online inventory.
5. Further research be undertaken on those items, which are recommended for further assessment as having State significance for listing on the NSW State Heritage Register.

6. The Tweed Shire appoint a Heritage Advisor to visit the Shire on a regular basis and administer the standard duties specified by the NSW Heritage Office.
7. The Tweed Shire Council appoint a Heritage Advisory Committee with representatives from the Historical Societies, from the various districts and members from the C.B.H.S. Working Party.
8. The Tweed Shire Council establish '*The Tweed Shire Local Heritage Fund*' to promote good conservation projects within the town and within the Shire. The fund to initially consist of \$6,000 from Council matched by \$6,000 from the NSW Heritage Office and provided to suitable applicants through the Tweed Heritage Committee on a dollar for dollar basis to \$1,000 maximum per project. The NSW Heritage Office has a standard brief for the advertising and promotion of the programme.
9. The Heritage Committee operate under the Local Government guidelines and with the responsibilities established by the NSW Heritage Office, including the following tasks:
  - *Administer the Local Heritage Assistance Fund*
  - *Organise the Annual Tweed Heritage Festival in conjunction with the NSW Heritage Office / National Trust in April.*
  - *Seek private sponsorship for the Festival and other Heritage related events and projects.*
  - *Establish a Shire-wide interpretative panel programme for 5-year implementation.*
  - *Establish through the City of the Arts Program, Heritage Tourism Brochures covering all aspects of the Heritage Listing.*
  - *Research: Oversee a research project for the Condong Sugar Mill site.*
  - *Assist the Historical Societies as required with the establishment of the Museum and Exhibition programme.*
10. The Tweed Shire Council through the appropriate staff and Committees support the production of heritage publications, newspaper articles and walk brochures, and interpretative panels based on the heritage study information:

For Example

- Publication of the Tweed Shire Thematic History.
  - Provision of walking guides and plaques in the towns eg. Murwillumbah Historic Places
  - Provision of interpretative panels at selected places. Interpretative panels are generally photographically engraved aluminium panels A3 in size and mounted in a publicly accessible location without being obtrusive. The objective is to describe the history and significance of the place. The panels are generally linked through printed maps and guides, which provide directions and further explanatory information –eg. Condong Sugar Mill Precinct, Fingal Head, Shipwrecks, Kingscliff, North Tumbulgum, Pottsville, Prospero Street South Murwillumbah, Stokers Siding, Tumbulgum, Tweed Heads South Dry Dock, Tyalgum, Burringbar, Chillingham, Cudgen, Crabbes Creek and Uki.
11. That the Tweed Shire Council commission/prepare DCP inclusions for Objectives and Controls for Urban and Village Conservation Areas and Listed

- items, including existing and desired future character statements and standard NSW Heritage Office LEP Heritage clauses.
12. That the Tweed Shire Council seek funding from NSWHO and private sponsorship for the Condong Sugar Mill Research Project.

### **The Next Stage**

The broadly based implications of these recommendations include:

- The provision of appropriate resources to implement the various elements of the Study's recommendations.
- The preparation of an Amendment to Tweed LEP 2000 to include the identified heritage items in Schedule 2 of the LEP that would be exhibited concurrently with the rest of the Community Based Heritage Study to ensure that the maximum amount of protection is available for each of the items listed.

### **Provision of Resources**

The provision of appropriate resources is essential to ensuring that the recommendations of the Community Based Heritage Study are implemented. It is therefore recommended that the provision of resources for the implementation of the Community Based Heritage Study be considered as part of the 2006/07 Budget and Management Plan.

### **Proposed Amendment to Tweed LEP 2000**

The purpose of the proposed Amendment is to include the items nominated by the Community Based Heritage Study in Schedule 2 Heritage Items of the LEP.

### **Planning Review**

#### **Key Issues**

With regard to the 405 items considered during the course of the Community Based Heritage Study, David Scobie recommended the following:

- 259 items be included in the Shire's Heritage List.
- 48 items be deferred for further consideration at a later stage.
- 23 items be included as a record only.
- 78 items be removed from further consideration.

Details relating to all of the items are set out in the attached Study Report.

Of the 259 items recommended for inclusion in the Shire's Heritage List, some are located outside of Tweed Shire Council's jurisdiction or their inclusion would result in a duplication of Council's planning provisions or their location could not be accurately identified from the data available.

It is therefore recommended that Council does not include these items in the Shire's Heritage List as recommended in the Study Report. The items that should not be included in the Shire's Heritage List are as follows:

Item	Street Address	Locality Description	Reason
"Dellie" Shipwreck		Offshore Fingal Head Beach Coral Sea	Not within the boundaries of Tweed Shire
"Alberta" Shipwreck		Sutherland Reef Coral Sea	Not within the boundaries of Tweed Shire
"Tyalgum" Shipwreck		Offshore Duranbah Beach Coral Sea	Not within the boundaries of Tweed Shire
Cudgen Nature Reserve including Forest Hill	Bogangar / Kings Forest	Lots 224, 225, 307, 325, 334, 375, & 8182-8184 DP 755701 Lot 3 DP 729138 Lot 497 DP 721310 Lot 5 DP 865915	Duplication of Council's planning provisions
Cook Island Nature Reserve	Coral Sea		Duplication of Council's planning provisions
Night Cap National Park	Doon Doon / Midginbil / Kunghur Creek	Lots 79, 86, & 89 DP 755710 Lot 1357 DP 3050	Duplication of Council's planning provisions
Limpinwood Nature Reserve	Limpinwood	Lots 109, 153, & 8277 DP 755696	Duplication of Council's planning provisions
Numinbah Nature Reserve	Numinbah / Upper Crystal Creek	Lots 91 & 92 DP 755715 Lots 120, 129, 130, & 8279 DP 755696	Duplication of Council's planning provisions
Stotts Island Nature Reserve	Tweed Valley Way Stotts Creek	Lot 8283 DP 755698	Duplication of Council's planning provisions
Ukerebagh Nature Reserve & Ukerebagh Aboriginal Midden Complex	Water Street Tweed Heads South	Lot 8282 DP 755740	Duplication of Council's planning provisions
Tweed River Valley	Tweed Shire		Duplication of Council's planning provisions
Mt Warning National Park, Wollumbin National Park & Wollumbin State Conservation Area	Tyalgum / Mount Warning / Cedar Creek / Brays Creek	Lots 11, 17, 41, 42, 51, 52, 53, 61, 67, & 68 DP 755694 Lots 80, 88, 89, 99, 8244, & 8276 DP 755754 Lot 1 DP 748903 Lot 32 DP 859810 Lot 83 DP 661879 Lot 4339 DP 3050	Duplication of Council's planning provisions
Border Ranges Region including Mebbin National Park	Tyalgum Creek / Pumpenbil / Mebbin	Lots 1-3 DP 728118 Lots 38, 39, 82, & 8273 DP 755748	Duplication of Council's planning provisions

Item	Street Address	Locality Description	Reason
Billinudgel Nature Reserve & Wooyung Aboriginal Place	Old Coast Road / Jones Road Wooyung	Lot 1 DP 779830 Lot 59 DP 775721 Part Lot 7011 DP 755721	Duplication of Council's planning provisions
Wooyung Nature Reserve	Tweed Coast Road Wooyung	Lots 7001 & 8209 DP 755721 Part Lots 7011 & 7012 DP 755721	Duplication of Council's planning provisions
Residence	Condong	Unknown	Location could not be identified from data available
Residence	Byangum Road Murwillumbah	Unknown	Location could not be identified from data available

### **Statutory Planning Legislation State Legislation**

The Proposed LEP Amendment is consistent with the relevant State Environmental Planning Policies and S117 Ministerial Directions. Consultation with the relevant State Government Departments and/or Agencies will be undertaken in accordance with Section 62 and 34A of the Environmental Planning and Assessment Act 1979.

### **North Coast Regional Plan**

The proposed LEP Amendment is consistent with the North Coast Regional Environmental Plan.

### **Tweed 4/24 Strategic Plan**

The proposed LEP Amendment is consistent with the Tweed 4/24 Strategic Plan.

### **Local Environmental Study**

The requirement for the preparation of an Environmental Study should be waived in this instance due the preparation of the Community Based Heritage Study that will be exhibited concurrently with the draft Plan.

### **Work Program**

The proposed LEP Amendment is not included in the current Strategic Planning Work Program. However, the preparation of an Amendment to include the identified heritage items in Schedule 2 of the LEP is implementing the recommendations of an on-going and important project to the Tweed Community. It is, therefore, essential that Council prepare the proposed Amendment to ensure that the maximum amount of protection is provided to the identified items.



## **Conclusion**

It is recommended that Council:

1. Considers the provision of appropriate resources for the implementation of the Community Based Heritage Study as a part of the 2006/07 Budget and Management Plan.
2. Prepares an Amendment to Tweed Local Environmental Plan 2000 to include the heritage items nominated in the Community Based Heritage Study as being significant to the Tweed Region excluding those identified in this report as either being outside of Council's jurisdiction or which would result in a duplication of Council's planning provisions or whose location could not be accurately identified.

## **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should the recommendation be adopted Council consideration should be given to the provision of appropriate resources for the implementation of the Community Based Heritage Study as a part of the 2006/07 Budget and Management Plan:

## **POLICY IMPLICATIONS:**

Nil.

## **UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. Tweed Shire Community Based Heritage Study (DW 1253692)
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**9 [PD] Proposed Rezoning - Port Drive, Tweed Heads South**

**ORIGIN:**

**Strategic Town Planning**

**FILE NO: GT1/LEP/2000 Pt2**

**SUMMARY OF REPORT:**

It has been identified that part of the Vintage Lakes Estate, which is intended for residential development, has been approved and constructed on land that is zoned 6(b) Recreation.

In accordance with Tweed LEP 2000 residential development on land zoned 6(b) is prohibited.

It is proposed that Council prepare an Amendment to Tweed LEP 2000 to rezone the area of land identified in this report from 6(b) Recreation to 2(c) Urban Expansion.

The Amendment is consistent with the relevant State Planning Policies, S117 Ministerial Directions, North Coast Regional Environmental Plan and Tweed 4/24 Strategic Plan.

It is recommended that Council support the proposed Amendment and proceed with the preparation of a draft Plan.

**RECOMMENDATION:**

**That Council:**

- 1. Prepares a draft Local Environmental Plan, pursuant to Section 54 of the Environmental Planning and Assessment Act 1979 to rezone part of the Vintage Lakes Estate, as identified in this report, from 6(b) Recreation to 2(c) Urban Expansion.**
- 2. Requests the Director-General of the Department to waive the requirement for an Environmental Study given the minor nature of the proposed Local Environmental Plan Amendment.**

## **REPORT:**

### **Introduction**

It has been identified that part of fourteen (14) residential allotments and an adjoining road in the Vintage Lakes Estate at Tweed Heads South have been approved and constructed on land that is zoned 6(b) Recreation.

The proportion of each allotment zoned 6(b) varies between each of them; however the area of land zoned 6(b) on one (1) of the allotments prohibits it from being developed for residential purposes. In accordance with Tweed LEP 2000 residential development on land zoned 6(b) is prohibited.

It is proposed that Council prepare an Amendment to Tweed LEP 2000 to rezone the area of land identified in this report from 6(b) Recreation to 2(c) Urban Expansion.

The purpose of this report is to outline to the Planning Committee and Council the issues associated with the proposed rezoning.

### **The Site**

The subject site is described as part Lot 376 DP 1073375, part Lots 1-2 DP 1022350, part Lots 506-507 DP 1010130, part Lots 513-516 DP 1010130, part Lot 522 DP 1010130, and part Lots 531-534 DP 1010130 Port Drive, Tweed Heads South.

The area of the subject site is approximately 6000m<sup>2</sup>.

The topography of the site is characterised as gently sloping.

No significant vegetation within the subject site could be identified.

Thirteen of the fourteen (13 of 14) allotments that are partly zoned 6(b) have been developed for residential purposes. Lot 534 DP 1010130 is still vacant.

Residential development adjoins the majority of the subject site whilst a public reserve, lake and wetland adjoin the site to the east of Port Drive.

The NSW Coastal Policy identifies the subject site as being within the Coastal Zone.

Figure 1 of this report shows more clearly the subject site and the surrounding level of development.

### **Tweed LEP 2000**

The subject site is currently zoned 6(b) Recreation. In accordance with Clause 11 of Tweed LEP 2000 residential development is prohibited on land zoned 6(b).

Despite the table to Clause 11 of Tweed LEP 2000, past development of the subject site for residential purposes was approved in accordance with Clause 14 of the LEP. However, the adoption of State Environmental Planning Policy No 71 Coastal Protection (SEPP 71) has since restricted the use of Clause 14 in the Coastal Zone and hence the approval of further residential development on the subject site is not permissible without an amendment to Tweed LEP 2000.

Figure 2 of this report shows the current zoning of the subject site and that of the surrounding area.

### **Purpose of the Amendment**

The purpose of the Amendment is to rezone the subject site from 6(b) Recreation to 2(c) Urban Expansion and thus permit, with the consent of Council, the development of Lot 534 DP 1010130 for residential purposes.

Figure 3 of this report shows the proposed zoning of the subject site.

### **Planning Review**

#### **Statutory Planning Legislation**

##### **State Legislation**

The Proposed LEP Amendment is consistent with the relevant State Environmental Planning Policies and S117 Ministerial Directions. Consultation with the relevant State Government Departments and/or Agencies will be undertaken in accordance with Section 62 and 34A of the Environmental Planning and Assessment Act 1979.

##### **North Coast Regional Plan**

The proposed LEP Amendment is consistent with the North Coast Regional Environmental Plan.

##### **Tweed 4/24 Strategic Plan**

The proposed LEP Amendment is consistent with the Tweed 4/24 Strategic Plan.

##### **Local Environmental Study**

The proposed LEP Amendment whilst affecting a number of allotments will, in effect, only permit with the consent of Council the development of one (1) additional dwelling on land that is part of a longstanding residential subdivision for the area. The Amendment is therefore of a minor nature and the requirement for an environmental study should be waived.

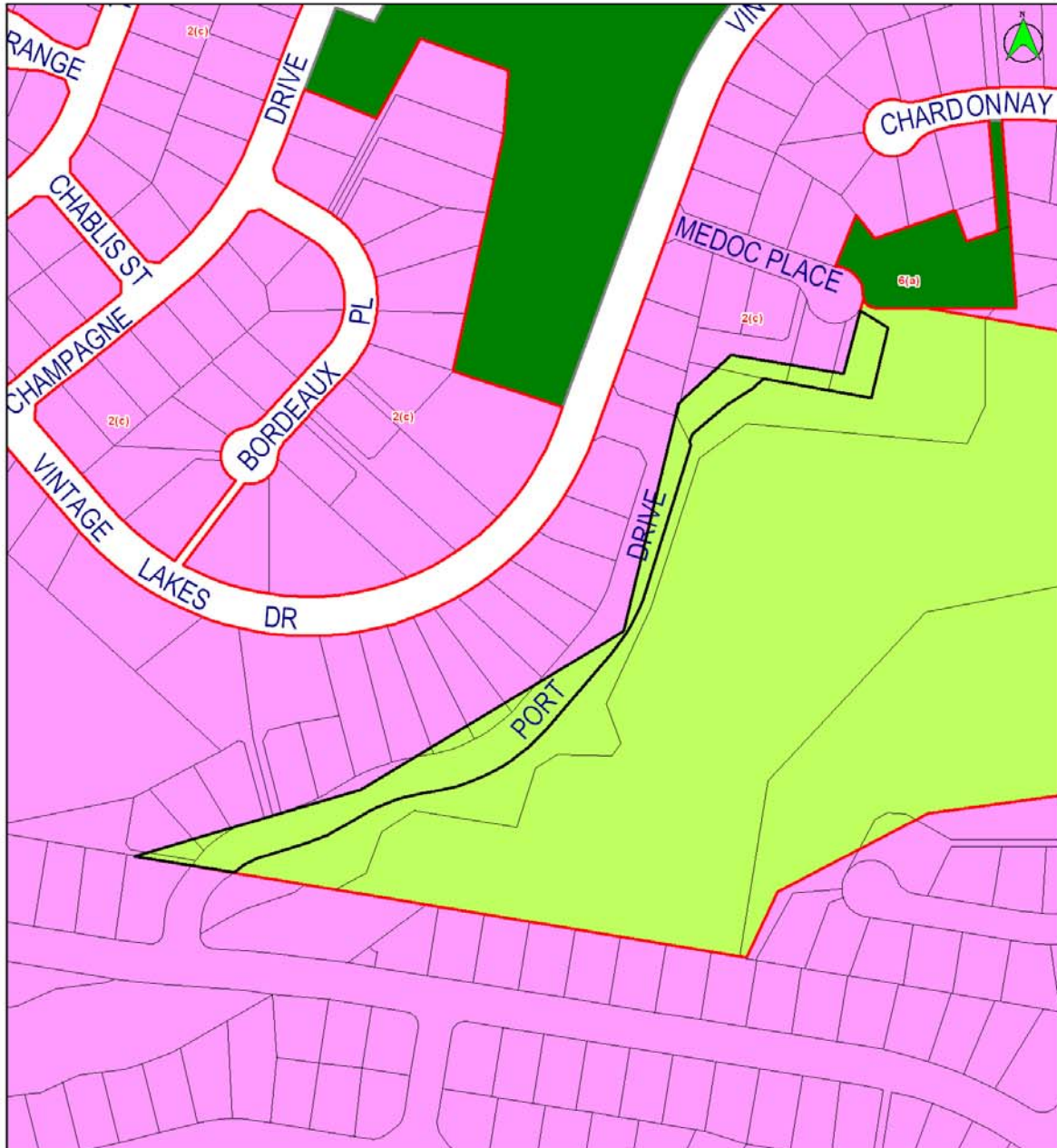
### **Work Program**

The proposed LEP Amendment is not included in the current Strategic Planning Work Program. However, Council on 17 December 2003 resolved to allow the Director of Development Services to bring forward any minor LEP Amendments as resources may permit. The proposed Amendment is a minor LEP Amendment.

### **Conclusion**

It is recommended that Council proceed with the preparation of an Amendment to Tweed LEP 2000 to rezone the subject site from 6(b) Recreation to 2(c) Urban Expansion and thus permit, with the consent of Council the development of Lot 534 DP 1010130 Port Drive, Tweed Heads South for residential purposes.





**LEGEND - TWEED LOCAL ENVIRONMENT PLAN 2000**

RURAL	BUSINESS	ENVIRONMENTAL PROTECTION	ADDITIONAL CONTROLS
1(a) Rural	3(a) Sub - Regional Business	7(a) Environmental Protection (Wetlands & Littoral Rainforests)	Clause 37 (Transmission Line Corridor)
1(b1) Agricultural Protection	3(b) General Business	7(b) Environmental Protection (Scenic / Escarpment)	Clause 38 (Future Roads)
1(b2) Agricultural Protection	3(c) Commerce and Trade	7(c) Environmental Protection (Coastal Lands)	Clause 41 (Heritage Conservation Area)
1(c) Rural Living	3(d) Waterfront Enterprise	7(d) Environmental Protection (Habitat)	Clause 52 (Kings Beach / Kings Forest / Osprey Nest)
	3(e) Special Tourist (Jack Evans Boatharbour)		Clause 52 (Pottsville)
<b>RESIDENTIAL</b>	<b>INDUSTRIAL</b>	<b>NATIONAL PARKS &amp; NATURE RESERVES</b>	Clause 52 (Stormwater and Fill)
2(a) Low Density Residential	4(a) Industrial	8(a) National Parks and Nature Reserves	Clause 52 (Minimum Lot Sizes)
2(b) Medium Density Residential	<b>SPECIAL USES</b>		Clause 52 (Cobaki Lakes)
2(c) Urban Expansion	5(a) Special Uses		Clause 52 (Existing and Future Dam Areas)
2(d) Village	<b>OPEN SPACE</b>		Clause 53 (Schedule 3 Item)
2(e) Residential Tourist	6(a) Open Space		
2(f) Tourism	6(b) Recreation		

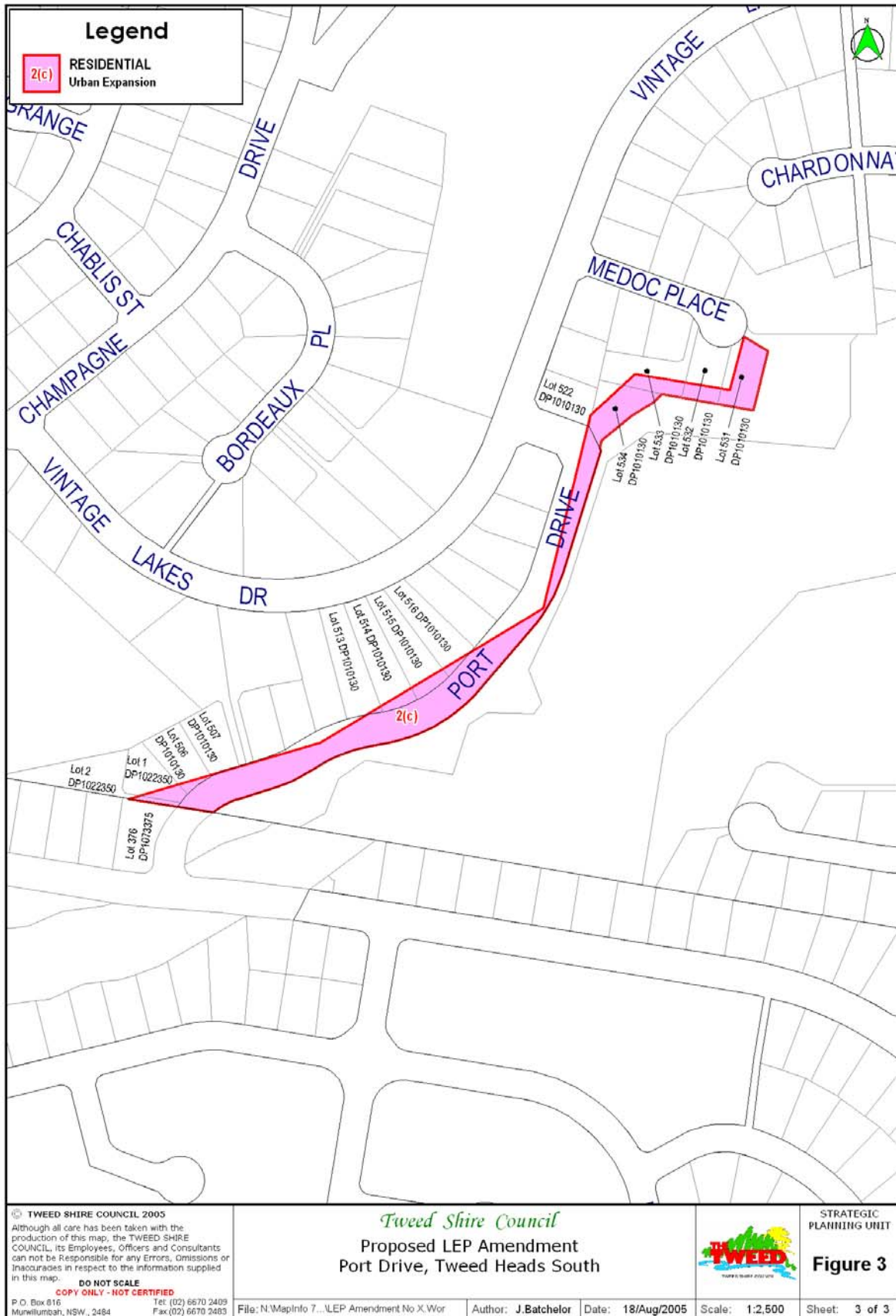
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*Tweed Shire Council*  
**Proposed LEP Amendment**  
**Port Drive, Tweed Heads South**  
**EXISTING LEP 2000**

File: N:\MapInfo 7 \LEP Amendment No X Wor Author: J.Batchelor Date: 18/Aug/2005

STRATEGIC PLANNING UNIT  
  
**Figure 2**  
 Scale: 1:2,500 Sheet: 2 of 3





**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**10 [PD] Tourist Accommodation**

**ORIGIN:**

**Strategic Town Planning**

**SUMMARY OF REPORT:**

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

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

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

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

**RECOMMENDATION:**

**That:**

1. **Council informs the Director-General of the Department of Infrastructure, Planning and Natural Resources that:**
  - **It intends to prepare a draft Local Environmental Plan to amend the definition of tourist accommodation; and**
  - **In the opinion of Council an Environmental Study is not required.**

2. Council amends Development Control Plan No 6 - Multi Dwelling Housing to include tourist accommodation except when it is within a tourist resort. The amendments will include the following in particular:-

- Include in Clause 1.5:

*"A7. To ensure that tourist accommodation except where it is within a tourist resort which is capable of being used as permanent residential accommodation meets the same standards as multi dwelling housing".*

- Include in Clause 1.6 the following paragraph:

*"This DCP applies to tourist accommodation except where it is within tourist resort".*

- Any necessary textural changes throughout the document to add or include tourist accommodation where multi-dwelling housing controls apply.
- To provide the basis for the imposition of appropriate conditions limiting any approval for tourist accommodation to such a use.

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

- To replace Item B6 in Table 4.9B with the following:

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

**REPORT:**

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

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

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

**Current Planning Controls**

The Tweed LEP 2000 defines tourist development as:

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

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

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

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

The following developer contribution plans levy tourist accommodation:

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

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

- Cemeteries
- Libraries
- Structured Open Space

### **Planning Issues**

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

#### 1. Strategic objective

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

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

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

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

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

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

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

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

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

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

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

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

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

### 2. Managing the impacts

The cause of much of the concerns are the impact of tourist accommodation when proposed in existing residential areas, and the definition of tourist accommodation in the LEP; in particular the word '*principally*'. In respect of the latter, legal opinion indicates that '*principally*' means that each unit in the development only has to be principally used for tourist accommodation. This scenario is confusing and at the least misleading to future purchasers who have no way of knowing that the unit must principally be used for

tourist accommodation. Therefore each unit could be used for residential use for some period of time as long as it is principally used for tourist accommodation. This gives rise to the issue of controlling the tourist/residential ratio, which is impossible and not practical.

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

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

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

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

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

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



areas. Tourist accommodation in tourist precincts however, should be the subject of current assessment procedures.

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

## 2. Developer contributions

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

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

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

## Section 64 Contributions

The Manager of Water has indicated that, "the S65 contribution fees and charges were completely revised for 2005/2006 and now provide a specific ET equivalent which conforms with the intent of Council's resolution".

## Conclusions

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

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

*"A7. To ensure that tourist accommodation which is capable of being used as permanent residential accommodation meets the same standards as multi dwelling housing".*

- Include in Clause 1.6 the following paragraph:  
  

*"This DCP applies to tourist accommodation".*
  - Any necessary textural changes throughout the document to add or include tourist accommodation where multi-dwelling housing controls apply.
  - Impose the following conditions on any development approval for tourist accommodation to limit the development to such a use.
  - The tourist accommodation shall not be occupied by any proprietor or occupier for longer than forty-two (42) consecutive days or an aggregate one hundred and fifty (150) days in any twelve (12) month period. Such periods are to be calculated from the date of the first occupation of the development.
  - The occupancy restrictions shall be incorporated into a management agreement for the tourist accommodation. A copy of the management agreement shall be provided to Council prior to the issue of the occupation certificate.
  - A register shall be kept by the owner or proprietors to record the occupancies and shall be available at any time for inspection by an authorised officer of Council.
- Amend DCP 2 Site Access and Parking Code as follows:

Replace Item B6 in Table 4.9B with the following:

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

- Continue the current regime of S94 Developer Contributions.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

Nil.

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**11 [PD] Pottsville Trade/Industrial Area**

**ORIGIN:**

**Strategic Town Planning**

**SUMMARY OF REPORT:**

There has been increasing demand for industrial land to be located in the southern part of the Tweed Coast. Reviews of suitable locations within the Tweed Shire have identified Pottsville as a suitable location for a future industrial location.

This report reviews the previous work undertaken by Council to identify general localities for industrial area, then presents a new investigation of potential industrial sites within the Pottsville area and finally recommends that Council commence the preparation of a Tweed Local Environmental Plan 2000 (LEP) Amendment.

The area recommended for further investigation is located on the southern side of Cudgera Creek Road near the Pacific Highway interchange. Refer to Figure 1 in this report for a locality map of the site.

**RECOMMENDATION:**

**That Council: -**

- 1. Pursuant to Section 54 of the Environmental Planning and Assessment Act 1979, notifies the Director General of its intention to prepare an Amendment to Tweed Local Environmental Plan 2000 for Lot 3 & 8 DP 1072659, Lot 2 DP 578967 and Lot 1 DP 358918;**
- 2. Notifies the Director-General of the Department of Infrastructure, Planning and Natural Resources that Council considered that an Environmental Study is required;**
- 3. Prepares a draft Development Control Plan in conjunction with the draft LEP Amendment which addresses, but is not limited to, the following issues:**
  - Traffic**
  - Stormwater Quality / on site processing**
  - Lot size and layout**
  - Pottsville entry buffering**
  - Rural residential buffering**
  - Flooding**
  - Preferred development types**

- **Building Design**
  - **Masterplan**
4. **Publicly exhibits the draft LEP Amendment and the draft DCP at the same time to allow for a consolidated and informed community comment.**
  5. **Notifies all adjoining land owners of Council's resolution as well as forward a copy of this report.**

## REPORT:

### Background

In 2000 Council adopted an investigation into the existing industrial land in the Tweed. Several sites that represent potential industrial areas were identified in the report. These were:

1. Cobaki Lakes
2. Coolangatta Airport
3. Chinderah Rd
4. Kingscliff Sth
5. Clothiers Ck Rd
6. Hastings Point / Round Mountain
7. Cudgera Ck Rd
8. Tweed Valley Way – Johansens
9. Murwillumbah Industrial Estate

Since this study was adopted in 2000 Council has reviewed several of these sites and has either progressed them, such as Coolangatta Airport and Murwillumbah Industrial Area or abandoned them, for example Hastings Pt and Kingscliff South, depending on the constraints.

### Pottsville Trade/Industrial Area – Preliminary Investigation of Potential Sites

Due to the increased residential development in the southern portion of the Tweed Coast and that there is no trade/industrial areas between Cudgen and Billinudgel in Byron Shire, it was considered that the Cudgera Ck Rd project be pursued.

An investigation has been undertaken into potential sites within the Cudgera Ck Rd location. This investigation is titled “*Pottsville Trade/Industrial Area – Preliminary Investigation of Potential Sites*” and has been attached to this report. This report covers previous studies, population projection, trade area/industrial land requirements. The report concludes that 30ha of a combination of industrial and trade area are required to accommodate future demand in the Tweed Coast south area. The main focus of the investigation is the evaluation of five (5) potential sites within a two (2) kilometres radius of the main intersection of Pottsville.

### Map Illustrating Sites

All investigation sites were assessed under a set of criteria, including:

- distance from residential area;
- lack of environmental constraints;
- slope;
- whether they are within a reasonable proximity to water and sewer services.

The sites recommended should be considered for an LEP Amendment. Refer Figure 1 for a locality plan for these sites. Although not all of the land identified would be suitable for development it provides enough area to identify the required 30ha.

Council staff have, over the last few years, received numerous and frequent queries from interested parties (developers, business enterprises and general public) looking for industrial; land along the Tweed Coast. Interest has ranged in scale and type from storage sheds and workshops to larger scale industry. Recently, Council has been approached by Boral who are keen to find a site within the locality of Pottsville for a concrete batching plant. This representation highlights the shortage of industrial land within the southern position of the Tweed Coast.



**Figure 1: Locality Plan – proposed area for Draft LEP Amendment – Pottsville.**



## **Section 54 Notification to the Department**

To commence the preparation of a draft LEP Amendment the Environmental Planning Act (EPA Act) requires that Council notify the Director General of the Department of Infrastructure, Planning and Natural Resources of their intentions. This notification requires information to be provided in accordance with Section 9 of the Environmental Planning and Assessment Regulation. Below are matters identified in Section 9 relevant to the subject land.

### **Regional Significance**

This proposed LEP Amendment would be regionally significant because of the lack of industrial/commerce trade areas in the entire Tweed Shire. This shortage is equally relevant for the southern part of the Gold Coast as it is for Tweed Heads and the Tweed Coast.

The identification of 30 hectares of land suitable for industrial/trade area within the Pottsville area will go some way to cater to the immediate demand within the southern portion of the Tweed Coast.

### **Consultation Procedures**

Council has previously reviewed several sites in the locality for industrial purposes. These were a site at Round Mountain and one opposite Seabreeze Estate. Both of these sites are considered unsuitable.

As part of the of the investigation procedure to find suitable sites the report titled *Pottsville Trade/Industrial Area – Preliminary Investigation of Potential Sites* was prepared by the Strategic Planning Unit. As previously discussed this report identifies the opportunities and constraints of several potential sites. This report recommends that this investigation report be immediately placed on public exhibition so that community participation can be involved at the earliest stage.

This report also recommends that a DCP be prepared and exhibited at the same time as this draft LEP. The community will be given clear indication of Council's intention for the area.

### **Environmental Study**

This report recommends that an Environmental Study be undertaken as part of the preparation of the draft LEP Amendment. The report titled *Pottsville Trade/Industrial Area – Preliminary Investigation of Potential Sites* has initially reviewed some of the environmental constraints of the site. Considering the proposed uses, the recommended size of the area and the proximity and location of rural residential properties it is important that a more comprehensive environmental assessment be undertaken over this area.

## **Owners' Consent**

The owners of the site identified proposed for the draft LEP Amendment have been contracted and have agreed for their land to be investigated for future industrial uses. Council will need to enter negotiations to establish the financial contributions from the landowner towards this draft LEP amendment.

## **Conclusion**

Due to the shortage of industrial/trade areas along the Tweed Coast as well as the regional shortage of industrial land this draft LEP Amendment is critical for the further self-sustaining development of Pottsville and the remainder of the Tweed Coast.

## **OPTIONS:**

The following options are available at this point: -

1. Exhibit the potential site investigation report
2. Commence draft LEP amendment
3. Proceed no further

This report recommends to proceed with Option 2.

## **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

It is anticipated that the draft LEP Amendment procedure, including the preparation of an Environmental Study, draft DCP and Masterplan will be in the order of \$100,000. Several resourcing options are being considered including landowner contribution and developer contributions. These will be further explored when Council resolves to undertake the LEP Amendment.

## **POLICY IMPLICATIONS:**

This report recommends the preparation of a draft Amendment to the LEP and the preparation of a new DCP.

## **UNDER SEPARATE COVER/FURTHER INFORMATION:**

1. Pottsville Trade/Industrial Area - Preliminary Investigation of Potential Sites (DW 1255508)
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