



AGENDA

ORDINARY COUNCIL MEETING Tuesday 13 June 2006

Chairman: Mr Garry Payne AM

**Administrators: Mr Garry Payne AM
Ms Lucy Turnbull
Mr Max Boyd AM**

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ABORIGINAL STATEMENT

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

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

CONFIRMATION OF MINUTES

Minutes of the Ordinary Meeting held on 23 May 2006

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Minutes of the Ordinary Council Meeting held Tuesday 23 May 2006 (DW 1398187).
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PLANNING COMMITTEE

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 79(C)(1) 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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P1 [PD-PC] Development Application DA05/1116 for Bush Rock Removal at Lot 6 DP 835413, Boulder Close, Byangum

ORIGIN:

Development Assessment

FILE NO: DA05/1116 Pt1

SUMMARY OF REPORT:

The applicant seeks approval to remove existing stockpiles of stone which naturally occur on the property [600 tonnes = 60 truck loads of 10 tonnes over a 7 year period]. Council has approved two similar applications previously but each has expired before the applicant exported much rock off site to his residential building projects. Consequently, when he did cart rock off site, it was after the expiration of the Development Consent. His casual compliance with the approved time frames led to the issuance of a PIN (Penalty Infringement Notice). He therefore now seeks approval to remove the further rocks from the site but over a longer time frame so as not to cause any future breaches. There are no significant environmental impacts.

RECOMMENDATION:

That Development Application DA05/1116 for a bush rock removal at Lot 6 DP 835413, Boulder Close, Byangum be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No 1A prepared by Planit and dated August 2005, except where varied by the conditions of this consent.**
[GENN005]
- 2. Consent is granted for the removal of a maximum of 600 tonnes of existing stockpiled rock.**
[GENNS01]
- 3. This consent is limited to a period of 5 years only from the date on which the consent is issued. No further extensions shall be approved.**
[GENNS02]
- 4. Only rock which is currently stockpiled on the surface is to be removed from the site. No rocks which are below the natural ground level are to be extracted.**
[GENNS03]

5. No rock is to sold directly to the public at the site. All sales / orders are to be made over the phone or similar, and rock delivered by the applicant's truck only.
6. In the event of complaints from the neighbours, which Council's Environmental Health Officers deem to be reasonable, the noise from the operation is not to exceed the LAeq noise level measured over a period of not less than 15 minutes when the facility is in operation and shall not exceed the background level by more than 20dB(A) at the boundary of the nearest affected residence. A report from a suitably qualified acoustic consultant shall be submitted to the satisfaction of the Environment and Health Services Unit, where evidence of compliance is requested.
[GENNS04]
7. Written evidence is to be submitted to Council indicating the date of commencement of the works. A written six monthly report is to be lodged thereafter indicating the tonnage of rock removed.
8. The loading and cartage of rock is restricted to between 9:00am - 3:00pm Monday to Friday only. No works shall occur on week-ends.
9. A maximum of one truckload of rocks per week is permitted.
10. The use of rock crushing equipment is not permitted.
11. No excavation of rock is permitted.
[GENNS05]

12. Section 94 Contributions

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT

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: \$76
S94 Plan No. 4 (Version 4.0)
Sector 12 - rural (inner zone)

[PCC0215]

13. Section 94 Contributions

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.

Heavy Haulage Component

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

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

where:

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

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads
(trip one way)

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

Admin. Administration component - 5% - see Section 6.5

[PCC0225]

14. Prior to commencement of works, sedimentation and siltation control measures are to be installed so as to reduce any impact from sediment. Grass seed should be sown immediately after any rocks are removed. [PCWNS01]
15. All work associated with this approval is to be carried out so as not to impact on the environment or neighbouring properties. All necessary precautions, covering and protection shall be taken to minimise impact from noise, water, air pollution or dust. [DUR1005]
16. Restoration of topsoil and rehabilitation of disturbed areas with suitable grass and/or shrubs is to occur to the satisfaction of the Director of Planning and Development. [USENS01]
17. In the event that removal of the surface rock exposes any archaeological or cultural material, all work is to cease and officials from the National Parks and Wildlife Service and Tweed Byron Aboriginal Land Council are to be notified immediately. [USENS02]

USE

18. 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. [USE0125]
19. All activities associated with the removal of bush rock are to comply with the Protection of the Environment Operations Act, 1997. [USE0135]
20. Any vehicles that remain on site for periods in excess of two (2) minutes not being actively used in rock collection and removal are required to switch off their engines. [USE0255]

REPORT:

Applicant: Mr I Heanes
Owner: Mr I A Heanes
Location: Lot 6 DP 835413 Boulder Close, Byangum
Zoning: 1(a) Rural
Cost: Nil

BACKGROUND:

- An application for the “removal surface of rock” [0916/2000DA] was approved on 4 October 2000. That application sought the removal of **one truck load per day**.
- As the applicant stated that the rocks (surplus to preparation of the house site and access road) would be removed within 6 months, the Development Consent conditions limited works to **6 months** within a 2 year timeframe, and imposed an absolute maximum of **50 tonnes**.
- A complaint was received in August 2002 that rock was still being trucked out (although the Consent actually did not lapse until 4 October 2002).
- As the applicant wanted to clear his land for agriculture, and use the stone in his building projects remote from this site (Registered Builder), he made a fresh application seeking approval for 300 tonnes per year instead of the previous maximum limit of 50 tonnes.
- That application was approved **31 October 2003** subject to two principal limitations: a **300 tonne limit** and an **expiry date in 12 months**.
- Complaints were received on 12 & 18 December 2003 complaining about 6:30am starts and multiple truckloads instead of the one truck per week between 9am – 5pm.
- Further complaints were received on 15 November 2004 (16 days after the Consent had expired) regarding five separate truck movements in the last fortnight. The applicant denies this activity and states the works were farm activities only.
- A site inspection on 11 March 2005 proved rock was being removed off site. Accordingly, a \$600 PIN (Penalty Infringement Notice) was issued. No further breach has occurred to date. Further complaints have been received about on site earthworks, but the applicant maintains these works were related to the construction of an alternative driveway. An inspection confirms that this appears to be the case.
- The applicant states that he regrets not utilising the legal opportunity of removing rock during the approved time frame and has again sought approval to avoid further penalty.

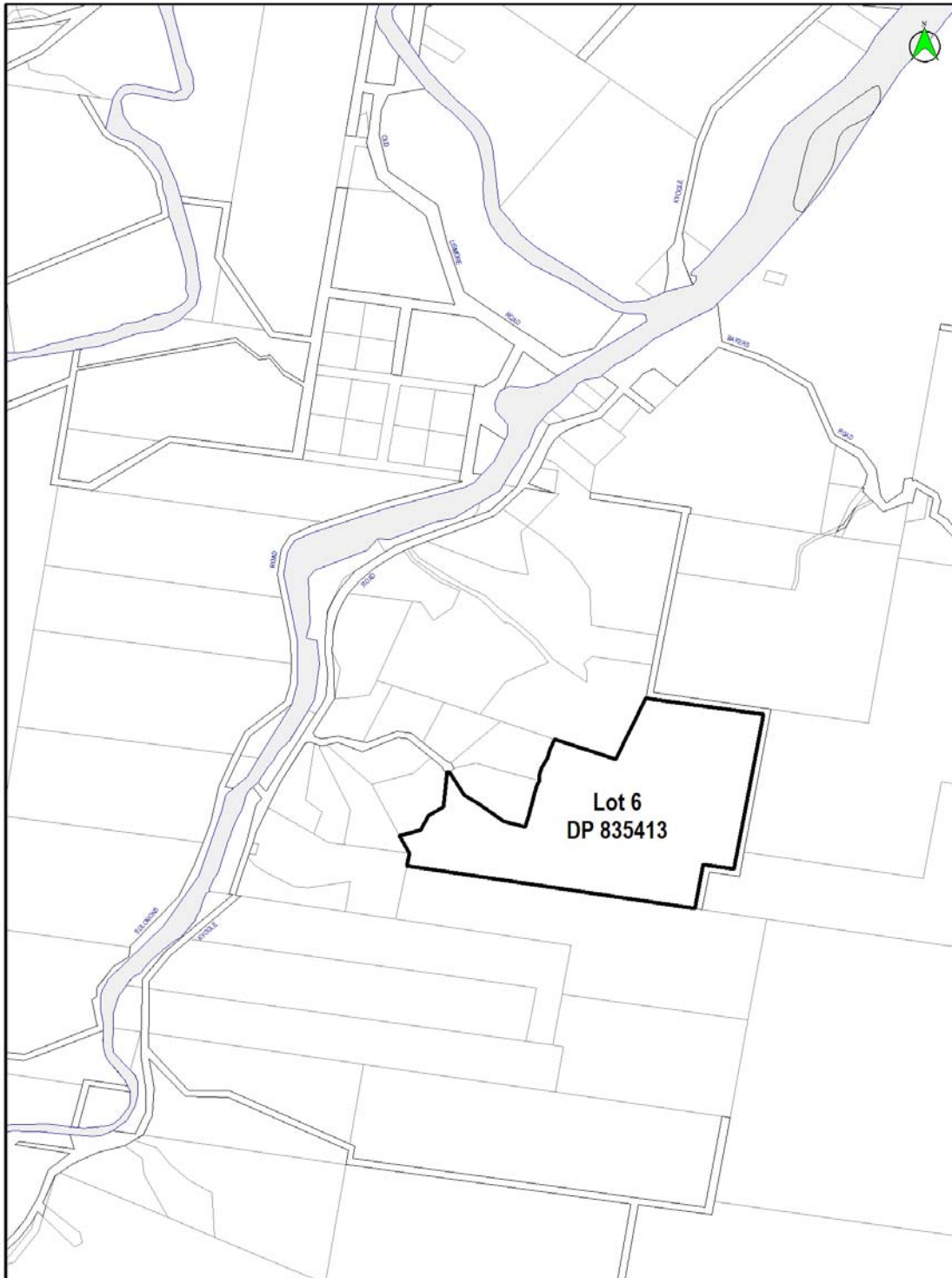
- The current application is the same as previous applications, except that the time frame sought is longer (7 years) to avoid further penalty if the Consent expires. It proposes a maximum of **one truck load per week** until the residue stockpile of approximately 600 tonnes is progressively removed.

Proposal

The applicant seeks approval to:

- remove up to **one truck load per week** of surface rock currently stockpiled at the rear of his existing dwelling. The rock was relocated at the time of preparing his house site and shed, and is naturally evident on the surface all over the property. There is approximately 600 tonnes present, but because it would be used intermittently in his building projects, the cartage of rock off site would occur sporadically. Consequently, a seven year time frame is sought so as to coincide with the occasional use of the rock in his periodic home building projects.
- cart rock between the hours of **9:00am – 3:00pm Monday to Friday** only .
- cart surface rock only. **No excavation** would be involved in winning the material.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2006 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 815 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i> Lot 6 DP 835413 Boulder Close, Byangum</p>		<p>STRATEGIC PLANNING UNIT Site Plan</p>
<p>File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 01/June/2006 Scale: 1:15,000 Sheet: 1 of 1</p>			





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

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

Tweed Local Environmental Plan 2000

The land is mostly zoned Rural 1(a), although the higher reaches of the property extend up into Mount Nullum and are zoned 7(d) Environmental Protection (Scenic / Escarpment). The rocks to be carted are located in existing piles within the 1(a) Rural zone only.

The objectives for the Rural zone are to:

“to enable ecologically sustainable development that is suitable for agricultural or natural resource utilisation purposes and associated development”, and

“to protect the rural character and amenity”.

The use of the rock for building retaining walls and domestic landscaping purposes is consistent with this objective. The scale of the “extraction” (one truck per week of surface rock) cannot be viewed as an environmental threat when compared to normal farming activity within the rural zone. Thirdly, the removal of any surface rock would continue to improve the agricultural capability / productivity of the property. There is currently some limited pasture and stock, but the intention is to plant an orchard (fruit & olives) in the intermediate future.

Accordingly, it is considered that the objectives for the zone would be met.

The use has previously been notified as “earthworks / bush rock removal”, but this application was considered to be more accurately defined as “extractive industry” as it would involve the ‘winning of extractive material from the land’ to be hauled off site as distinct from earthworks or works where the material essentially remains in situ. Although this definition implies extraction / mining, **no excavation is proposed** – only the collection of surface rock currently grouped in piles above the ground.

Accordingly, the use was advertised as ‘extractive industry’ and 10 representations were received – 8 opposed and 2 in support of the proposal (discussed later in report).

Clause 29 – Development adjacent to zone 8(a) National Parks and Nature Reserves.

The objective of this clause is to ensure that development of land adjacent to zone 8(a) does not have a significant impact on wildlife habitat. Council is required to consider the likely effects of any disturbance to native flora and

fauna as a result of intrusion by humans, animals, fire risk, clearing, weed invasion and the like.

The removal of surface rock is not considered likely to have any adverse impact on native flora and fauna as there is a substantial buffer between the proposed working area and the adjoining nature reserve. The distance from the working area to the nearest boundary of the nature reserve to the east is approximately 660 metres.

Previous applications considered whether or not the removal of bush rock was determined to be a key threatening process under the Threatened Species Conservation Act 1995. As the works would be entirely within the 1(a) rural zone where farm improvements and agriculture will continue without the need for Council consent, any disturbance was considered to be insignificant.

NPWS previously indicated that a threatened species, the Spotted-tailed Quoll had been recorded within 800m of the subject site. In determining whether or not the development would have a likely significant effect on threatened species, populations or ecological communities or their habitats, the eight factors of Section 5A of the Environmental Planning and Assessment Act, 1979 were considered.

In this regard, the applicant engaged Biolink Pty Ltd to undertake an assessment under Section 5A of the Environmental Planning and Assessment Act, 1979. This assessment concluded that the earthworks and rock removal as proposed would not be likely to significantly affect threatened species, populations or ecological communities. Accordingly, no Species Impact Statement was required. Council accepted this conclusion in making its previous determinations.

North Coast Regional Environmental Plan 1988

The proposal is considered to satisfy the expectations of the NCREP 1988. It would be consistent with its provisions and not result in any loss of crop or pastoral land, but rather increase the agricultural productivity of the property once the surface rock is removed.

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

There are no drafts Environmental Planning Instruments affecting this proposal.

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

There are no DCPs apply to this proposal.

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

The proposed Development Application has been prepared in accordance with the EPA Regulations 2000.

(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

In view of the low-key scale of the operation (one truck per week or less), and the fact that the rocks are also on the surface and already stockpiled, there should be minimal environmental impact.

The work area is below the tree line and mostly clear of vegetation, although Lantana has overgrown some heaps of rock. As there would be no excavation, there should be minimal disturbance. Consequently, no habitat should be displaced. It should be noted that the work area has been significantly disturbed in the past when agriculture such as banana plantations were grown in this area.

Once the rock is removed, the area would be seeded with Rye grass and other quick growing species to reduce potential for erosion. Accordingly, no sedimentation difficulties should arise. Given the small unconnected piles of rock and the fact that there is pasture already established throughout the work area, it is considered that no impacts from erosion or sediment would result from the works. Existing grass is an effective filter.

It is anticipated that the selection and loading of the single truckload by a bobcat or excavator would take between 1 – 2 hours, depending on the type of rock required for the particular landscaping job. This collection and loading would be restricted to between the hours of 9:00 am to 3:00 pm Monday to Friday only. No week-end work is proposed.

The visual character of the area would not be compromised as the work areas are unseen from any neighbouring dwelling or any public vantage point. In any case, the areas of stockpile are very small and would return to pasture for farming purposes.

In view of the size of the property [34 hectares] and the distance to the nearest neighbours [approximately 200m and 240m respectively], any noise is considered to be inconsequential. In terms of noise, any farm or property in the rural area may reasonably expect one truck to leave the property once a week without causing any adverse impact. It should be noted that an alternative driveway has been constructed since the last application so no vehicle would pass along the side fence beside the closest neighbouring dwelling.

Council's Environmental Health Officer concurs with this assessment.

The **only difficulty with this application** is not the material impacts on either the environment or the adjacent neighbours, but the fact that the applicant has not performed adequately on previous occasions. His breaches ultimately caused the issuance of a PIN. The applicant's explanation of this unauthorised activity was that he did not need the rock during the last approved 12 month time frame, and therefore was late in removing rock outside the approved period. He now states that the PIN was an excessive penalty and that he will be fully compliant with any future Development Consent. The evaluation as to whether or not this is acceptable and therefore given determining weight, will be reserved until the conclusion of this report.

(c) Suitability of the site for the development

Rocks and boulders are naturally prolific in this locality - hence the address "Boulder Close". Surface rock occurs naturally, being readily available from past rock falls and exposed through the long-term processes of erosion. The stockpiles to be removed were created when the site for the recently constructed dwelling, outbuilding and driveways were prepared. Their removal would allow an increase in the agricultural capability of the land.

Accordingly, the site is suitable. As stated previously however, it's not the activity that is in question - it's the matter of compliance and whether it should be approved again in view of previous performance.

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

Ten submissions have been lodged - two in support and eight objecting to the proposal.

It is interesting to note that **two of the three nearest neighbours** who abut the subject site and who actually enter from Boulder Close are in favour of the proposal. Their letters make statements such as "we have absolutely no objection....removal of rock would not have any ongoing detrimental effect on his property or ours....the noise is barely audible...it would tidy up the property and help people who need to do some landscaping...he is not doing any harm to anyone."

The objections can be summarised as follows:

Issue	Response
1. The stockpile of rock has continued to be accumulated in recent months.	Recent on site works were connected with preparing the new alternative driveway. No rocks were excavated as several neighbours allege. An inspection confirmed no recent site works or disturbance apart from the new driveway route.
2. Excessive noise	The collection of rock (for 1-2 hours) to load a single truck load per week would not create unreasonable noise within a rural context. The nearest neighbours are approximately 200m and 240m respectively. A new alternative driveway means that any truck would no longer travel along the side boundary fence near the closest neighbour's dwelling.
3. Excessive dust	As there is no excavation proposed, and the scale of the property is large (34 ha), any particular dust cannot be substantiated. The new driveway is also partially sealed.
4. The site is not suitable for a 'rock quarry' in the "middle of a residential area".	No quarry is proposed. No extraction or digging is needed as the stone is already stockpiled on the surface. Although there are a number of dwellings in the locality it is a rural zone.
5. Excessive wear and tear on Boulder Close.	One truck per week does not represent 'over-use' of a road.
6. The activity could be extended turning "Mt Nullum into a wasteland".	The proposal is for one truck per week (10 tonnes) to remove a stockpile of 600 tonnes. The stone to be removed represents a fraction of the local rock which lies over the whole area.
7. Past rock removal in the locality has caused landslip and instability.	No excavation or earthworks are proposed. The existing stockpiles are small and already surrounded by grass/pasture.
8. The applicant is not a farmer and has no evidence he will undertake agriculture.	There is no evidence he will not extend his current low level 'farming' in the future in the

Issue	Response
	cleared work areas. The work area is relatively flat – not steep or unstable terrain.
9. The “Rock Warehouse” is advertised in the Gold Coast yellow pages. This is ‘contemptuous’ given it was originally approved as a 6 month permit.	The original listing was allegedly re-entered last year without the owners permission. In any event, the advertising has not resulted in any activity / direct sales apart from removal of rock for his own projects as a builder. No direct sales to the public have occurred. Any delivery to a customers address is not unreasonable. A condition precluding direct sales can be imposed.
10. The “true intent is to operate an unsupervised quarry”.	Any Consent would be for a specified volume over a specified time frame. Any variation to include excavation (normally required in any quarry) would not qualify as a S.96 Minor Amendment – it would require a new Application. Quarrying is unlikely as there is abundant surface rock available which is more readily retrieved.
11. Various breaches of the earlier two consents suggest breaches will continue in the future.	The breaches revolved around exporting spoil after the expiration of the Consents. The applicant was casual in his interpretation of those conditions and ultimately paid the penalty for that poor performance. However, the fine imposed was heavy relative to the value of the load of rock. It is probable no further breaches will occur, and if so, further PINs can be imposed.
12. Truck movements pose a threat to children living in Boulder Close.	One truck movement per week does not represent an unreasonable risk.

Issue	Response
13. Threat to flora and fauna.	The stockpiles currently exist. No trees or vegetation would be removed, nor earth disturbed. The existing pasture in the work area would soon cover the patch. Limited wildlife should be affected as the piles are not in the bush, but near the house in pasture. Biolink's ecological report prepared for the site [Part 5 assessment under the EPAA] concluded that given the significant agricultural disturbance in the past, any rock removal "is not likely to significantly affect threatened species, populations or ecological communities."
14. Fear that 'run away' rocks may kill my family and horses.	The removal of rocks would reduce the quantum of rocks available to "fall". In any event, the work area is relatively flat – not near any slope.
15. Tweed already has a range of existing quarries.	No quarrying is proposed – only removal of a limited amount of existing surface rock.
16. Development does not meet the zone objectives.	The removal of stone would not undermine the zone objectives but rather support them.
17. The "whole of Byangum may be better zoned as Rural Living 1(c) rather than Rural 1(a)" and Lot 6 is no longer a "large farm". It is surrounded by dwellings.	The property is over 34 ha in size, with the work area being within the Rural 1(a) zone. The nearest neighbouring dwellings are 200m and 240m away of which one neighbour supports the proposal. It is not residential.

Issue	Response
18. Stone extraction is out of character with rural residential context.	The property is large and zoned rural. Any farming land use would take priority provided local amenity is protected. The proposed one truck per week of rock should not unreasonably compromise that character and amenity. The context is predominately rural not residential.
19. Rock removal is not ecologically sustainable. Mass movement and shallow soil create hazards once land is cleared.	No vegetation or soil is to be disturbed. No particular flora or fauna have been identified as being at risk thereby satisfying the 8 Part Test.
20. It would substantially affect the visual character of Boulder Close.	The work area cannot be seen from any neighbouring dwelling or reasonable public vantage point. The rocks would be replaced with grass / pasture which is sightly.
21. Trucks would produce diesel fumes and smell.	Given the scale of the property, distances to dwellings and infrequency of truck movements, fumes is not viewed as significant.
22. Toxic runoff/sedimentation from disturbed ground previously a banana plantation.	No earth is to be disturbed. In any case grass seed is to be sown over any bare patches and an existing dam with pasture would filter/catch any runoff.

(e) Public interest

The proposed development is not considered to represent any risk, threat or prejudice to the public interest. Its scale and confined nature is less than other similar proposals which have been approved by Council in recent years. It does not represent a liability to public interest.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

In conclusion, the proposed removal of the surface rock is considered to be acceptable because of the limited nature of the existing stockpiles which amount to approximately 600 tonnes – or 60 truckloads. In view of the sporadic timing which the applicant uses the bush rock in his building projects, the request to spread the removal over a number of years is sought. To limit any impact, he has proposed a maximum of one load per week – only loading between 9am and 3pm Monday to Friday. No excavation or quarrying is proposed or necessary as it is already stockpiled. No vegetation or habitat would be disturbed as the piles are already surrounded by pasture – not bush. Environmental Consultants, Biolink have confirmed no threatened species, populations or ecological communities are present. The activity is therefore of a scale so as not to unreasonably compromise either the built or natural environment. Council has approved other similar proposals to remove bush rock involving much larger quantities of rock. Any impacts would be reasonable within a rural zone, as local residences in Boulder Close are sited between 200m and 550m away from the 'pick up' area.

On balance, in view of the limited scale of the operation and provided the same conditions are applied, it is recommended for approval. In addition, it is recommended the permitted period be reduced from 7 years to 5 years, which would amount to an **average of one truckload per month.**

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

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P2 [PD-PC] Development Application DA05/0924 - Use of Existing Premises as a Bulk Store, Public Utility Undertaking and Commercial Premises at Lot 21 Sec 4 DP2379, No. 56 Recreation Street, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA05/0924 Pt1

SUMMARY OF REPORT:

- Council resolved at its meeting on 14 December 2005 to defer any decision pending appropriate legal advice in relation to use definition and zoning. The full report is Attachment 1.
- That legal advice was sought from Queensland Solicitors Minter Ellison, who concluded the use was more properly defined as a "Depot" rather than a "Bulk Store". (refer to Attachment 2)
- The applicant and owner disagreed with that opinion and offered to seek a further legal opinion. That opinion was prepared by Tim Robertson, Senior Counsel. He determined that the proposed uses are permissible. Further, the better view is that they are permissible without consent, but if consent is necessary, it is either because Downer is a corporation carrying on a "*public utility undertaking*" or because the premises will be used as a "*bulk store*" and as "*commercial premises*". (refer to Attachment 3).
- On balance the latter opinion is supported. Accordingly the original recommendation for approval is again recommended, however an extra condition is proposed which makes it clear that the use is limited to the bulk storage of telecommunication goods only.

RECOMMENDATION:

That Development Application DA05/0924 for the use of existing premises as a bulk store, public utility undertaking and commercial premises at Lot 21 Section 4 DP 2379, No. 56 Recreation Street, Tweed Heads 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 A1-2 dated July 2005, except where varied by the conditions of this consent.**

[GEN0005]

2. All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.

[POC0525]

USE

3. No items or goods are to be stored or displayed at the front or side of the building so as to be visible from the street.

[USE0445]

4. 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.

[USE0125]

5. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of Council's Director of Environment and Community Services where necessary or required so as to prevent the spill of light creating a nuisance to neighboring or adjacent premises.

[USENS01]

6. All loading and unloading is to occur within the property boundary.

[USENS02]

7. All deliveries to and from the bulk store are to occur between the hours of 7:00am and 5:00pm Monday to Saturday. No deliveries outside these times are permitted without the prior written approval of Council's Director of Planning and Development, unless it is an emergency.

[USENS03]

8. This Development Consent limits the use of the building to the bulk storage of telecommunication goods only.

REPORT:

Applicant: Downer Connect Pty Ltd
Owner: Morgan Surfing Accessories Pty Ltd
Location: Lot 21 Section 4 DP 2379 No. 56 Recreation Street, Tweed Heads
Zoning: 3(b) General Business
Cost: Nil

BACKGROUND:

- Council resolved at its meeting on 14 December 2005 to defer any decision pending appropriate legal advice in relation to use definition and zoning. The full report is Attachment 1.
- That legal advice was sought from Queensland Solicitors Minter Ellison, who concluded the use was more properly defined as a “Depot” rather than a “Bulk Store”. (refer to Attachment 2)
- The applicant and owner disagreed with that opinion and offered to seek a further legal opinion. That opinion was prepared by Tim Robertson, Senior Counsel. He determined that the proposed uses are permissible. Further, the better view is that they are permissible without consent, but if consent is necessary, it is either because Downer is a corporation carrying on a “*public utility undertaking*” or because the premises will be used as a “*bulk store*” and as “*commercial premises*”. (refer to Attachment 3).
- On balance the latter opinion is supported. Accordingly the original recommendation for approval is again recommended, however an extra condition is proposed which makes it clear that the use is limited to the bulk storage of telecommunication goods only.

PROPOSAL:

The proposal is fully described and appraised in the original report - refer to attachment 1.

The only recommended change resulting from the legal opinions, is that an additional condition be imposed limiting the approved use of the building to the bulk storage of telecommunication goods only.

In respect to the attached report prepared for Council in December 2005, an objector took exception to an apparent error where it was stated that the photos tendered by the objector were taken prior to Council becoming involved. The intention of the report however, was to say the photos were taken prior to Council assessing and preparing this particular Development Application report (that is, the photos were dated 11 February and 30 April 2005 – whereas the application was made on 2 August 2005 and assessed in September – November 2005). This was acknowledged by Council in a letter dated 2 February 2006 to the Solicitors acting on behalf of the objector.

Following further clarification from Downer Engineering at the request of Mr Tim Robertson SC, the applicant has requested the description of the proposed use be amended so as to reflect more accurately the actual land use on the site. Accordingly, the proposal would be for "bulk store", "public utility undertaking" and "commercial premises". This would be consistent with the original development application and Statement of Environmental Effects.

CONCLUSION:

On balance the opinion by Tim Robertson SC is supported and accordingly the previous assessment and recommendation is again put forward for Council's determination. One additional condition is proposed to accord with the Senior Counsel's advice.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Council report and resolution of 30 November 2005 (DW 1307303)
 2. Confidential Legal advice from Minter Ellison dated 11 April 2006 (DW 1375882)
 3. Confidential Legal advice from Mr Tim Robertson SC (DW 1397886)
-

P3 [PD-PC] Development Application DA06/0049 for a Dwelling Alteration & Addition with Building Line & Fence Height Variation at Lot 27 DP 29974, No. 8 Walter Crescent, Banora Point

ORIGIN:

Building Services

FILE NO: DA06/0049 Pt1

SUMMARY OF REPORT:

An application has been received for alterations and additions to an existing dwelling at Lot 27 DP 29974 No.8 Walter Crescent, Banora Point. The proposal also includes a building line and fence height variations.

The subject land has frontage to Walter Crescent and existing improvements include a two storey dwelling. The land falls steeply from the road.

The topographical features of the land with its steep fall from the street contributed to the existing building being built close to the street. The steepness of the land has reduced the building area available and in addition parts of the existing footings of the house could not accommodate any further loadings. These factors have largely determined the design of the additions.

The proposed alterations and additions include the addition of a rumpus room and deck to the ground floor, two (2) bedrooms to the first floor and an new upper floor comprising dining, kitchen and living areas.

It is also proposed to add a carport that is within the building line and a 1.8m high front fence.

The additions and alterations to the dwelling will make it a four (4) storey building in a three (3) storey locality. In this regard the applicant has prepared and submitted a State Environmental Planning Policy (SEPP) No.1 Objection contending that the three (3) storey height limit is unreasonable and unnecessary under the circumstances, which will be discussed further in this report.

Adjoining owners were notified and one (1) submission of objection has been received the details of which will be discussed further in this report.

RECOMMENDATION:

That : -

1. The State Environmental Planning Policy No. 1 objection be supported and the concurrence of the Director General be assumed.
2. Development Application DA06/0049 for a dwelling alteration & addition with building line & fence height variation at Lot 27 DP 29974, No. 8 Walter Crescent, Banora Point be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent. [GEN0015]
2. 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. [GEN0045]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0115]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. 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. [PCC1145]

PRIOR TO COMMENCEMENT OF WORK

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
 - (c) 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
 - (d) 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.
- [PCW0215]*
6. 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.

[PCW0255]

- 7. 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.

[PCW0225]

- 8. 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 Principal Certifying Authority prior to commencement of building works.

[PCW1005]

- 9. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act 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.

[PCW0985]

- 10. Residential building work:
 - (a) 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:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,

 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (b) 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.

[PCW0235]

DURING CONSTRUCTION

11. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

12. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Councils adopted Design and Construction Specifications, DCP16 and DCP47 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

13. 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 was made).

[DUR0375]

14. 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.

[DUR2185]

15. **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.**

[DUR0395]

16. **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.**

[DUR0405]

17. **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 in accordance with WorkCover 2000 Regulations.**

[DUR0415]

18. **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 General Manager or his delegate.**

Such to specifically include the following:

- (a) **150 millimetres thick reinforced with F72 Mesh for residential development or F82 mesh for Commercial/Industrial Development**

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 works and its reconstruction.

Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DUR0065]

19. **All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -**

- **Noise, water or air pollution**
- **Minimise impact from dust during filling operations and also from construction vehicles**
- **No material is removed from the site by wind**

[DUR1005]

- 20. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -**

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

- 21. 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.**

[DUR0245]

- 22. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:**

- (a) internal drainage, prior to slab preparation;**
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;**
- (c) external drainage prior to backfilling.**
- (d) completion of work and prior to occupation of the building.**

[DUR2485]

- 23. Plumbing**

- (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.**

[DUR2495]

- 24. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.**

[DUR1945]

- 25. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.**

[DUR2515]

- 26. 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.**

[DUR2545]

- 27. The finished floor level of the building should finish not less than 225mm above finished ground level.**

[DUR0445]

28. 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:-

- * 45⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and**
- * 50⁰C in all other classes of buildings.**

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

[DUR2555]

29. 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 in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

30. A person must not commence occupation or use of the whole or any part of a new building or structure (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).

[POC0205]

31. 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.

[POC1045]

USE

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

[USE0505]

REPORT:

Applicant: Mr KJ Griffiths & Ms MA King
Owner: Mr KJ Griffiths & Ms MA King
Location: Lot 27 DP 29974 No. 8 Walter Crescent, Banora Point
Zoning: 2(a) Low Density Residential
Cost: \$140,000

BACKGROUND:

An application has been received for alterations and additions to an existing dwelling on the abovementioned land.

The subject land has frontage to Walter Crescent and existing improvements include a two storey dwelling. The land falls steeply from the road. The land is bound by similar sized residential allotments to the north and south each containing a dwelling and a large residential lot to the east, which is vacant.

The existing dwelling was constructed many years ago for the purpose of a private weekend/holiday cabin containing only one (1) bedroom. Additional room or habitable space is now required. The topographical features of the land with its steep fall from the street contributed to the building being built close to the street, similar to many houses in the street. The steepness of the land has reduced the building area available and in addition parts of the existing footings of the house could not accommodate any further loadings. These factors have largely determined the design of the additions.

The proposed alterations and additions include the addition of a rumpus room and deck to the ground floor, two (2) bedrooms to the first floor and an new upper floor comprising dining, kitchen and living areas.


It is also proposed to add a carport that is within the building line and a 1.8m high front fence. In regard to the carport and the front fence these have already been reported to DAP for building line and fence height variations, which have both been supported. The applicant has made modifications to the front fence which is consistent with the DAP resolution in regard to the fence height variation.

The additions and alterations to the dwelling will make it a four (4) storey building in a three (3) storey locality. In this regard the applicant has prepared and submitted a State Environmental Planning Policy (SEPP) No.1 Objection contending that the three (3) storey height limit is unreasonable and unnecessary under the circumstances, which will be discussed further in this report.

Adjoining owners were notified and one (1) submission of objection has been received the details of which will be discussed further in this report.

SITE DIAGRAM:

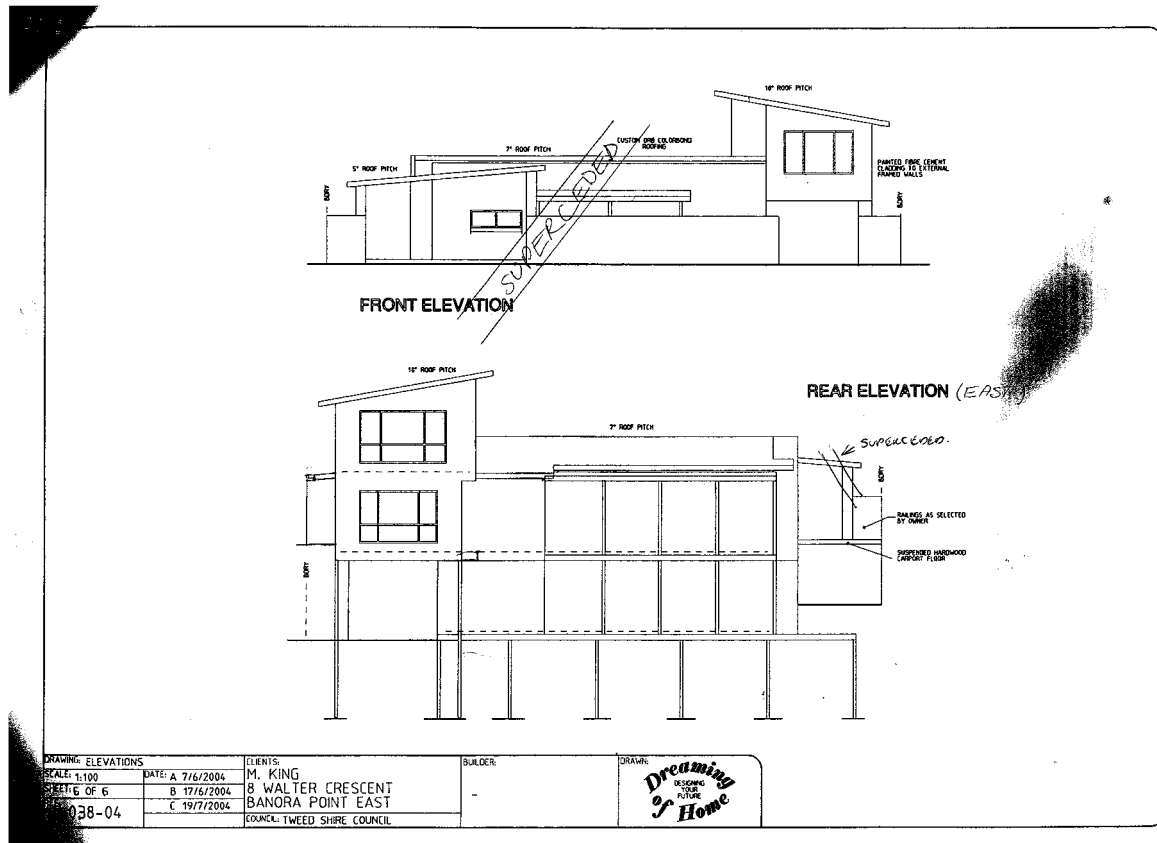


<p>© TWEED SHIRE COUNCIL 2006 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 815 Murwillumbah NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i> Lot 27 DP 29974 No. 8 Walter Crescent, Banora Point</p>		<p>STRATEGIC PLANNING UNIT Site Plan</p>	
<p>File: N:\MapInfo 7...A4P Site Plan.Wor</p>	<p>Author: J.Batchelor</p>	<p>Date: 29/May/2006</p>	<p>Scale: 1:10,000</p>	<p>Sheet: 1 of 1</p>

ELEVATION PLANS

<p>AMENDED ELEVATIONS POOL LEVEL PLAN</p>	<p>PROPOSED ADDITIONS TO RESIDENCE</p> <p>OWNER: M. KING ADDRESS: No. 8 WALTER CRESCENT BANORA POINT EAST ISSUE DATE: NSW LOT 8 RP 29974 20MAY06 page of</p>
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<p>DRAWING: ELEVATIONS SCALE: 1:100 SHEET: 5 OF 8 REF: 038-04</p>	<p>DATE: A. 7/8/2004 B. 17/6/2004 C. 15/7/2004</p>	<p>CLIENT: M. KING 8 WALTER CRESCENT BANORA POINT EAST COUNCIL: TWEED SHIRE COUNCIL</p>	<p>BUILDER: - DRAWN: Dreaming of Home DRAUGHTSMAN: J. TUTTLE</p>
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CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is zoned 2(a) Low Density Residential under the provisions of the TLEP 2000 within which dwelling houses are permissible subject to Council's consent.

Clause 16 – Height of buildings identifies that the subject site and locality has a three (3) storey height limit. The proposed additions will create a four (4) storey building, which does not comply. Subsequently the applicant has submitted a SEPP 1 objection contending that this development standard is unreasonable and unnecessary under the circumstances, which will be discussed below.

State Environmental Planning Policies (SEPP)

SEPP No.1

The provisions of clause 16 – Height of buildings of the TLEP 2000 and the Height of Buildings map indicate that the subject site and the locality have a three (3) storey height limit. The proposed additions and alterations will create a four (4) storey building, which does not comply.

Subsequently the applicant has submitted a SEPP No.1 objection contending that strict compliance with this clause or the three (3) storey height limit is unreasonable and unnecessary under the circumstances. The applicant's submission is as follows: -

"This objection relates to a development application for alterations and additions to an existing dwelling house at No.8 Walter Crescent, Banora Point East.

The proposal would result in the addition of a storey on the existing building house, which due to the topography, would constitute a fourth storey. Accordingly, the following objection to the development standard is submitted."

This objection is in respect of the development standard contained in Clause 16(2) of the TLEP 2000.

Clause 16(2) of the TLEP requires that: -

"Consent must not be granted to the erection of a building, which exceeds the maximum height or number of storeys indicated on the

Height of Building map in respect of land to which the application relates."

The height limit for the site in this case is three (3) storeys. The definition of 'storey' in TLEP 2000 is as follows:

Storey means:

- (a) the space between two floors, or
- (b) the space between a floor and the ceiling or roof immediately above it, or
- (c) foundation areas, garages, workshops, storerooms and the like, excluding access paths to basement areas, where the height between the finished ground level and the top of the floor immediately above them exceeds 1.5 metres in height.

A storey which exceeds 4.5 metres for residential buildings is counted as two storeys.

A storey which exceeds 5 metres for commercial buildings is counted as two storeys.

For the purpose of counting the number of storeys in a building, the number is to be the maximum number of storeys of the building, which may be intersected by the same vertical line, not being a line, which passes through any wall of the building.

The proposed development would result in a building that is technically four (4) storeys in height in a limited location. Consequently, as the development exceeds the height limit prescribed by the development standard, it is necessary to make this objection.

The building would be considered to be four (4) storeys in part, as the height between the finished ground level and the 'ground floor' floor level would exceed 1.5 metres. The part of the building that is considered to be four (4) storeys is located at the eastern extent of the site. The area beneath the ground floor would be foundation area and not put to any specific use.

The proposal is four (4) storeys when viewed from the eastern elevation (rear) for approximately 4.5 metres in building length. That part of the building is four storeys for an approximate depth of four (4) metres. This means that the component of the building that is four (4) storeys measures 4.5m wide and 4.0m deep. The total building length is 18.5 metres and with the carport 24.0 metres long. The area of non-compliance represents 21% of the length of the building.

The four (4) metres (depth) of the dwelling house that would constitute a fourth storey would be used as the living area. The living area would be provided with a picture window to the east and the north, both capturing views.

The objective of the standard is:

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

The following matters are relevant to assessing the merits of the departure from the development standard.

- * There are special circumstances in this instance as the topography does not readily enable the existing dwelling house and its additions to comply with the three (3) storey height limitation.
- * The building is not uniformly four (4) storeys, but only exceeds the three (3) storey limit where the foundation area below the ‘ground floor’ exceeds 1.5 metres in height measured from the finished ground level.
- * The variation request relates to approximately four (4) metres in length of the eastern extent of the building when viewed from the northern and southern elevations. The overall length of the dwelling would be 18.5 metres. This represents 21% of the length of the building and would be located at the most eastern extent of the dwelling. The proposed use would be living area.
- * The dwelling house would, when viewed from Walter Crescent, appear as a part one (1) and two (2) storey dwelling. The proposal would not result in adverse impact to the streetscape.
- * Significant views and vistas available in the locality would not be adversely impacted by the proposal. Adjoining dwellings on the eastern side of Walter Crescent would maintain panoramic ocean views. Dwellings on the western side of Walter Crescent would, due to lower topography, generally maintain their existing views however with minor interruption due to the addition of a second storey in part on the existing dwelling when viewed from Walter Crescent.
- * Potential overlooking and loss of privacy to the adjoining dwelling on the southern side would be negligible as there are no windows orientated to the southern elevation for that part of the dwelling that is four (4) storeys in height.
- * Potential overlooking and loss of privacy to the adjoining dwelling on the northern side would be negligible due to the variation in levels between the dwellings and the local topography. It is also noted that the fourth storey living area would be approximately 14.0 metres from the northern property boundary diminishing any potential loss of privacy.
- * The proposed variation is minor in the context of its physical setting and would not set an undesirable precedent. Moreover it would not compromise relevant planning objectives.
- * The adjoining property to the east is maintained as open land. The proposed additions to the dwelling house would not compromise the potential development of that land.
- * The extent of shadow impacts to the southern property due to the proposed departure would not be significant. The southern property has

a higher elevation which combined with the dwelling design would enable winter sun to be captured.

- * The height and scale of the development is appropriate to its location and the character of the surrounding locality.

It is concluded that compliance with the development standard is both unreasonable and unnecessary in this circumstance. No good planning purpose would be achieved, in this case by the strict adherence to the development standard. Indeed, to do so would adversely compromise the urban development objectives of the land proposed for development.”

Comment

It is considered that the applicant’s submission justifying the variations to the development standard of clause 16 of the TLEP 2000 are warranted and the variation and SEPP No.1 objection should be supported.

The development of the land is constrained by its topographical features and strict compliance with the standard in this instance is of no planning benefit. The design, scale and appearance of the dwelling are considered to be consistent with the locality and are not likely to detract on the streetscape. It is also accepted that views and privacy will not be significantly compromised due to the design and limitation of windows to the southern elevation.

Overshadowing is also expected to be negligible. The applicant has prepared and submitted shadow diagrams, which demonstrate that the building will overshadow the property to the south, more so during winter, but it is considered that the extent of overshadowing is reasonable and the property to the south will still likely enjoy adequate sunlight during winter and summer.

The variation is considered to be minor only affecting a small portion of the building at its eastern extent for approximately 4.0m when viewed from the southern and northern elevations. When viewed from the street the building would appear to be two (2) storeys.

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

N/A

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

No DCP’s of any specific importance.

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

N/A

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

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

Minimal physical disturbance is envisaged during construction, which is expected to be short term and suitably protected by erosion and sedimentation control measures where appropriate. No clearing of significant vegetation envisaged.

Currently the site enjoys two driveway accesses one of which is proposed to be removed to accommodate the proposed carport. This will leave one existing driveway, which is satisfactory.

The design, scale and appearance of the building is considered to be reasonable and is generally consistent with the established and desired built form and character of the locality and also promotes a positive contribution to the streetscape.

Overshadowing, privacy and loss of views has been previously discussed in this report and it is considered that these impacts are likely to be negligible.

Views on both sides of the street should largely be maintained as these properties enjoy extensive panoramic views of the ocean. It is envisaged that there would likely be minor interruptions to views.

Shadow plans have been submitted for both summer and winter, which demonstrate that the additions will overshadow the property to the south during winter only. Nevertheless it is considered that the extent of overshadowing is reasonable and the property to the south will still gain suitable sunlight during the winter days. In addition the land and the dwelling to the south is slightly more elevated due to the topography, which further reduces potential overshadowing.

Impact on privacy, particularly for the property to the south is expected to be minimal as the southern elevation of the additions has only three (3) small windows suitably located to minimise impacts on privacy. The larger windows are oriented to the eastern and northern elevations, which are suitable.

The impact of the carport and the front fence in regard to the streetscape and the locality has been separately reported to DAP for the building line and fence height variations. Again it is considered that these structures will not significantly detract on the streetscape, will compliment the dwelling and are supported due to the exceptional circumstances of the site.

(c) Suitability of the site for the development

It is considered that the site is suitable for the proposed development. The land was created for residential purposes and has historically been used for residential purposes similar to the locality.

Site constraints such as the topography of the land being steep have restricted the building area available. Subsequently the proposal has sought a number of variations. This would indicate that perhaps the proposal is not suitable for the site. However, as discussed above in section (b) of this report the design, scale and appearance of the additions will compliment the existing dwelling and is generally consistent with the established built form and character of the estate and promotes a positive contribution to the streetscape.

As previously mentioned the variations to the building line (carport) and the front fence height has been separately reported to DAP on the 31 March 2006, which supported the building line variation and the fence height variation subject to the height of that portion of the carport below the lattice panels being reduced to a maximum height of 1.2m and further that the section of the masonry fence between the front of the carport and the entry point be also reduced to 1.2m and the remaining 600mm is to have a similar treatment to the carport openings.

In this regard the applicant has satisfactorily undertaken these changes and modified the plans accordingly.

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

Adjoining owners were notified and one (1) submission of objection has been received. The details of this submission will be discussed below.

- * The proposed addition is four (4) storeys and is outside current guidelines i.e, three (3) storey locality.

Comment

This matter has been extensively discussed in this report. The additions will make the dwelling four (4) storeys in a three (3) storey locality and the applicant has submitted a SEPP No.1 objection contending that the development standard requiring a three (3) storey height limit to be unreasonable and unnecessary under the circumstances. This SEPP No.1 objection has been supported to vary the three (3) storey height limit. Generally the variation is considered to be minor and is unlikely to significantly detract on the residential amenity of the locality.

- * Approval of this development could cause a precedent to be set in the area.

Comment

Any similar applications will be considered on their merits. The proposal should it be approved is not likely to create an undesirable precedent. As discussed in this report the variations are minor and generally the design, scale and appearance of the additions will compliment the existing dwelling and is generally consistent with the established built form and character of the locality and also promotes a positive contribution to the streetscape.

- * If approved in its four (4) storey form the high southern wall of the addition will reduce the natural light and cause adverse shading to my living area in winter time.

Comment

Overshadowing impacts has been discussed in section (b) of this report. The applicant has submitted shadow diagrams for both mid winter and mid summer. No overshadowing over the adjoining property is expected during summer but overshadowing is expected during winter. Overshadowing during winter is expected to be negligible and the adjoining property to the south will still enjoy reasonable sunlight during the winter days. The living area of the neighbouring dwelling is at the rear of the building and has large windows facing the north and east. Those facing the east will have some overshadowing, which is not considered to be significantly adverse. It is likely that the living area will still enjoy reasonable sunlight during the day in winter, particularly in the morning hours. In addition the extent of glazing to the living area should ensure that adequate natural light is maintained. In addition the land and the dwelling to the south is slightly more elevated due to the topography, which further reduces overshadowing impacts.

In this instance it is considered that the reasons for objection are not reasonably justified and does not warrant modification or refusal of the application.

(e) Public interest

Under the circumstances it is considered that the proposal will not be contrary to the public interest.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

It is considered that the proposed additions and alterations are reasonable and should be supported. The circumstances of the land have generally constrained and determined the nature of the development and as such variations to Council policy are warranted.

It has been reasonably demonstrated in this report that the development would significantly detract on the residential amenity of the locality particularly the neighbours in regard to overshadowing and privacy. It is considered that the proposal will compliment the building and is generally consistent with the established and desired built form and character of the estate.

The objection has been considered and under the circumstances the reasons for objection have not been justified and does not warrant modification or refusal of the application.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

P4 [PD-PC] Development Application DA06/0249 for a Three Storey Dwelling at Lot 24 DP 3123, No. 76 Charles Street, Tweed Heads

ORIGIN:

Building Services

FILE NO: DA06/0249 Pt1

SUMMARY OF REPORT:

An application has been received seeking approval for a three (3) storey dwelling at the abovementioned land.

The subject land has frontage to Charles Street and is vacant. The land falls steeply from the street. The land is bound by Charles Street to the north and similar sized residential lots to the east, west and south each containing a dwelling.

The proposed building has two (2) habitable floors but is three (3) storey by definition.

The third storey is the foundation area below the building as the height from the ground level to the underside of the floor above exceeds 1.5m high. This is largely a result of the topographical features of the site.

The subject site is affected by a two (2) storey height limit and as the building is three (3) storeys it does not comply. However in this regard the applicant has submitted a State Environmental Planning Policy (SEPP) No.1 objection contending this development standard to be unreasonable and unnecessary under the circumstances, which will be discussed further in this report.

Adjoining and adjacent property owners were notified and no submissions were received.

It should also be noted that Council has previously approved a three (3) storey dwelling on the subject land by DA02/1811 approved 22 January 2003.

RECOMMENDATION:

That: -

- 1. The State Environmental Planning Policy No. 1 objection be supported and the concurrence of the Director General be assumed.**
- 2. Development Application DA06/0249 for a three storey dwelling at Lot 24 DP 3123, No.76 Charles Street Tweed Heads be approved subject to the following conditions:-**

GENERAL

1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent. [GEN0015]
2. 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. [GEN0045]
3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0115]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. 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.

[PCC1145]

5. 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:
 - (a) 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
 - (b) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and

- (c) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
- (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) 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.

[PCW0775]

PRIOR TO COMMENCEMENT OF WORK

6. 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
 - (c) 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
 - (d) 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.

[PCW0215]

7. 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

[PCW0245]

8. 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.

[PCW0255]

9. 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.

[PCW0225]

10. 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 Principal Certifying Authority prior to commencement of building works.

[PCW1005]

11. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act 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.

[PCW0985]

12. Residential building work:

(a) 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:

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

- * in the name and licence number of the principal contractor, and
- * the name of the insurer by which the work is insured under Part 6 of that Act,

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

- * the name of the owner-builder, and
- * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

(b) 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.

[PCW0235]

DURING CONSTRUCTION

13. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.

[DUR2705]

14. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Councils adopted Design and Construction Specifications, DCP16 and DCP47 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

15. 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 was made).

[DUR0375]

16. 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.

[DUR2185]

17. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

18. 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.

[DUR0395]

19. 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.

[DUR0405]

20. 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 in accordance with WorkCover 2000 Regulations.

[DUR0415]

21. 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 General Manager or his delegate.

Such to specifically include the following:

- (a) 150 millimetres thick reinforced with F72 Mesh for residential development or F82 mesh for Commercial/Industrial Development

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 works and its reconstruction.

Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DUR0065]

22. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

23. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

24. 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.

[DUR0245]

25. 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.

[DUR2485]

26. Plumbing

- (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.

[DUR2495]

- 27. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.**

[DUR1945]

- 28. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.**

[DUR2515]

- 29. 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.**

[DUR2545]

- 30. The finished floor level of the building should finish not less than 225mm above finished ground level.**

[DUR0445]

- 31. 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:-**

- * 45⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50⁰C in all other classes of buildings.

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

[DUR2555]

- 32. 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 in accordance with Councils adopted Design and Construction Specifications**

prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

- 33. 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.**

[POC1045]

- 34. A person must not commence occupation or use of the whole or any part of a new building or structure (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).**

[POC0205]

- 35. 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.

[POC0265]

- 36. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.**

[POC0435]

USE

- 37. The building is to be used for single dwelling purposes only.**

[USE0505]

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

[USE1245]

REPORT:

Applicant: Mr M J Baumann
Owner: Mr M J Bauman
Location: Lot 24 DP 3123 No. 76 Charles Street, Tweed Heads
Zoning: 2(a) Low Density Residential
Cost: \$350,000

BACKGROUND:

An application has been received seeking approval for a three (3) storey dwelling at the abovementioned land.

The subject land has frontage to Charles Street and is vacant. The land falls steeply from the street. The land is bound by Charles Street to the north and similar sized residential lots to the east, west and south each containing a dwelling.

A sewer main also passes through the site.

The proposed building has two (2) habitable floors but is three (3) storey by definition. The lower floor includes 3 bedrooms, laundry, rumpus/media room, bathroom, gym and a deck. The upper floor plan includes a bedroom, lounge, garage, kitchen, dining and family room and a deck.

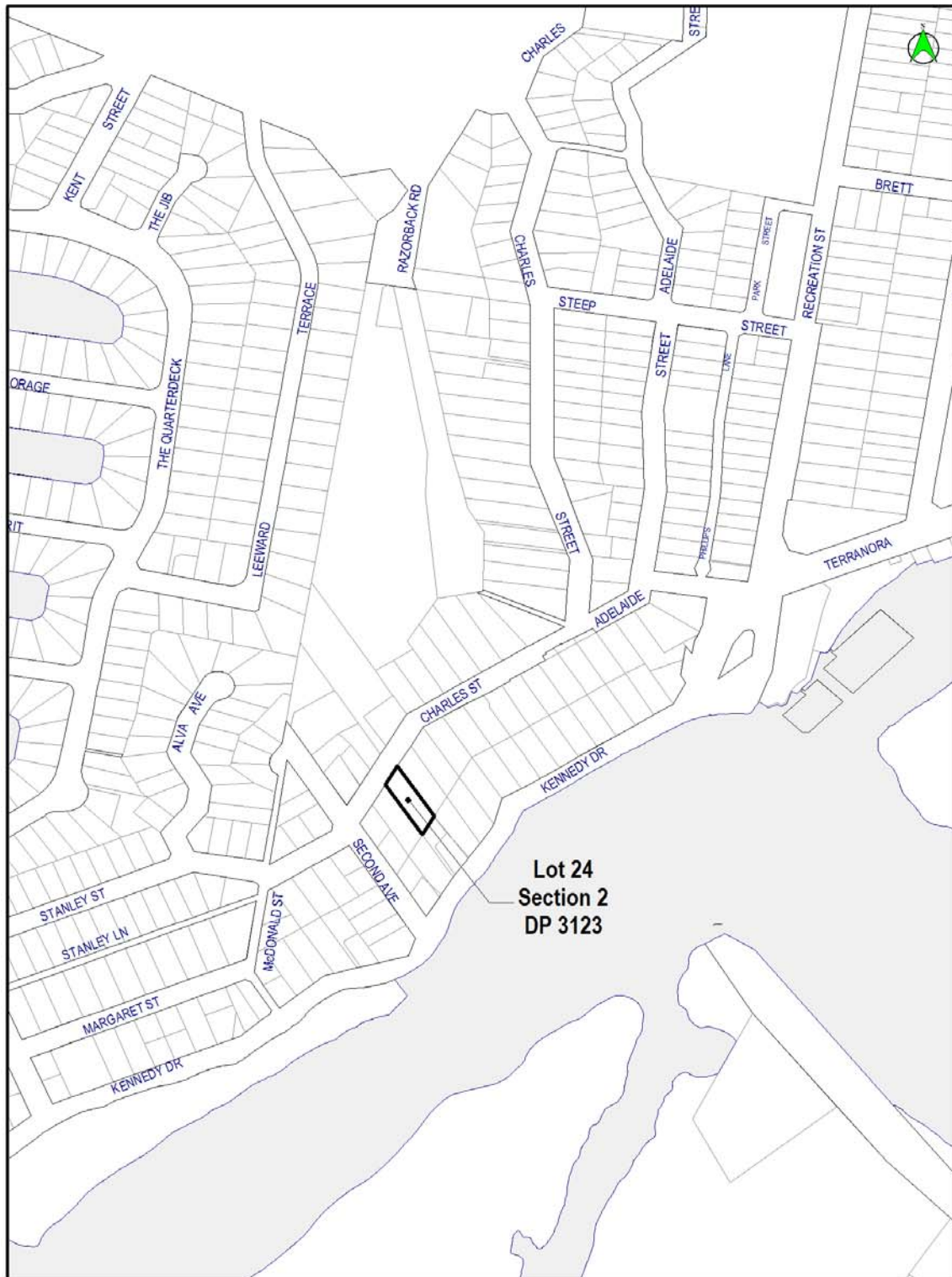
The third storey is the foundation area below the building as the height from the ground level to the underside of the floor above exceeds 1.5m high. This is largely a result of the topographical features of the site.

The subject site is affected by a two (2) storey height limit and as the building is three (3) storeys it does not comply. However in this regard the applicant has submitted a State Environmental Planning Policy (SEPP) No.1 objection contending this development standard to be unreasonable and unnecessary under the circumstances, which will be discussed further in this report.

Adjoining and adjacent property owners were notified and no submissions were received.

It should also be noted that Council has previously approved a three (3) storey dwelling on the subject land by DA02/1811 approved 22 January 2003.

SITE DIAGRAM:



**Lot 24
Section 2
DP 3123**

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DO NOT SCALE
COPY ONLY - NOT CERTIFIED
P.O. Box 815
Murrumbidgee NSW, 2484
Tel: (02) 6670 2409
Fax: (02) 6670 2483

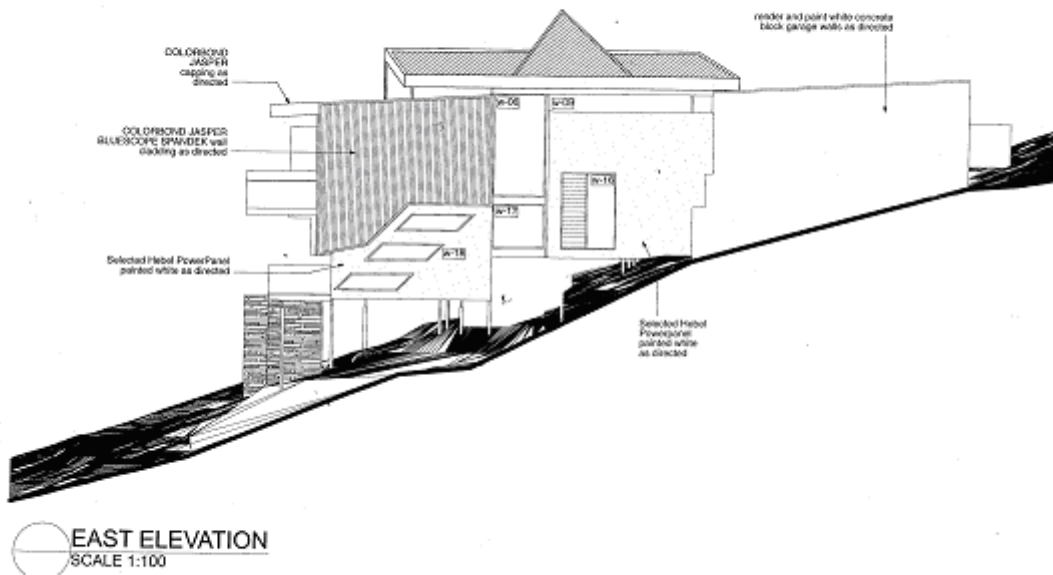
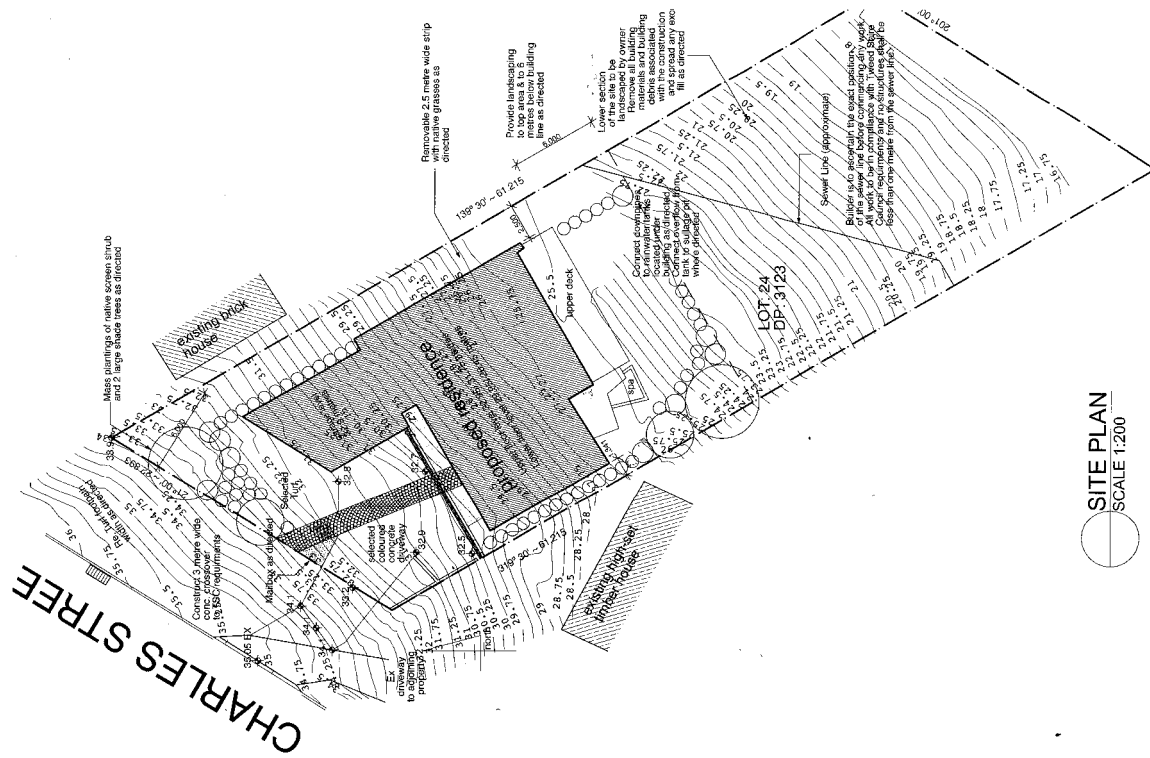
Tweed Shire Council
Lot 24 Section 2 DP 3123,
No. 76 Charles Street, Tweed Heads

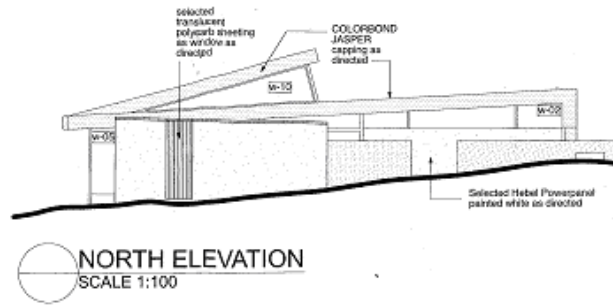
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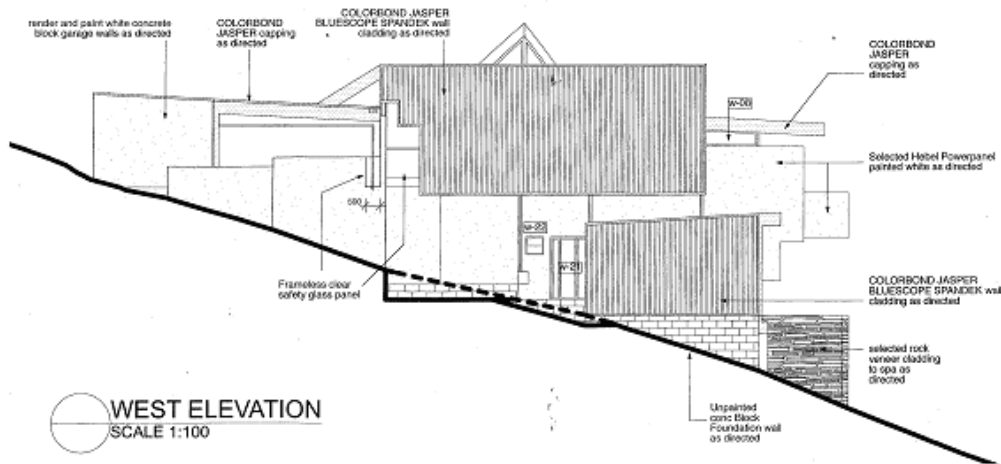
STRATEGIC PLANNING UNIT
Site Plan

Site and Elevation Plans

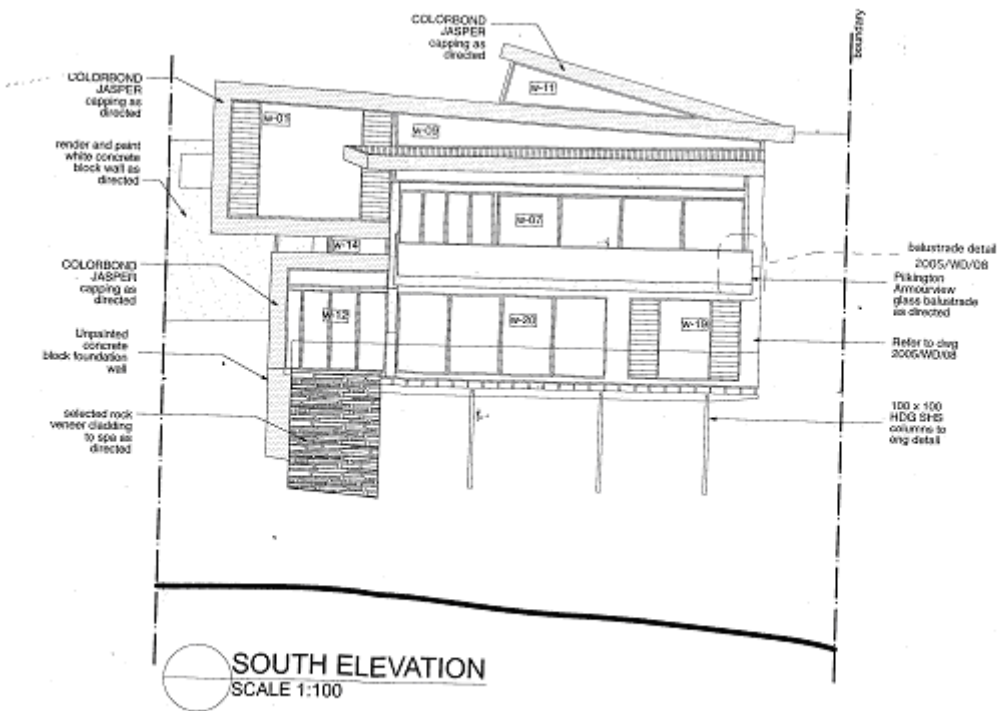




NORTH ELEVATION
SCALE 1:100



WEST ELEVATION
SCALE 1:100



SOUTH ELEVATION
SCALE 1:100

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

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

Tweed Local Environmental Plan 2000

The subject land is zoned 2(a) low density residential within which dwellings are permissible subject to Council's consent.

Clause 16 – Heights of buildings

As mentioned above the land has a two (2) storey height restriction and as the building is three (3) stories it does not comply. However the applicant has submitted a submission under SEPP No.1 contending that the development standard provided by clause 16 of the TLEP 2000 to be unreasonable and unnecessary under the circumstances, which will be discussed below.

North Coast Regional Environmental Plan 1988

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

State Environmental Planning Policies

SEPP 1 – Development Standards

A SEPP 1 objection has been submitted contending that the development standard provided by clause 16 of the TLEP 2000 to be unreasonable and unnecessary under the circumstances. Clause 16 of the TLEP 2000 identifies that the site and locality has a two (2) storey height limit. The subject building is three (3) storeys and does not comply.

The applicant contends that the development standard provided by clause 16 of the TLEP 2000 to be unreasonable and unnecessary for the following reasons: -

- “1. The property is steep and falls from Charles Street at a rate of 1 in 3. There is a two storey height limit on the property, which we have tried to comply with in our design. However, the resultant design requires too many steps within the building making it unsuitable for habitation and too expensive to build.
2. *The property has an existing development consent No. DA02/1811 for a detached dwelling, which was granted on 22 January 2003. This design does not comply with the two storey height limit. Our proposed design whilst still non-compliant with the height limit is a significant improvement in this regard.”*

The arguments put forward by the applicant to justify the variation is reasonable. In addition the objective of clause 16 of the TLEP 2000 is: -

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

In this regard it is considered that the proposal largely complies with the objective of clause 16 of the TLEP 2000. The scale and height of the development is appropriate in this location. An inspection of the locality has shown that other three (3) storey dwellings have been approved and recently constructed which have similar or greater bulk, scale and height.

In addition the environmental characteristics of the land have largely resulted in the building and other approved buildings in the street being three (3) storeys in height. The land falls steeply and unless significant earthworks were undertaken, which is not desirable it would be difficult to comply.

Views at the locality are orientated towards the east and south where panoramic views are available. From the street the building will appear to be single storey as it is low set. Subsequently views from the properties on the northern side of the street, which are on higher ground, will not be significantly compromised. This is similar for the adjoining properties to the east and west, which will still enjoy ample views to the south and east.

Overshadowing is also considered to be negligible.

As Council has approved a three (3) storey dwelling on the site that is considered to be of a similar scale and height it would be unreasonable not to support the proposal.

Therefore under the circumstances discussed above it is considered that the SEPP 1 objection should be supported to vary clause 16 of the TLEP 2000.

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

N/A

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

It is considered that the proposal is generally consistent with the relevant provisions of the DCP's applying to the land.

DCP 18 – Tweed Heads

This plan identifies that the locality has some geotechnical difficulties and the applicant was requested to provide a geotechnical report/assessment for the site. This report has been received which indicates that the site is suitable for the development subject to a suitable engineering design.

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

N/A

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

It is considered that the proposed development is not likely to create any significant adverse negative impacts on both the natural or built environments of the locality. Minimal physical disturbance is envisaged during construction, which is expected to be short term and suitably protected by erosion and sedimentation control measures where necessary. No clearing of significant vegetation likely.

Proposed vehicular access arrangements are satisfactory and the section 138-driveway application has been separately approved.

The design, scale and appearance of the building are considered to be reasonable and are generally consistent with the existing and desired built form and character of the locality and also promotes a positive contribution to the streetscape.

It is also considered that the proposal will not significantly detract on the residential amenity of the locality, particularly for the neighbours in regard to overshadowing and privacy. View loss is considered to be negligible, as previously discussed above. Adjoining properties will still enjoy reasonable sunlight throughout the day. Privacy has been preserved by restricting the number of openings to the side elevations and decks have been located to the rear of the building where views and vistas are available to the south and east.

(c) Suitability of the site for the development

It is considered that the site is suitable for the proposed development. The land was created for residential purposes and has historically been used for residential purposes, which is consistent with the locality.

The environmental features of the land being steep have resulted in the building being three (3) storeys, which is consistent with other three (3) storey dwellings in the street. Rather than undertake significant earthworks with a slab on ground to make it two (2) storey compliant it would be preferable to have minimal earthworks and the use of posts as proposed is a reasonable compromise.

The building has been suitably sited and complies with minimum setback requirements.

The applicant proposes to direct Stormwater to the on site rainwater tanks and overflow from tank to a sullage pit, where directed.

A sewer main passes through the site and the building is well clear of this.

A geotechnical investigation of the site has confirmed that the site is suitable for the proposed development.

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

Adjoining owners notified and no submissions received.

(e) Public interest

Under the circumstances it is considered that the proposal will not be contrary to the public interest.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

It is considered that the SEPP 1 submission contending that the development standard provided by clause 16 of the TLEP 2000 to be unreasonable and unnecessary under the circumstances, as discussed in this report, is reasonable and should be supported.

The proposal is not likely to create any significant adverse impacts on both the natural or built environments of the locality and is generally consistent with other approved three (3) storey dwellings in the street. The residential amenity of the locality, particularly for the neighbouring properties is not likely to be significantly compromised. Adjoining owners were notified and no submissions were received.

As Council has previously approved a similar three (3) storey dwelling (DA02/1811) on the site it would be unreasonable not to support this proposal.

Subsequently it is considered that the development should be conditionally supported.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

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P5 [PD-PC] Development Application DA05/1134 for a Public Market at Lot 2 DP 881169, Gollan Drive Tweed Heads West

ORIGIN:

Development Assessment

FILE NO: DA05/1134 Pt1

SUMMARY OF REPORT:

Council at its meeting of 23 May 2006 resolved as follows: -

"RECOMMENDED that this item be deferred to allow the Director Planning & Development, Mr Noel Hodges to meet with the PCYC market convenors and Kerry Askew (Markets Down Under) to discuss the social and economic impact of the establishment of a market within the grounds of the Seagulls Leagues Club, Gollan Drive, West Tweed Heads."

As a result of this resolution a meeting was held on Monday 5 June 2006 between the Tweed PCYC market convenors, representatives of the applicant (Markets Down Under) and Council staff to discuss the social and economic impact of the establishment of a market within the grounds of the Seagulls Leagues Club.

The main concern raised by the PCYC is that the Seagulls markets would be held each Sunday, the same day as the PCYC markets. As the main source of income for the PCYC is through the stallholder's fees, the potential loss of stallholders to the Seagulls markets is of a concern to the viability of the PCYC markets. The loss of this income would in turn impact upon funding for community based activities. It was suggested that perhaps the Seagulls markets could operate on the 2nd and 4th Sundays of the month, while the PCYC markets operate on the 1st and 3rd Sunday.

The applicants (Markets Down Under) do not believe that they will impact upon the PCYC, as they propose a boutique market focusing on "arts and crafts" as opposed to "trash and treasure" stalls at the PCYC markets. In any event, they thought that customers were likely to frequent both markets rather than just one or the other.

The outcome of the meeting was:

1. Markets Down Under are prepared to have as a condition of consent that **no** "trash and treasure" stalls are to operate at the Seagulls markets. An appropriate condition has been included in the previously recommended conditions of consent.

2. Markets Down Under is also prepared to assist with marketing for the PCYC markets. This would be in the form of supplementary advertising for PCYC in the marketing of the Seagulls markets and the Murwillumbah Cottage Markets, in an effort to promote all three markets in the area. Such an agreement would need to be arranged between the two parties

As no satisfactory agreement could be reached between the two parties, it was recommended by Council staff that the above two outcomes be put forward to the Planning Committee for assessment, allowing all parties to address the Committee again if they so choose, prior to a final determination being made on the application.

In addition to the above, it should be noted that a written submission dated 9 May 2006 was lodged by the applicant, objecting to the recommended 12-month period of consent. They asked that the initial period of consent be expanded to 2yrs and 9 months to allow for the proper establishment of the Seagulls markets. The applicant also submitted a further written submission dated 25 May 2006, objecting to the stall holders setup time of 7.00am and have requested that this condition be amended to allow a setup time of 6.30am each Sunday morning.

The issues relating to the length of consent and setup times have been previously addressed in the initial report to the Planning Committee. The recommendations in this regard have not been amended.

Whilst the report remains unchanged, the recommendation has been amended to include the additional condition regarding the restriction of stall types at the Seagulls Market.

RECOMMENDATION:

That Development Application DA05/1134 for a public market at Lot 2 DP 881169 Gollan Drive, Tweed Heads West be approved subject to the following conditions:

GENERAL

1. **The development shall be completed in accordance with the Statement of Environmental Effects and the Market Layout Plan titled the 'Seagulls Markets Amended Plan' dated March 2006 as submitted to Council on 9 March 2006, except where varied by the conditions of this consent.** [GEN0005]
2. **Advertising structures/signs to be the subject of a separate development application, where statutorily required.** [GEN0065]
3. **This consent is limited to a period of twelve (12) months from the date of consent. Any requests to vary this condition must be lodged at least two (2) months prior to expiry of the twelve (12) month period.**

4. The market is to be conducted each Sunday only.
5. The hours of operation of the market shall be strictly between 8.30am and 2.30pm. The activity of any market stall operators engaged in the setting up of stalls before 8.30am shall be strictly controlled by the market management to ensure that such activity does not result in the creation of offensive noise or nuisance to the occupants of any adjoining residential area or premises. Under no circumstances shall any activities including the arrival of stallholders associated with the operation of the market commence before 7.00am. All stallholders must vacate the site by 3.30pm.
6. There are to be no "trash and treasure" stalls operating at the market. [GENNS01]
7. No mechanical rides or other entertainment devices are to be installed on the site in conjunction with the operation of the market without the prior approval of Council's Director Environment and Community Services or WorkCover NSW being obtained beforehand.
8. Two (2) portable toilets are to be installed on the site's western boundary, for use of staff and stallholders throughout the duration of the market setup period. The toilets are to be removed on the day of the market after the market has ceased.
9. Access to male, female and disabled toilet facilities within Seagulls Club shall be available to market patrons and stallholders during Club opening hours. [GENNS02]
10. The market stalls are not to occupy more than 137 existing car parking spaces, as nominated on the approved Market Layout Plan.
11. No other permanent or temporary structures are to be erected within the car park area, without prior consent from Tweed Shire Council.
12. Subject to endorsement by the Local Traffic Committee, 'No Stopping' signs (only to apply on market days) may be erected from Albatross Circuit to 100 metres south of the Club access driveway on the west side of Gollan Drive and similar on the east side of Gollan Drive (at the market operator's expense) if parking issues on Gollan Drive arise.
13. The placement of any signage associated with the markets within any public road reserve is prohibited. Any signs erected contrary to this condition will be removed at the cost of the market operators. [GENNS03]

PRIOR TO COMMENCEMENT OF WORK

14. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[PCW1075]

15. Full details of the Public Liability Insurance Policy shall be provided to Council prior to the operation of the first market on the site. Such Public Liability Insurance Policy shall be to a minimum value of \$10,000,000.

16. Prior to the operation of the market, Council's Director Environment and Community Services shall be provided with the following information for consideration and approval:

- a. The number and location of all stalls that will require electrical connections and the number and locations of all stalls that will require the use of cooking and/or heating appliances;
- b. The number and type of all fire fighting services (fire extinguishers etc) that is to be provided at the market;
- c. A plan showing the location of all such fire fighting services relative to the locations of all stalls indicated in (a) above;
- d. Confirmation that all fire fighting services have been serviced in accordance with the provisions of the relevant Australian Standard relating to the servicing of such fire fighting services; and
- e. Confirmation that the location and type of fire fighting services has been provided to all stallholders in (a) above.

[PCWNS01]

USE

17. 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.

[USE0125]

18. The use being restricted to the area designated on the approved market layout plan.

[USE0415]

19. All loading/unloading to take place within the boundary of the subject property.

[USE0525]

20. The disposal of all wash water, oil, grease or other pollutants from the business shall be disposed of to the satisfaction of Council's General Manager or his delegate.
[USE1055]
21. Access to the First Aid Station shall be available at all times during which the market is operating. The location of the First Aid Station shall be notified to all stallholders upon their arrival.
22. Appropriate arrangements to the satisfaction of Council's Director Environment and Community Services shall be carried out to ensure that traffic is managed effectively during the operation of each market at the site. Such arrangements shall include the protection and safety of pedestrians and patron access to the site.
23. All electrical leads and installations are to be protected against access and undue interference by any patrons accessing the market or members of the public.
24. The use of amplified public address systems by stallholders shall not be permitted where such use is likely to cause offensive noise or nuisance to the occupants of adjoining residential areas or premises. Any stallholders using such public address systems shall cease their use upon receiving any direction from a Council Officer.
25. Any amplified music at the market shall only be played at a level and volume that does not result in the creation of offensive noise or nuisance to the occupants of adjoining residential areas or premises. Any amplified music being played at the markets shall cease to be played at any direction from a Council Officer being given to the person responsible for such music being played or to the market management.
26. All waste material or items generated from the operation of the market are to be removed from the site and disposed of to the satisfaction of Council's Director Environment and Community Services at the conclusion of each market.
27. The sale of food at the market shall be in compliance with Council's adopted North Coast Regional Code for the Sale of Food at Markets and One Day Events.
28. 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.
[USENS01]

REPORT:

Applicant: Markets Down Under Pty Ltd
Owner: North Sydney Leagues Club Limited
Location: Lot 2 DP 881169 Gollan Drive, Tweed Heads West
Zoning: 6(a) Open Space
Cost: \$100

BACKGROUND:

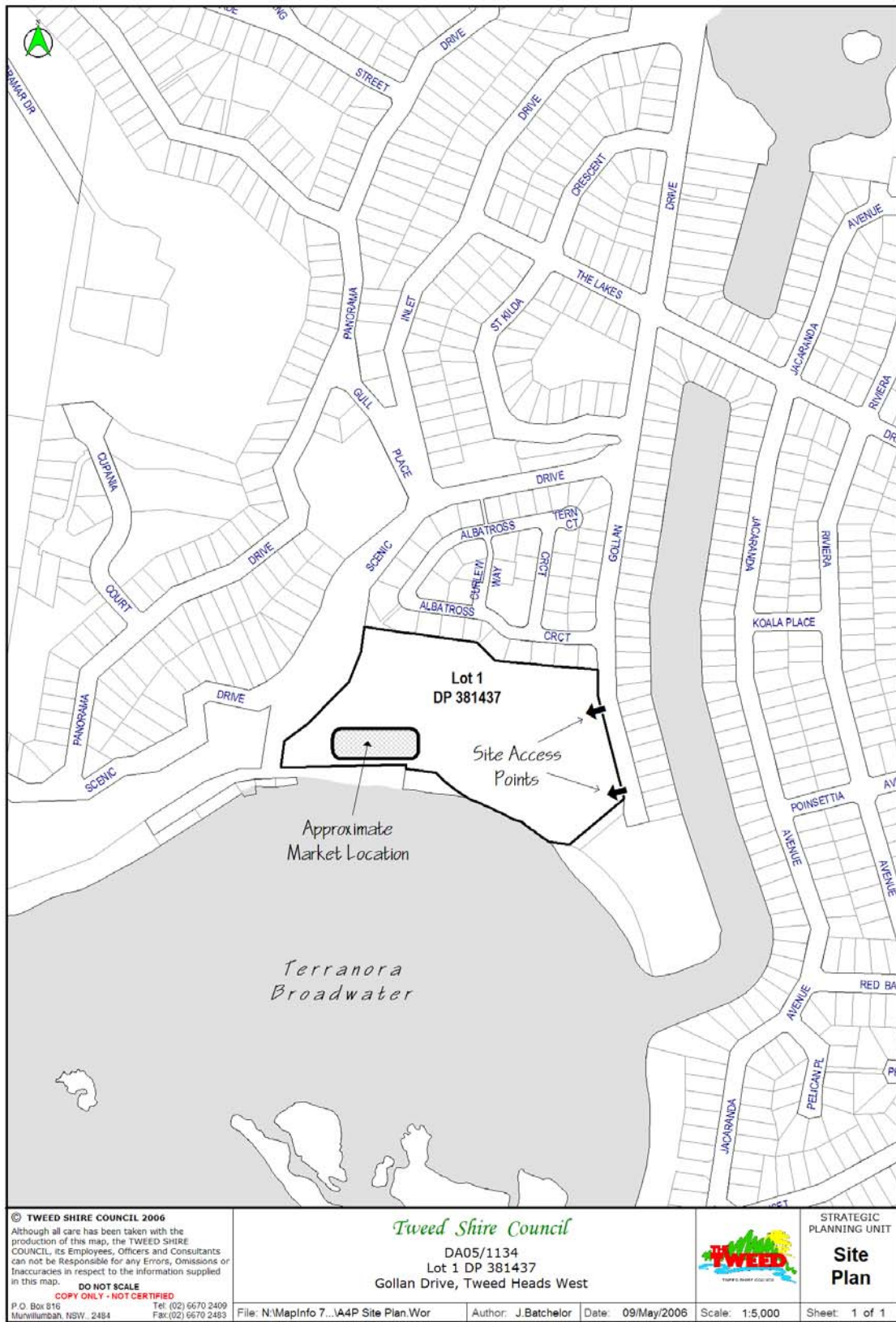
Council is in receipt of a development application that seeks consent to establish a market each Sunday within the grounds of the Seagulls Leagues Club, Gollan Drive, West Tweed Heads. The application was originally for 150 stalls to be located within the existing grassed overflow parking area to the north of the site, adjacent to a residential estate. However, the application was subsequently amended to that of 110 temporary stalls, to be located at the rear car parking area in the south western portion of the site, when traffic, parking and noise concerns were raised with the original site.

The proposal wishes to open the markets to the public between the hours of 8.00am and 2.00pm, with stallholders setting up from 6.00am and vacating the site prior to 3.00pm. It is proposed that the stalls will offer goods such as: arts; crafts; fresh produce; variety; and 'new age' items. Food vans will also be on site. The proposal also includes free entertainment provided by the market organisers from 9.00am. This will include: balloon artists; magicians; clowns; mimes; and roving singers / musicians.

The applicant has proposed that the consent be limited to only operate for a period of 2 years and 9 months, in line with the available lease agreement with the Seagulls Club for the use of the site. After such time, it is intended that the applicant may apply to extend both the development approval and lease agreement.

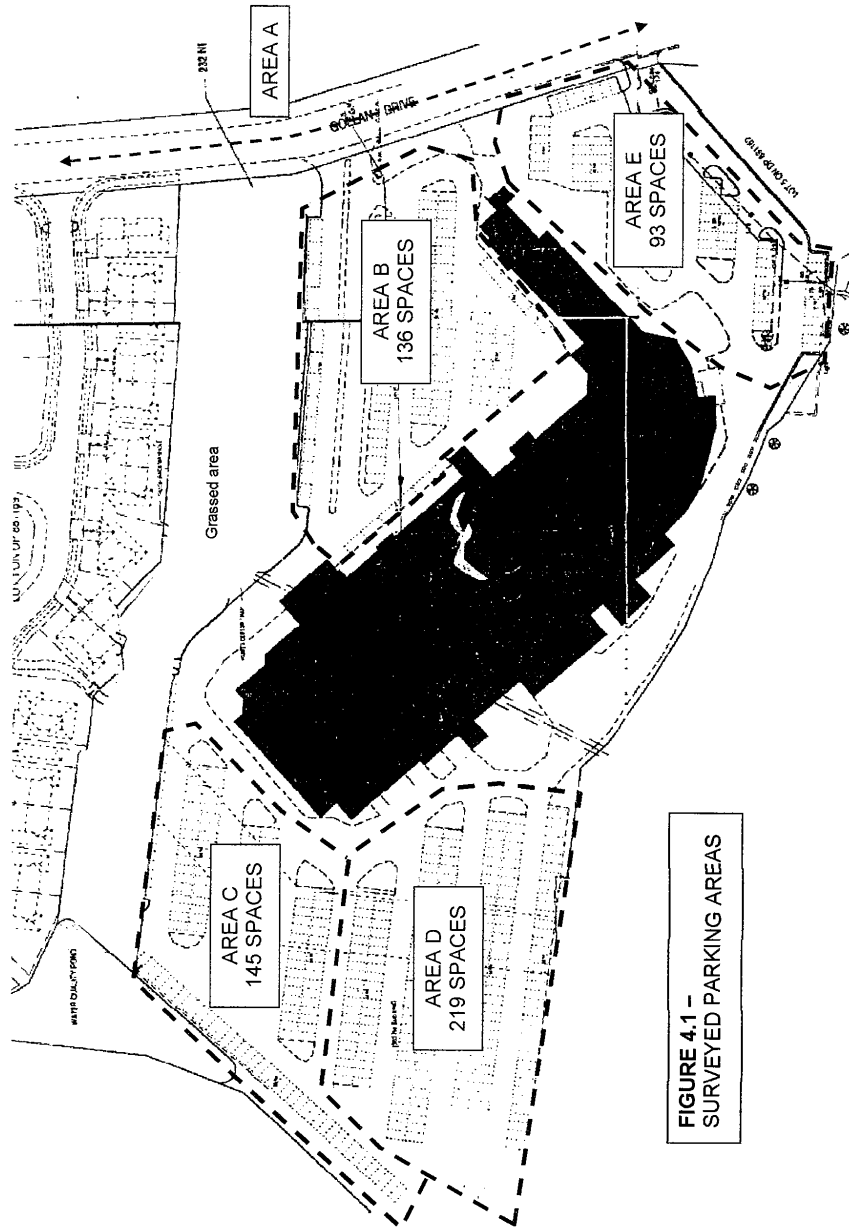
The immediate locality surrounding the subject site is essentially residential in character, with a mixture of older two storey unit developments as well as single dwellings. The properties adjoining the northern boundary of the site consist of residential dwellings, with the grassed overflow parking / buffer area between the residences and the car parking hardstand surrounding the Seagulls Club building. The area to the south of the proposed market location consists of a public foreshore reserve fronting the Terranora Broadwater.

SITE DIAGRAM:



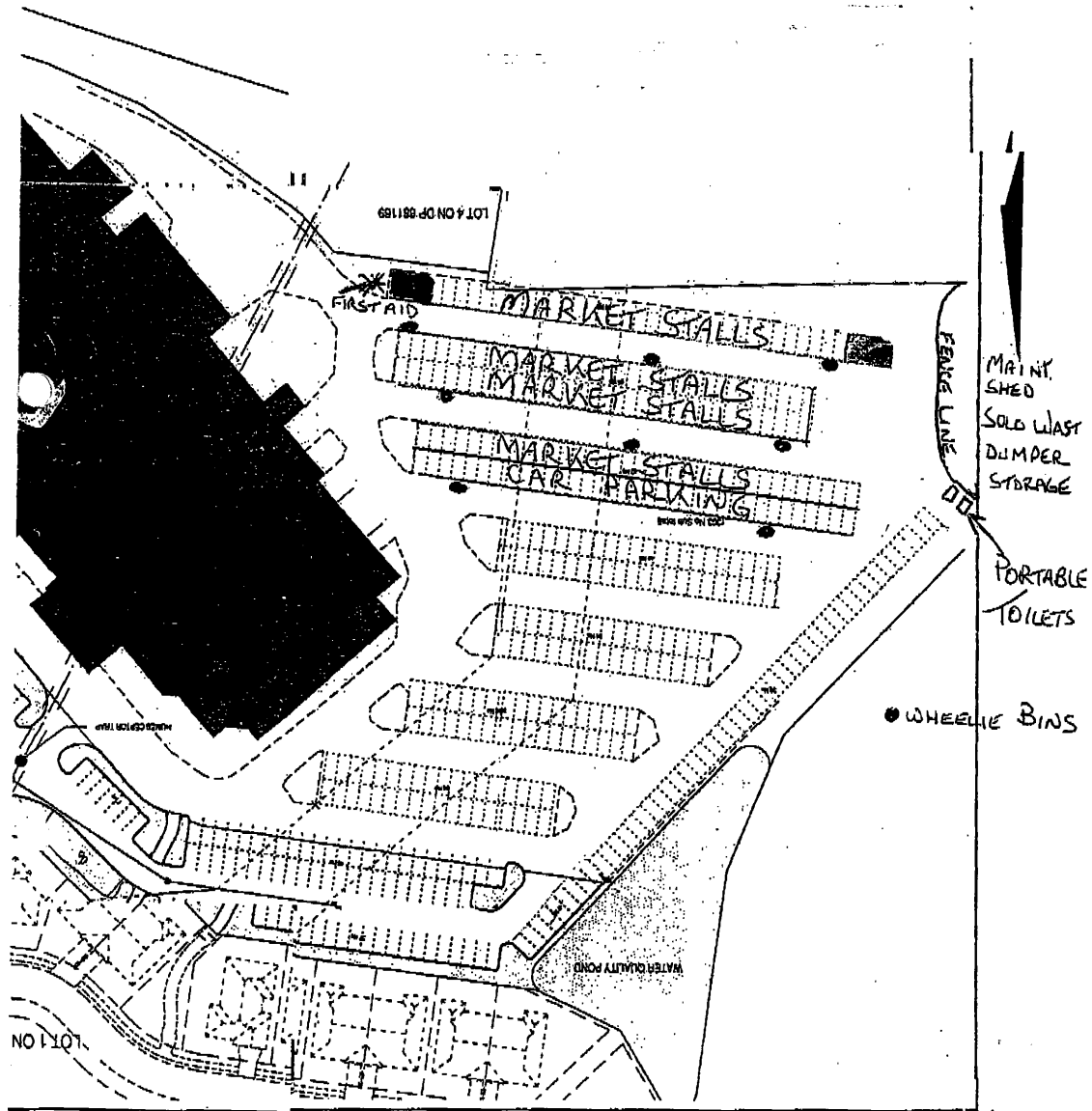
LOCALITY PLAN:

Skildtraffic



Page 4

MARKET LAYOUT PLAN:



Seagulls Markets Amended Plan
March 2006

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 6(b) Recreation under the Tweed Local Environmental Plan 2000. The primary objective is to:

- *Designate land, whether in public or private ownership, which is or may be used primarily for recreational purposes.*

The secondary objective is to:

- *Allow for other development that is compatible with the primary function of the zone.*

The proposed markets are Permissible with Consent in the 6(b) zone, with the proposal being considered to be consistent with the zone objectives.

Clause 15 of the LEP requires essential services to be available to the site prior to consent being granted for the development. The subject land has the essential services.

Clause 17 of the LEP requires social impact assessments for development where it is considered that the development may result in a social impact. Markets by definition do not fall into a category under Development Control Plan No. 45 – Socio-Economic Impact Assessment, and as such the applicant has not undertaken a Social Impact Assessment, apart from the provision of Council's standard checklist of social and economic issues. However, the issue of economic / social impact has been addressed later in this report.

Clause 34 of the LEP refers to flooding. Although the subject site is flood liable, the proposed development does not involve any permanent structures, and in the event of a flood, the market will not operate.

Clause 35 of the LEP requires acid sulfate soils management in relation to development where such is likely to be impacted upon. Although the subject site is classified as Class 2 ASS, the proposed development does not incorporate any works below the ground. Therefore, an ASS Management Plan is not required.

Clause 39A of the LEP refers to Bushfire Prone Land. The western portion (proposed market location) of the subject site is identified as being bushfire prone. As such, the proposed development was forwarded to the Local Branch of the Rural Fire Services for comment. The advice provided by the RFS was that the proposed development raised no concerns or special consideration in relation to bushfire matters.

North Coast Regional Environmental Plan 1988

Clause 15 of the NCREP applies to land adjoining a waterway. As the proposed development incorporates temporary structures on the existing Seagulls Club car park, it is not envisaged that the Markets will impact upon the local rivers, streams and wetlands. The proposal is considered to comply with the relevant provisions of Clause 15 of the NCREP 1988.

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

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

Clause 81 of the NCREP applies to development within 100m of the ocean or other substantial waterway. As noted above, the proposed development being temporary in nature and located on the existing car park is not expected to impact upon the adjacent waterway. Therefore, the proposal is considered to comply with the relevant provisions of Clause 81 of the NCREP 1988.

State Environmental Planning Policies

State Environmental Planning Policy No. 71 – Coastal Protection

Although the subject site is partly located within a sensitive coastal location, being land within 100m of the water's edge of a coastal lake, referral to the Department of Planning was not required for the proposed development.

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

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

The draft planning instruments that have been advertised do not contain provisions which affect the proposed development. No further assessment is required.

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

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

Development Control Plan No. 2 is applicable to the proposed development, with the DCP requirements being based on a *merit assessment* of the proposal. Council's Development Assessment Engineer has conducted a

detailed assessment of the parking requirements for the Markets, incorporating parking requirements from the RTA's Guide to Traffic Developments publication.

As noted above, the original proposal for the Markets incorporated 150 stallholders. In terms of traffic generation and parking provisions, the proposal was not initially supported by Council due to there being: insufficient parking available on-site; potential impact to the local road network; and insufficient capacity for the Kennedy Drive catchment area.

After discussion with Council in regard to the outstanding issues, the applicant amended the proposed development to that of only 110 stalls and provided a detailed traffic analysis in order to alleviate any further traffic concerns, a summary of which is provided below.

The RTA Guidelines recommends that markets provide a desirable parking capacity of 2.5 spaces per stall, plus provision for stallholder's vehicles. Although the applicant's traffic consultant argues that these figures are more... *'appropriate for metropolitan areas exposed to high volumes of passing traffic'*, the RTA desirable parking rates have been adopted for the proposal.

Using survey results of existing markets operated by the applicant, the traffic report concluded that stallholders have an average of 1.1 spaces per stall. Council's Development Assessment Engineer accepted this figure.

Table 1 - Car parking analysis

Total No. Stalls	Parking lost due to market	Parking required by stall holders (1.1/stall)	Parking required by customers (2.5/stall)	Parking required by club (@ expected peak time, 10.00-10.30am)	Total parking available on site	Total Demand (excess)
110	137	121	275	130*	811	663 (+148)

* peak club demand at close of market (2.00pm) = 239

Council's Development Assessment Engineer has determined that... *'as a result the site would maintain an excess of 148 spaces. When viewing the parking demand graph the grassed overflow parking area shall be required to provide a shortfall of 65 parking spaces over a period of 1.25 hours from 10am to 11.15am'*. Appropriate conditions of consent have been applied, limiting the markets to the use of only 137 car parking spaces (as nominated on the market layout plan) during the operation of the market, in an effort to not exceed the capacity of the Club's car park, thereby reducing the potential for any car-parking overflow into the local road network that may impact upon local residents. In this regard, Council's Traffic and Transport Engineer has

recommended the placement of 'No Stopping' signs along either side of Gollan Drive (to only apply on market days), subject to endorsement by the Local Traffic Committee.

As such, the amended proposal of only 110 market stalls is considered to be acceptable in terms of car parking demands and on-site parking provisions. As noted elsewhere in this report, the proposed limited consent will allow Council to assess the impact of the development, with particular focus on the impact to the car parking provisions available on-site and any overflow onto the nearby local road network.

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

The subject site is flood liable, with the existing ground level of approximately RL 1.5m AHD in the proposed market location, which is below the adopted design level for Tweed Heads of RL 2.65m AHD. As the proposed development is temporary in nature, is only proposed one day a week and does not involve any permanent structures, no further action is required in this regard. In any event, the applicant has noted that the proposed markets would not be operating during a flood event.

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

NSW Coastal Policy

The subject land is within the coastal policy area. The proposed development is consistent with the objectives strategies and actions of the policy.

Bushfire

As noted above, the western portion (proposed market location) of the subject site is identified as being bushfire prone. As such, the proposed development was forwarded to the Local Branch of the Rural Fire Services for comment. The advice provided by the RFS was that the proposed development raised no concerns or special consideration in relation to bushfire matters. No conditions consent have been applied in this regard.

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

Traffic Generation

The original proposal of 150 market stalls raised serious concerns in terms of traffic generation, with the proposal resulting in much higher traffic generation than that provided by the applicant's original traffic assessment. The applicant was advised that the proposal would not be supported in this form, given the potential impact upon the local road network, in particular the intersection of Gollan Drive and Scenic Drive, and there being insufficient capacity for the Kennedy Drive Catchment area.

As a consequence, the applicant amended the proposal to that of only 110 market stalls. The amended detail lodged by the applicant was forwarded to Councils Traffic and Transport Engineer for comment. The following response was received:

'The traffic generated by the development at first would appear to be 'caught' by the Council's traffic threshold that prevents further development west of Cobaki Bridge (Kennedy Drive). However, the proposal only generates traffic on Sundays which carries much less traffic than the ADT (Average Daily Traffic) which Council's restriction is based upon.

When the traffic generation from the 110 stalls of approximately 2000 vehicles/day is added to the Sunday 24hr volumes, it is still lower than the ADT (which is lower than the threshold because some approved development has not taken place yet), and therefore does not result in the volume threshold being exceeded.

A greater impact occurs in Gollan Drive as the Sunday traffic volumes double from 2335 vpd to 4335 vpd. Whilst Gollan Drive has a wide pavement which can easily carry this traffic, the amenity of residents on the eastern side will be affected.

To minimise noise and congestion from vehicles parking on Gollan Drive, consideration should be given to conditioning any consent that may be issued to erect no 'stopping signs' from Albatross Circuit to 100 metres south of the Club access driveway on the west side of Gollan Drive and similar on the east side of Gollan Drive if parking issues on Gollan Drive arise (only to apply on market days).

The intersection of Gollan Drive and Scenic Drive has recently been upgraded to provide channelised turning movements into and out of Gollan Drive. The submitted SIDRAA analysis indicates that the worst degree of saturation is for right turns out of Gollan Drive of 0.3, which is well below capacity of 1.0'.

Council's Development Assessment Engineer has provided suitable conditions of consent in this regard.

Noise Impact

The original location of the proposed markets, being on the grassed overflow parking area, raised concern with regard to potential noise impact to the adjoining residents to the north. With 150 stalls to be setup and operating between the hours of 6.00am and 3.00pm every Sunday, the original proposal was considered to have an unacceptable level of impact to local residents.

However, as noted above, the market size and location has since been amended to that of 110 stalls located in the south-western corner of the site,

some 110m to the south of the nearest residential dwelling. Council's Environment and Health Unit has assessed the amended development and provided the following comment:

'This new market location is a significant distance from neighbouring residents, particularly those located along Albatross Circuit who would have been seriously impacted by noise from the market setup and operation with the previous design along the grassed overflow car parking area.

It is also unlikely that residents high along Scenic Dr and Panorama Dr will be impacted. Large compressor units are also noted on the roof of Seagulls Club at the south of the site that creates significant noise from the site. It is unlikely that the noise from the proposed market would be much louder than this noise source.

Free public entertainment will include balloon artists, magicians, clowns, mimes, roving singers/musicians, low-level amplified music, children's rides, puppet shows, and passive exercise classes (Tai Chi, Yoga etc).

With regards to the hours of setup and operation, as the toilet facilities will only be available from 8.30am, and that the market will operate each Sunday within a primarily residential area along a no through road, it is recommended that the market be set up no earlier than 7am, with trading commencing by 8.30am. To allow the same length of time for the market to operate, trading shall cease by 2.30pm with all market stallholders leaving the site by 3.30pm'.

The General Manager of Seagulls has advised that the Club has a decibel meter to monitor noise levels emanating from the Club. This equipment will be made available to the management of the markets in order to monitor noise levels associated with the markets.

Social / Economic Impact

Concern has been raised as to the social and economic impact of the proposed development upon existing markets in the Shire, with particular regard the community based PCYC markets in Recreation Street, Tweed Heads held on the same day.

The following comment was provided by Council's Strategic Planning Unit in terms of economic impact from the proposal:

'The proponents have identified in their letter of 13/4/06 that the proposed markets will not directly impact upon existing retail establishments. That is true, as there is no element of "impulse / convenience" retailing associated with the markets. Their marketing is usually based on the concept selling unique goods that are either hand or cottage crafted or sale of second hand goods. The only direct competition they would provide is with the immediate surrounding retail

establishments for the sale of food and beverages for immediate consumption. This is not an immediate concern in this instance as Seagulls are the landowners and have endorsed the proposal. The retail shops on Scenic Drive are considered too far to offer any direct competition.

A submission was made from the Tweed Heads PCYC identifying that the direct competition from this proposed market could cause the closure of their market held at Tweed Heads every Sunday. The proposed Seagulls markets most likely will produce direct competition as a result of their stall mix and trading times (every Sunday). Competition, or threat of competition, should not be a determining factor in this instance, as there would be no net decrease in the amenity provided to the community.

This development application should not be refused on the economic grounds of competition, or threat of competition and the subsequent impact on amenity'.

Council's Strategic Planning Unit also provided the following comment in terms of social impact from the proposed development:

'There may be significant effect on the viability of the existing weekly Sunday PCYC Market at Recreation Street.

The PCYC states that its proceeds from the markets are: 'the major source of income for the Youth Club', and that the market also pays TSC \$5,500p.a. in fees for the use of the Reserve. 'Without the markets income the PCYC would be operating at a loss'.

The PCYC is a non-profit organisation that is dependant on this income for its operations, although its staff are members of the Police Force. If its income were reduced the PCYC would be less able to provide its present extensive services as the most prominent youth facility in the Shire, or may cease operations altogether. The PCYC has just received grants for expansion of its buildings and range of activities, but this may well lead to increased operational expenditures'.

In an effort to demonstrate the level of community assistance the applicant has provided the local community through their management of the Murwillumbah Cottage Markets currently operating in Knox Park, Murwillumbah on the first and third Saturdays of each month, the following submission was lodged with Council:

'The community assistance aspect of our enterprise has seen us able to assist fifty-three (53) fundraising activities throughout Murwillumbah but, in such direction, would like to be of even greater assistance and we have already mooted aspirations to generate the like of passive exercise programs throughout the Tweed Shire to your Officers, Mr Geoff

Edwards (Manager Environment and Health Services) and Ms Doreen Eaton (Environment and Health Co-ordinator). With Council's assistance and our expertise we would envisage co-ordinating the like of:

- a young mothers Netball Association with childcare abilities provided;
- a senior ladies Netball competition;
- Parkland Tai Chi etc'.

In light of the above information, it is difficult to determine whether the proposed Seagulls markets would result in such an impact upon any other markets that would cause them to cease operations. The recommended twelve (12) month limited consent may provide an opportunity to assess any such impact. In any case, the issue of potential economic/social impact is not considered to warrant a recommendation for refusal in this instance.

Visual Impact - Signage

Concern has been raised as to potential problems (based on previous issues with other markets) with the illegal placement of advertising signs for markets within road reserves, sometimes attached to Council signs. The applicant has advised that advertising signs for the market will be incorporated within existing and approved Seagulls signs. In addition, Council's Traffic and Transport Engineer has recommended conditions of consent in relation to the prohibition of advertising signage within any public road reserve.

Market Frequency

Of the six main markets being held within the Shire, only one other market (the PCYC) are held on a weekly basis and on a Sunday. All other markets are held on the 1st and 3rd Saturday/Sunday or 2nd and 4th Saturday of each month. Although Tweed Shire Council does not have any policies / DCP's specifically in relation to Markets, it is interesting to note that Byron Shire does have a policy in place – 'Markets Within the Byron Shire', whereby the policy limits markets so that they may only be held on any one site at a frequency of once per month.

(c) Suitability of the site for the development

The site is generally considered to be suitable for the proposed development.

Car Parking (overflow car park)

The original proposal, being located on the grassed overflow parking and buffer area to the north of the Club raised concerns as to the potential wear and tear on the area, with the possible need for the applicant to upgrade and seal the area for the continual use on a weekly basis, especially in wet weather conditions.

The amended proposal addressed this issue by way of relocating the market area to the existing sealed car parking area at the rear (south west) of the Club building. The reduction in stall numbers also resulted in a lower amount of parking requirements within the grassed overflow parking area. Council's Development Assessment Engineer has assessed the proposal and has no objection to the amended proposal in terms of acceptable parking provisions being met on-site, subject to conditions.

In terms of the upgrading of the grassed overflow parking / buffer area, the Club General Manager provided the following comment:

'Markets Down Under Pty Ltd have given an undertaking that they will provide a marshal for the grassed parking area and will take direction from the Club Management. It is our practice not to open the grassed area in wet weather and it is our intention to continue this practice on market days. It is our experience that patronage to club drops off proportionate to inclement weather conditions and therefore we expect that the number of market stalls and patrons to the market will drop accordingly. As such we do not believe that it will be necessary to open the grassed area on wet weather days and this will not impact adversely on car parking needs due to the lower patronage overall.'

To date the Club has maintained the grassed overflow car parking to a high standard and we have every intention to continue to maintain, repair and manage this grassed area to the existing high standards. It is not in the Club's interests to allow the grassed area to be abused or to let it be damaged'.

Council's Environment and Health Unit have applied a condition of consent in relation to the applicant providing details regarding traffic management during the operation of each market, including the protection and safety of pedestrians and patron access to the site.

Council's Development Assessment Engineer has noted that as a result of the amended proposal, the site would maintain an excess of 148 spaces and that as the demand for use of this parking area is minor, a nexus for the upgrading of this area may not be readily demonstrated. Therefore, the upgrading of the grassed overflow parking area is not considered necessary at this stage. However, this issue would need to be readdressed in the event that the applicant made an application to Council continue / extend the operations of the markets prior to the extinguishment of the limited development consent.

Toilet Facilities

The original application only incorporated the use of the existing toilet facilities within the main foyer of the Seagulls Club. Although the Club's General Manager confirmed that the main foyer area was unlicensed and people were not required to 'sign-in' to the Club to use these facilities, it became apparent that the Club's did not open for trading until 8.30am on a Sunday. Therefore,

the markets would be without toilet facilities from 6.00am to 8.30am, which was unacceptable.

This issue was addressed when the amended proposal was lodged, incorporated two portable toilets adjoining the market stalls along the western boundary of the site. Council's Environment and Health Unit assessed the amended market proposal, noting that... *'the toilets will be delivered to the site in time for stall holders to commence their setup and be removed on the day of the market, after the market has ceased'*. Appropriate conditions of consent have been applied in this regard.

Food

The applicant has noted that approximately thirty (30) stalls will sell food related goods including produce, processed food, bottled goods, eggs, cakes and up to five (5) food vans. Council's Environment and Health Unit have provided the following comment in this regard:

'Electricity will be provided for food vans and potable water is available. All food stalls must comply with the Council adopted North Coast Regional Code for the Sale of Food at Markets and One Day Events'.

Waste

The applicant has proposed eight (8) wheelie bins to be placed around the market stalls for the use of the market customers. These bins will be removed at the conclusion of each market day. Council's Environment and Health Unit have assessed the proposal and provided applicable conditions of consent in this regard.

Limited Consent

The applicant has applied for a limited consent of two years and nine months, in line with their maximum lease with Seagulls. However, this is seen as an excessive length of time if there are issues related to any impact associated with the weekly markets. Therefore, it is recommended that the Seagulls Market's to be limited to a period of twelve (12) months only. This would then enable Council to assess any impact arising from the markets, in particular noise and traffic impact to local residents.

Hours of Operation

As noted above, the issue of noise impact to the local residents has raised concern. In an effort to reduce the level of impact each Sunday morning from vehicles arriving on site and stall holders setting up, the hours of operation have been limited to a starting time of 7.00am with the markets not to commence trading until 8.30am. Council's Environment and Health Unit have provided appropriate conditions of consent in this regard.

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

The proposed development was advertised for 14 days in accordance with the requirements of the Environmental Planning and Assessment Act 1979. Seven submissions by way of objection were received, one of which was in the form of a petition with nine signatures.

The following table addressed the issues raised in the submissions. It should be noted that the submissions were based on the original location of the markets, that being the existing grassed over flow parking area adjacent to the residential estate to the north of the subject site and the original number of stalls (that being 150 instead of the amended 110 stalls).

Table 3 – Public Submission Issues

Issue	Comment	Assessment
Car Parking	<i>With the stallholders occupying at least 150 car parks, how many spaces are left for the general public? What happens in the event of a show during the market time and there is no parking?</i>	Since the time of advertisement, the applicant has amended the market proposal to reduce the number of stalls from 150 to 110. The applicant has provided a traffic assessment report, which details the impact of the proposal upon the existing car parking provisions, including the peak usage times of Club patrons. The report concludes that the parking demand created by the stallholders, customers and Club patrons, will not be in excess of the parking provision existing on-site, including the grassed overflow parking area.
Day of Markets	<i>What day is the market proposed to be held – Saturday or Sunday? If held on a Sunday, this will impact on other markets in the Shire – Banora Point Farmers Markets, Pottsville Market, PCYC Market and the Coolangatta Arts & Crafts Market. There is a saturation of markets currently operating within a 25km radius.</i>	The applicant has confirmed that the markets are proposed to be held every Sunday. In terms of saturation, the applicant has noted that of the 6 main markets held in the Shire, that only 2 (Banora Farmers Market & PCYC) are held within the Tweed Heads/Banora Point area and none in the Tweed Heads West area. They also noted that those 2 markets offer different types of products (produce & trash & treasure) to those proposed, therefore the proposal is unlikely to represent a 'saturation' of markets in the area.
Car Parking	<i>Recently a conference was held at Seagulls, where there was not enough parking on site, so people used the roadside along Albatross Circuit. If Seagulls Club is to host</i>	The Manager of Seagulls has advised that the marquee for the NSW Clubs conference took up 370 spaces rather than the 180 spaces proposed by the markets. In addition, the conference brought around 3000 additional people to the Club, unlike the proposed 600

Issue	Comment	Assessment
	<i>the NSW Club Delegates Conference over the next 5 years, there will be a lack of parking on market day.</i>	people to be attracted to the markets (stallholders included). The Manager advised that the claim that Seagulls will host the Conference for the next five years is false – Seagulls hosted the conference in 2005 for 1 year only.
Lack of Information during advertising	<i>There was no site plan submitted with the application. What are the plans for fire extinguishers and electrical leads that would be used? Where are the locations for toilets and rubbish bins? Is there an environmental plan for fire and rubbish removal? Where do the fumes and oil go from any cooking vans? Who covers the insurance for the markets?</i>	The applicant has subsequently provided an adequate site plan, indicating the amended markets location in the south-western car park at the rear of the Seagulls Club. Council's Environment and Health Unit has assessed the proposed development in terms of all the issues raised. Appropriate conditions of consent have been provided in each instance.
Development Impacts	<i>The application says there are no impacts. What about loss of privacy to the residential area? Increased noise? Economic or social affects to existing markets?</i>	The amended market location goes some way to address impact upon the privacy of the adjacent residences, as well as noise issues. Strict conditions of consent, including a 12 month limited on the markets, is seen as an acceptable way of controlling any impacts in this regard. It is difficult to determine the level of economic/social impact upon other markets, if any.
Markets to be Run by Non-Locals	<i>Markets Down Under is from Geelong , Victoria. It is not right that a non-resident can take away from other markets run by locals.</i>	The Directors of Markets Down Under have advised that although they have been establishing a business in Geelong, Victoria they reside on the Gold Coast and have done so since 1989.
Noise Impact	<i>What entertainment will be held at the markets? How will stallholders minimise noise from setting up their stalls? This will impact upon local residents with the arrival of cars etc on or before 6.00am, the erection of lights and stalls and general activity throughout the day.</i>	The applicant has proposed free entertainment to be provided from 9.00am. This would include artists such as balloon artists, magicians, clowns, mimes and roving singers / musicians, with all performers limited to acoustic instruments and very low level amplified music. The Manager of Seagulls has advised that a noise-attenuated fence was constructed between the club and the houses to the north. In addition, the club has a decibel meter to monitor noise levels from the Club. This equipment will be made available to the management of the markets.

Issue	Comment	Assessment
		Council's Environment & Health Unit has recommended that hours of operation for the development be limited to 8.30am to 2.30pm. No activities, including arrival of stallholders, are to occur prior to 7.00am, with all stallholders to vacate the site by 3.30pm.
Traffic Impact	<i>Traffic in Kennedy Drive & Gollan Drive is a problem now – is there a traffic management plan for the increased traffic made up by the markets? The corner of Gollan Drive and Scenic Drive is already dangerous – proposal will increase traffic at this intersection.</i>	Council's Traffic and Transport Engineer has advised that the amended proposal for 110 market stalls is acceptable in terms of traffic generation. Roadworks have recently been completed at the intersection of Gollan Drive and Scenic Drive, providing channelised turning movements into and out of Gollan Drive.
Advertising Signs	<i>Is there an application for advertising signs? Every 2 weeks signs are put up for the Murwillumbah Markets against Council regulation. Are the rules going to be enforced for the Seagulls Markets?</i>	Council's Transport & Traffic Engineer has recommended that 'No Stopping Signs' from Albatross Circuit to 100m south of the Club's main access on both sides of Gollan Drive, to only apply on market days. In addition, a condition of consent has been applied prohibiting the placement of any signage associated with the markets within any public road reserve. Any signs erected contrary to this condition will be removed and the operator/organiser charged all costs.
Toilet Facilities	<i>The application refers to the markets patrons using the toilets within the Club, which is a licensed premise. What facilities are proposed if the Club does not open until 10.00am on a Sunday morning?</i>	The Manager of Seagulls has advised that there is a male and female toilet within the unlicensed area of the main foyer closest to the markets, providing access to facilities without the need to enter the licensed section of the Club. In terms of toilet facilities prior to the Club opening on a Sunday, the applicant has now proposed portable toilets to be provided in the car parking area adjacent to the market stalls.
Impact to Local Businesses	<i>The majority of purchases at markets are impulse buying. As noted in the application, 50 – 60 % of the patronage is from within 1 to 10km of the site. Therefore, any</i>	This is not considered to be a reasonable objection to warrant refusal of the application. It is a free market environment and people should be able to freely compete with other similar businesses. The proposed Seagulls Markets are not considered likely to

Issue	Comment	Assessment
	<i>impulse buying will take business away from local shops such as the Panorama Plaza Shopping Centre along Scenic Drive.</i>	have a significant economic impact on other businesses in the locality.
Impact to Land Values	<i>Land values will plummet with parking problems and a market in the vicinity.</i>	Impact upon land values is not a matter of consideration under Section 79C of the Environmental Planning and Assessment Act.
Overflow Car park	<i>The proposed markets are a total misuse of the existing overflow car park and buffer area.</i>	The applicant has amended the proposed location of the markets site. This has moved the stalls from the existing grassed overflow parking area directly adjacent to the residential estate to the north, to that of the existing hardstand car parking area to the south-west of the club.
Impact to Local Traffic	<i>The proposed markets are not popular with many of the residents in the local street. This will create disturbance to all residents by way of people parking in the street, as they do now when the club is full.</i>	The applicant has provided a traffic assessment report, which details the impact of the proposal upon the existing car parking provisions, including the peak usage times of Club patrons. The report concludes that the parking demand created by the stallholders, customers and Club patrons, will not be in excess of the parking provision existing on-site, including the grassed overflow parking area.
Alternate Site	<i>The Club has suggested that part of the rear car park could be used as an alternative site. Although this would move the markets a short distance from residents, it would do nothing to reduce noise or traffic disturbance at such an early starting time.</i>	The applicant has amended the proposed location of the markets site. This has moved the stalls from the existing grassed overflow parking area directly adjacent to the residential estate to the north, to that of the existing hardstand car parking area to the south-west of the club. Appropriate conditions of consent have been applied, limiting the set up and starting time of the markets. In addition, the development consent has been limited to that of 12 months only in order to allow Council to assess any impact from the proposal.
Impact to the PCYC	<i>The Seagulls Markets will be run on the same day as the PCYC Markets, operating as a similar type of market. Markets Down Under is keen for PCYC stallholders to relocate to</i>	As noted elsewhere in this report, the proposed Seagulls markets most likely will produce direct competition as a result of their stall mix and trading times (every Sunday). Competition, or threat of competition, should not be a determining factor in this instance, as

Issue	Comment	Assessment
	<p><i>the Seagulls markets. If this happens, the PCYC markets would be less viable. Being a non-profit organisation, the PCYC relies on the markets as its major source of income. Without the markets income, the PCYC would be operating at a loss. Markets Down Under is a commercial business and profits would not be diverted back into services for the Tweed, as the PCYC does.</i></p>	<p>there would be no net decrease in the amenity provided to the community. This development application should not be refused on the economic grounds of competition, or threat of competition and the subsequent impact on amenity.</p> <p>In terms of social impact, it is difficult to determine whether the proposed Seagulls markets would result in such an impact upon any other markets that would cause them to cease operations. Similarly, the issue of potential social impact is not considered to warrant a recommendation for refusal in this instance</p>

(e) Public interest

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

OPTIONS:

1. Approve the proposed development in accordance with the recommended conditions.
2. Refuse the development application and provide reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Although the proposed development has raised a large number of issues, the applicant has attempted to resolve the majority of these by way of amending the proposal so as to reduce the number of stalls and relocate the position of the temporary stalls, thereby increasing the distance between the market operations and the surrounding residents. Having had regard for all of the matters relevant to the proposal, it is considered that the proposal warrants conditional consent. A number of the conditions are imposed to

ensure the development does not adversely impact on the locality, namely a limited development consent and strict controls regarding the operating times of the markets.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

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P6 [PD-PC] Section 96 Application DA05/0902.01 for an Amendment to Development Consent No. DA05/0902 for a Multi Dwelling Housing Comprising 14 Dwellings & Demolition of Two Existing Dwellings at Lot 5 & 6 Section 12 DP758571, No. 48 & 50 Kingscliff Street,

ORIGIN:

Development Assessment

FILE NO: DA05/0902 Pt2

SUMMARY OF REPORT:

Council is in receipt of an application to amend the subject development consent, which granted approval for the erection of a multi-dwelling housing development comprising 14 units within a predominately three-storey building.

The current amendment involves reducing the building height in accordance with Development Control Plan No. 48 – Tweed Coast Building Heights to satisfy a condition of consent and the modification to Condition No. 30 to permit a basement entrance gate.

RECOMMENDATION:

That Section 96 Application DA05/0902.01 for an amendment to Development Consent No. DA05/0902 for a multi dwelling housing comprising 14 dwellings and demolition of two existing dwellings at Lot 5 & 6 Section 12 DP 758571, No. 48 & 50 Kingscliff Street, Kingscliff be approved subject to the following amendments: -

1. Description of Land be amended to read as follows: -

Lot 5 & 6 Section 12 DP 758571

2. Condition No. 2 which reads: -

"2. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos

- Issue DA05.08 - 2 'Basement Plan', prepared by Robinson Moeskops and dated 20/06/2005,***
- Issue DA05.08 - 1 'Ground Floor Plan', prepared by Robinson Moeskops and dated 20/06/2005,***
- Issue DA05.08 'First Floor Plan, prepared by Robinson Moeskops and dated 20/06/2005 (amendment 'A' January 2006),***
- Issue DA05.08 - 4 'Second Floor Plan', prepared by Robinson Moeskops and dated 20/06/2005,***

- *Issue DA05.08 - 5 'Roof Plan', prepared by Robinson Moeskops and dated 20/06/2005,*
 - *Issue DA05.08 A 'Ground Floor Plan', prepared by Robinson Moeskops and dated 20/06/2005 (amendment 'A' September 2005),*
 - *Issue DA05.08 'First Floor Plan', prepared by Robinson Moeskops and dated 20/06/2005 (as amended in red),*
 - *Issue DA05.08 'Second Floor Plan', prepared by Robinson Moeskops and dated 20/06/2005,*
 - *Issue DA05.08 'Roof Plan', prepared by Robinson Moeskops and dated 20/06/2005,*
 - *Issue DA05.08 - 6 'East Elevation & West Elevation', prepared by Robinson Moeskops and dated 20/06/2005,*
 - *Issue DA05.08 'Section AA, North Elevation & South Elevation', prepared by Robinson Moeskops and dated 20/06/2005 (amendment 'A' 1 September 2006 and 'B' January 2006),*
 - *Stormwater plans 2004/227-H1B and 2004/227-H2B (excluding the driveway section received by Council on 6/10/05 and the sewer detail plan dated 5/8/05),*
- except where varied by the conditions of this consent.*

[GEN0005]"

is to be AMENDED to read: -

2. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos

- **Issue CC05.08 - 2 'Basement Plan', prepared by Robinson Moeskops and dated 04/04/2006,**
 - **Issue CC05.08 - 1 'Ground Floor Plan', prepared by Robinson Moeskops and dated 04/04/2006,**
 - **Issue CC05.08 - 3 'First Floor Plan', prepared by Robinson Moeskops and dated 04/04/2006,**
 - **Issue CC05.0 - 4 'Second Floor Plan', prepared by Robinson Moeskops and dated 04/04/2006,**
 - **Issue CC05.0 - 5 'Roof Plan', prepared by Robinson Moeskops and dated 04/04/2006,**
 - **Issue DA05.08 A 'Ground Floor Plan', prepared by Robinson Moeskops and dated 20/06/2005 (amendment 'A' September 2005),**
 - **Issue DA05.08 'First Floor Plan', prepared by Robinson Moeskops and dated 20/06/2005 (as amended in red),**
 - **Issue DA05.08 'Second Floor Plan', prepared by Robinson Moeskops and dated 20/06/2005,**
 - **Issue DA05.08 'Roof Plan', prepared by Robinson Moeskops and dated 20/06/2005,**
 - **Issue CC05 - 6 'East Elevation & West Elevation', prepared by Robinson Moeskops and dated 04/04/2006,**
 - **Issue CC05.0 - 7 'Section AA, North Elevation & South Elevation', prepared by Robinson Moeskops and dated 04/04/2006,**
 - **Stormwater plans 2004/227-H1B and 2004/227-H2B (excluding the driveway section received by Council on 6/10/05 and the sewer detail plan dated 5/8/05),**
- except where varied by the conditions of this consent.**

[GEN0005]

3. Condition No. 8 which reads: -

"8. Prior to the issue of the construction certificate, amended plans are to be submitted to Council for approval by the General Manager or his delegate that reduce the height of the building so that it complies with the requirements of the Development Control Plan No. 48 – Tweed Coast Building Heights."

Is to be DELETED.

4. Condition No. 30 which reads: -

"30. Driveway access to the basement parking area must NOT be gated. Unrestricted access to the sewer main must be available for Council at all times. The gated driveway also inhibits access to the visitor parking spaces."

Is to be AMENDED to read as follows: -

- 30. A basement entrance gate is permitted in this instance subject to the provision of an internal visitor intercom system and the provision of an access key for use by Council staff. The key shall be consistent with the requirements as stipulated by the Director Engineering Services.**

[PCCNS01]

REPORT:

Applicant: Apogee Developments and Highside Developments
Owner: Apogee Developments Pty Ltd, Highside Developments Pty Ltd, Mr AR MacGregor and Mrs MA MacGregor
Location: Lot 5 & 6 Section 12 DP 758571, No. 48 & 50 Kingscliff Street Kingscliff
Zoning: 2(b) Medium Density Residential
Cost: \$3,200,000

BACKGROUND:

Council is in receipt of an application to amend the subject development consent, which granted approval for the erection of a multi-dwelling housing development comprising 14 units within a predominately three-storey building.

The current amendment seeks to satisfy Condition No. 8 of the consent by reducing the building height in accordance with Development Control Plan No. 48 – Tweed Coast Building Heights and the amendment of Condition No. 30 to permit a basement entrance gate.

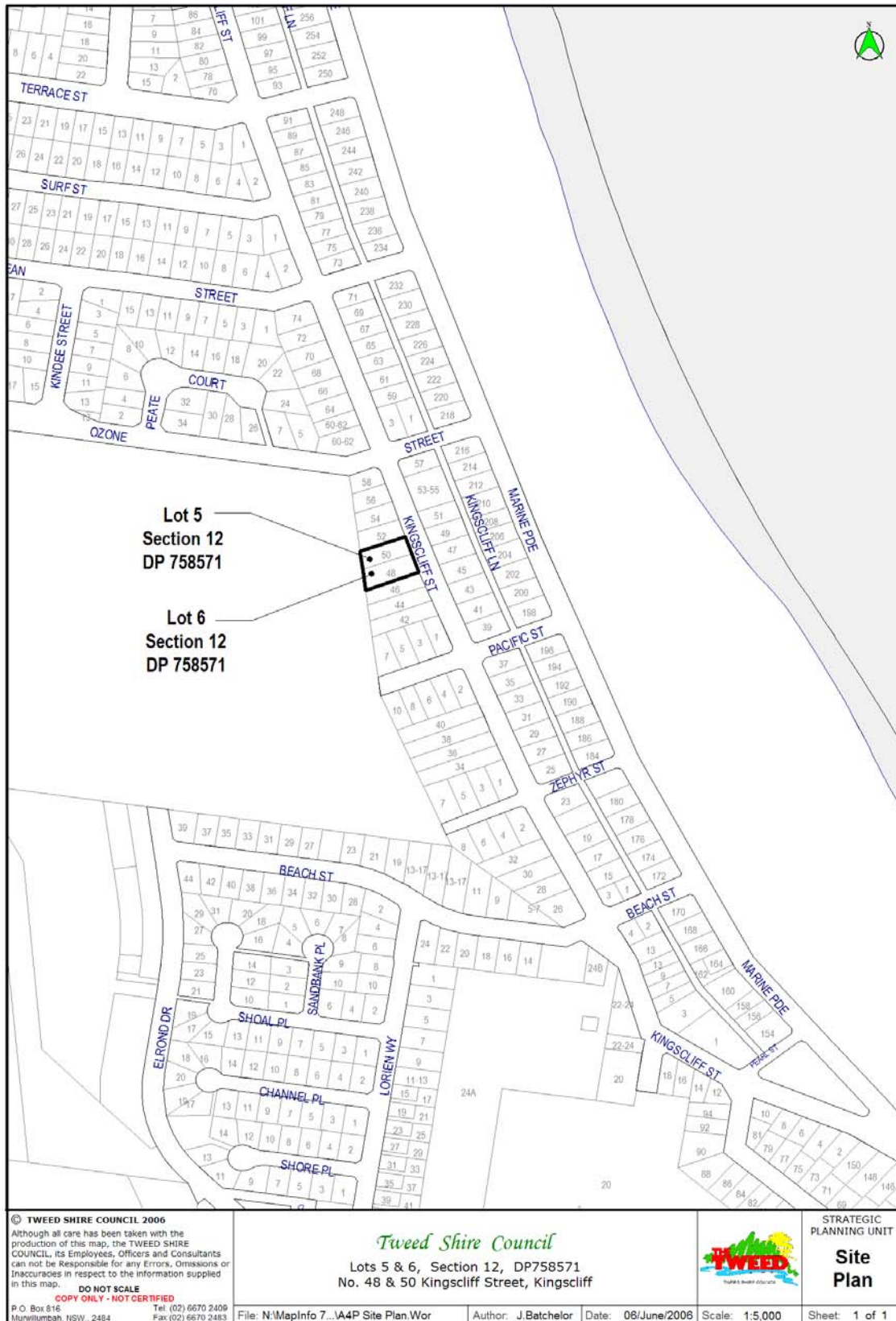
The amendment results in the overall height of the building being reduced by 600mm, which results in a maximum overall building height of RL15.7m, ie. maximum building height of 11.5m from finished ground level.

The Section 96 application seeks to amend Condition No. 30, which states; *driveway access to the basement parking area must NOT be gated. Unrestricted access to the sewer main must be available for Council at all times. The gated driveway also inhibits access to the visitor parking spaces.* The applicant seeks consent for the provision of a basement entrance gate.

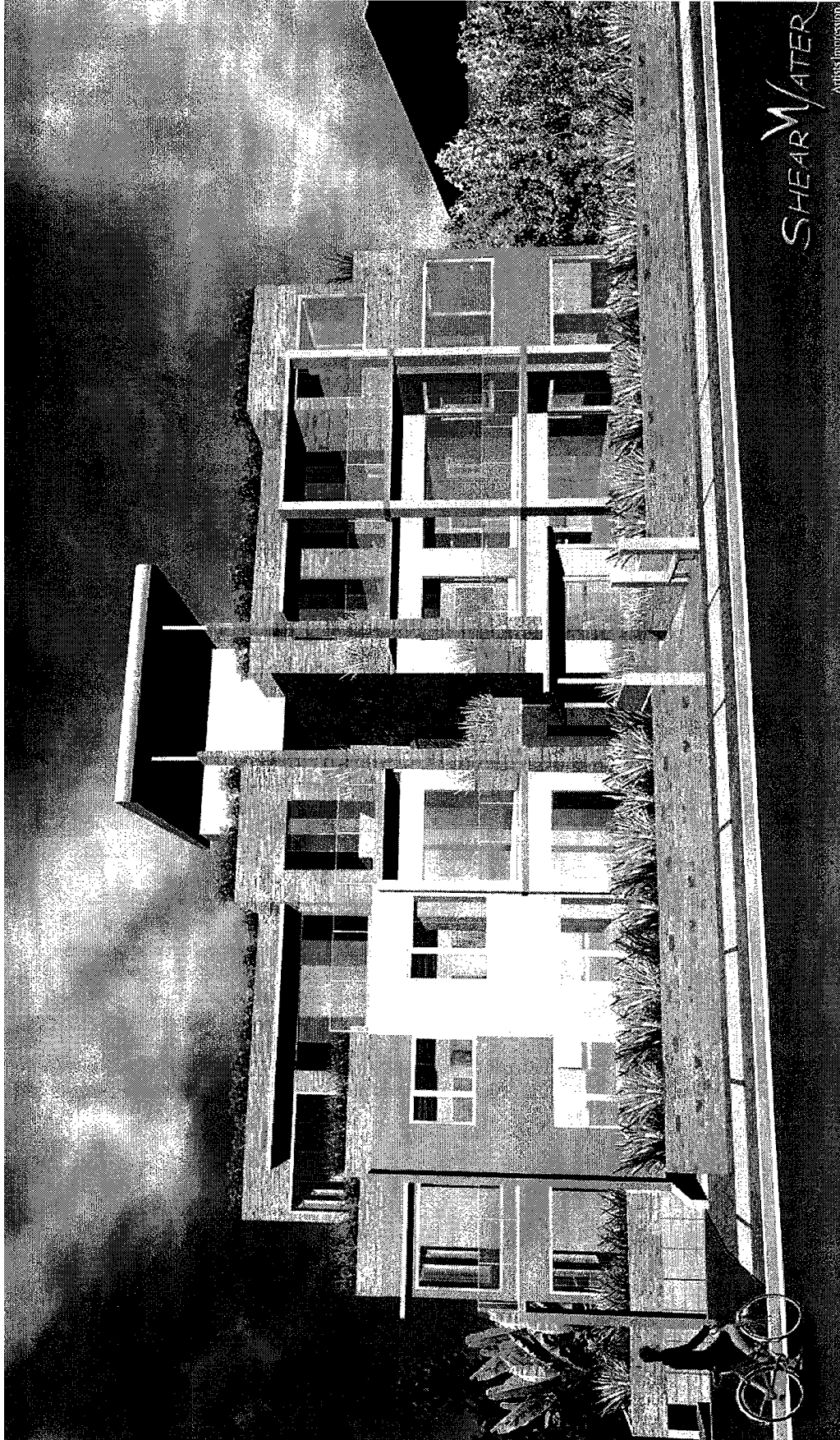
The Section 96 application seeks to amend the approved plans by amending Condition No. 2, deleting Condition No. 8 from the consent and amending Condition No. 30.

During the processing of this Section 96 application it was discovered that the land description omitted the section number, being Section 12. The consent can be readily amended by amending the land description to read Lot 5 & 6 Section 12 DP 758571.

SITE DIAGRAM:



PHOTOMONTAGE FROM KINGSCLIFF STREET



CONSIDERATIONS UNDER SECTION 96(1A) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

Minimal Environmental Impact

The proposed reduction in building height is not considered to result in environmental impacts. The reduction in building height will reduce the impact on surrounding properties with regards to overshadowing. An assessment of the proposal is provided below under the provisions of Section 79C of the Environmental Planning and Assessment Act 1979.

The relevant provision relating height for the current proposal is detailed within Development Control Plan No. 48 – Tweed Coast Building Heights.

The S96 application has been submitted to address Condition No. 8 of the consent, which requires the plans to be amended to reduce the building height to comply with Development Control Plan No. 48.

The original application achieved a maximum building height of 12.5m from the finished ground level and a maximum height of 10.9m from the finished ground level to the uppermost ceiling or top plate of the external wall. The proposal's overall building height was 1.5m above the overall height permitted in accordance with the acceptable solutions of the DCP.

The amended plans show the building height reduced from RL16.30m to RL 15.7m. The amended plans represent a maximum building height of 11.5m from the finished ground level and a maximum height of 9.8m from the finished ground level to the uppermost ceiling or top plate of the external wall.

The amended building height results in a reduction in the overshadowing for the surrounding properties, particularly for the property situated immediately south of the subject site. The amended building heights will result in this property receiving approximately 17% more sunlight per day.

It is considered that the amended plans satisfy Condition No. 8 of the consent.

The implementation of a basement entrance gate will result in minimal environmental impact. Condition No. 30 relating to the prohibition of a basement entrance gate was imposed to enable unrestricted access to the sewer main for Council staff as the sewer is situated within the basement. The condition further states a gated driveway would inhibit access to the visitor parking spaces. The applicant seeks to amend this condition to ensure that the potential to vandalise private property is minimised. The applicant states that an intercom system situated at the base of the entrance ramp could be implemented enabling Council staff and visitors 24 hour access to the basement. As this arrangement may not be effective at all times, the applicant further states an override key could be provided to Council that will allow access to the basement. The key would access the entrance door immediately adjacent the basement gate thereby allowing Council staff to open the basement gate from within the basement.

Subject to an internal visitor intercom system and an access key for use by Council and subject to the requirements of the Director Engineering and Operations, Council's Manager of Water and Council's Traffic Engineer have advised the proposed amendment is acceptable in this instance.

During the processing of this Section 96 application it was discovered that the land description omitted the section number, being Section 12. The consent can be readily amended by amending the land description to read Lot 5 & 6 Section 12 DP 758571.

Substantially the Same Development

The nature of the development will not significantly be modified by the proposed changes. The proposal will still comprise of 14 units within a predominately three-storey building. The modifications to the building height will reduce the impacts on adjoining properties and is considered to be an improvement to the original proposal. The inclusion of a basement gate will not alter the overall appearance of the development. As such the proposal is considered to be substantially the same development.

Notification

The amendment to the building height was available for public viewing for a two-week period to those people who were originally notified of the proposal and those people who originally objected to the proposal. During this period Council did not receive any submissions in relation to the amendment. The applicant sought to amend Condition No. 30 after the notification period relating to the building height. This amendment was not required to be notified.

OPTIONS:

1. Council supports the proposed modification of consent with conditions.
2. Council refuses the proposed modification of consent with conditions.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed amendment to the development plans are considered to be reasonable and are not likely to result in any adverse impacts in the locality.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

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P7 [PD-PC] Development Application DA04/1524 for Multi Dwelling Housing Comprising 3 x 3 Bedroom Units With 1.8m High Fence With Fence Height Variation and Demolition at Lot 1 DP 381437, No. 118 Marine Parade, Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA04/1524 Pt2

SUMMARY OF REPORT:

This application was reported to the Council meeting of 23 May 2006 where it was resolved as follows: -

"that Development Application DA04/1524 be deferred to the next Planning Committee meeting of 13 June 2006, pending further advice with regard to height restrictions and it be noted that the conditions for deferred commencement are supported in principle."

Advice regarding the height variation is provided within the background section of this report.

The full report is reproduced with a change to the recommended deferred commencement component to allow the applicant 24 months to comply.

RECOMMENDATION:

That: -

- 1. The State Environmental Planning Policy No. 1 objections to building heights and overshadowing of the adjacent open space be approved and the concurrence of the Director-General of the Department of Planning be assumed.**
- 2. Development Application DA04/1524 for multi dwelling housing comprising of 3 dwellings with 1.8m high fence with fence height variation and demolition at Lot 1 DP 381437, No. 118 Marine Parade, Kingscliff be approved subject to deferred commencement conditions as follows: -**

"DEFERRED COMMENCEMENT"

"Deferred Commencement"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 24 months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.

A.

- 1. The applicant shall submit to Council for approval detailed engineering plans of the following relocation works on the public sewer:**
 - a. Relocation of the private sewer connection for Lot 3 DP 381437 (No.39 Pearl Street Kingscliff) from the existing connection point on the sewer main through the subject land, to the existing manhole located in the southern corner of the subject land, to Tweed Shire Council specifications.**
 - b. Relocation of the public sewer through the basement level in accordance with the following requirements:**
 - (i) Unrestricted access to the sewer main must be available for Council at all times. Access must be available for plant up to 2.4m height;**
 - (ii) The sewer must be in an open area, with no enclosed rooms, goods, waste bins, materials, fixed plant or machinery, structures or any thing that may inhibit Council staff or equipment access to the sewer. Resident**

and visitor carparking is permitted adjacent to the sewer main. Brian Kenny Drawing No.DA:02(F) provides a generally acceptable plan location for the realigned sewer and surrounding structures, except where varied by these conditions;

- (iii) The sewer must be readily accessible, securely fixed to the basement wall, and protected against the risk of damage from persons and vehicles;
- (iv) The relocated portion of the main shall be replaced with ductile iron epoxy lined pipe;
- (v) Each pipe piece penetrating the external basement wall is to extend 600mm from each wall face, be ductile iron epoxy lined, fitted with a centrally mounted puddle flange, and cast into the wall on line level and grade to match the existing sewer;
- (vi) A Council standard sewer manhole shall be installed at all sewer deviations external to the basement. A minimum of two flexible joints is required between an external wall and a manhole. No pipe deviations are permitted within the basement.
- (vii) At the southern end of the sewer relocation, the new pipe shall be connected to the existing manhole to Council specifications;
- (viii) At the northern end of the sewer relocation on Lot 103 DP 1091112 (Anglican Church, No.120 Marine Parade Kingscliff), a new manhole shall be constructed to Council specifications. Alternately, a Council standard sewer termination may be constructed with an inspection shaft located downstream. Two flexible joints are required between the manhole/inspection shaft and the external basement wall.
- (ix) The existing sewer connection for Lot 103 DP 1091112 shall be diverted to the end manhole, or downstream of the termination of the sewer main.
- (x) No sewer junctions servicing external properties are permitted within the basement.
- (xi) All private connections to the realigned public sewer must be in accordance with Council's plumbing and BCA requirements, and require inspection by Council's Building Services Unit.

(xii) Provide three (3) copies of plan, long section and cross sectional details of the realigned pipe for assessment by Council's Engineering & Operations Division.

(xiii) The sewer relocation works must include all necessary measures, such as bypass pumping, to maintain continuous sewerage services for the duration of the works for all properties in the locality serviced by this public sewer.

2. The applicant shall submit to Council written consent of the landowner(s) of Lot 3 DP 381437 (No.39 Pearl Street Kingscliff) and Lot 103 DP 1091112 (No.120 Marine Parade Kingscliff) to access and carry out sewer relocation works, including bypass pumping, on private land.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Drawing Nos DA:01, DA:02, DA:03, DA:04, DA:05, DA:06, DA:07, DA:08, DA:09; DA:10, DA:11, DA:12, DA:13 issue D prepared by Brian Kenny and dated 12/9/05 and Sheet Nos. 1 of 2 and 2 of 2, Drawing Number SLI-01-Ver B drawn by NG & dated 14/9/05 and SLI-02-Ver A drawn by NG & dated 15/9/05, except where varied by the conditions of this consent.
[GEN0005]
2. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]
3. 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.
[GEN0045]
4. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]

5. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent. [GEN0015]
6. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up within one hour of occurrence. [GENNS01]
7. The site shall not be dewatered. [GENNS02]
8. Acid sulfate soils shall not be exposed or disturbed. [GENNS03]
9. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/kg. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request. [GENNS04]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. 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:	1.4 ET @ \$4230	\$5,922
Sewer Kingscliff:	2 ET @ \$6152	\$12,304

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED 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.

[PCC0265/PSC0165]

11. Section 94 Contributions

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

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

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

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector6_4	\$1,456
(b) West Kingscliff - Drainage: 0.02486 ha @ \$16070 DCP No. 9 S94 Plan No. 7	\$399.50
(c) West Kingscliff - Open Space: DCP No. 9 S94 Plan NO. 7	\$411
(d) Shirewide Library Facilities: S94 Plan No. 11	\$662
(e) Bus Shelters: S94 Plan No. 12	\$22
(f) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$139

(g) Community Facilities (Tweed Coast - North) S94 Plan No. 15 North Coast	\$984
(h) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$193
(i) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$1,219.82
(j) Cycleways S94 Plan No. 22	\$338
(k) Regional Open Space (Structured) S94 Plan No. 26	\$1,461
(l) Regional Open Space (Casual) S94 Plan No. 26	\$822

12. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works prior to the issue of a construction certificate. [PCC0215/PSC0175]

13. Where any existing sewer junctions are to be disused on the site, the connection point shall be capped off by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges. [PCC1195]

14. A construction certificate application for works that involve any of the following:- [PCC1235]

- 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.

15. Permanent stormwater quality treatment shall be provided in accordance with the following: [PCC1145]

- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
- (d) Specific Requirements to be detailed within the Construction certificate application include:
 - (i) Shake down area along the haul route immediately before the intersection with the road reserve.
 - (ii) All basement and driveway runoff shall be treated to remove oil and sediment pollutants prior to discharge to an on-site stormwater detention (OSD) system. Permanent treatment devices shall be sized in accordance with Section D7.12 of *Development Design Specification D7 - Stormwater Quality*, with full engineering details, including maintenance schedules, to be submitted with a s68 Stormwater Application for Council approval.
 - (iii) Roof water does not require treatment prior to discharge to OSD.

[PCC1105]

16. Erosion and Sediment Control shall be provided in accordance with the following:
- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
 - (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

- [PCC1155]
17. 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. 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 stormwater must initially be directed to the DCP.

- [PCC1165]
18. Engineering details of all proposed sewer relocation works shall be submitted with a Section 68 Local Government Act 1993 application for Council approval prior to the issue of a Construction Certificate. The details of the sewer works accompanying the s68 application must be in accordance with the engineering plans approved by Council in complying with matters set out in Schedule "A".
- [PCCNS03]
19. Any works to be carried out within the adjoining road reserve is subject to application and approval being issued by Tweed Shire Council as the road authority.

Application for these works and receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.

- [PCC0075]
20. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Occupation Certificate is issued.

- [PCC0275]
21. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve.
- [PCC0895]
22. The construction certificate application shall provide details showing how the basement driveway complies with the requirements of AS/NZS 2890.1:2004 and that it is adequately graded to prevent inflows from the Marine Parade kerb and gutter in storm events with intensities up to Q₁₀₀ flood event.
- [PCCNS04]
23. Appropriate arrangements to the satisfaction of Council's Director of Environment and Community Services shall be provided for the storage and removal of garbage and other waste products. A

screened, graded and drained garbage storage area shall be provided within the boundary of the lot

24. All externally mounted artificial lighting is to be shielded to the satisfaction of Council's Director of Environment and Community Services where necessary or required so as to prevent the spill of light creating a nuisance to adjoining residential premises.
25. Prior to issue of the construction certificate, a revised detailed landscaping plan shall be submitted to council to the satisfaction of the Director of Planning and Development and Council's Landscape Architect. The landscaping plan shall provide construction details of the planter boxes, including cross sections illustrating the proposed drainage and watering systems. Agapanthus sp shall not be used in the landscape plan. ^[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

26. 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
 - (c) 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
 - (d) 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.

[PCW0215]

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

[PCW0665]

28. 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:

- (a) 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
- (b) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
- (c) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) 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.

[PCW0775]

29. 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

[PCW0245]

30. 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.

[PCW0225]

31. Sewer main, stormwater line or other underground infrastructure within or adjacent to the site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.

[PCW0965]

32. 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.

[PCW1065]

33. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act 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.

[PCW0985]

34. Residential building work:

(a) 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:

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

- * in the name and licence number of the principal contractor, and
- * the name of the insurer by which the work is insured under Part 6 of that Act,

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

- * the name of the owner-builder, and
- * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

(b) 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.

[PCW0235]

35. 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:

(a) The person must, at the person's own expense:

- (i) preserve and protect the building from damage; and
- (ii) if necessary, underpin and support the building in an approved manner.

(b) 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.

[PCW0765]

36. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

37. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

[PCW0005]

38. Written approval for any application under Section 138 of the Roads Act 1993 is required prior to commencing works within the road reserve.

[PCW0705]

39. Prior to the commencement of building work, a certificate signed by a registered professional engineer is to be submitted to the Principal Certifying Authority to certify that adequate consolidation of foundation material has been achieved to support the proposed structure.

[PCW0755]

DURING CONSTRUCTION

40. 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.

[DUR0245]

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

[DUR0815]

42. Provision to be made for the designation of 1 durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.

[DUR0975]

43. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.

[DUR1015]

44. Any sarking material shall have a flammability index of not greater than 5.

[DUR0515]

45. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.

[DUR0645]

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

[DUR1715]

47. The provision of 5 off street car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls, the Building Code of Australia and AS 2890. [DUR0085]
48. 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. [DUR1955]
49. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:
- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
 - (b) The chute shall be located in a position approved by the Principal Certifying Authority.
 - (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust. [DUR0385]
50. 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. [DUR0655]
51. 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. [DUR0395]
52. 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. [DUR0405]
53. 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 in accordance with WorkCover 2000 Regulations. [DUR0415]
54. 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 in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

55. 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 General Manager or his delegate.

Such to specifically include the following:

- (a) 150 millimetres thick reinforced with F72 Mesh for residential development or F82 mesh for Commercial/Industrial Development

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 works and its reconstruction.

Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DUR0065]

56. 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 was made).

[DUR0375]

57. 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.

[DUR2185]

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

[DUR2195]

59. 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.

[DUR0245]

60. 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.

[DUR0915]

61. Plumbing

- (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.

[DUR2495]

62. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]

63. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.

Should additional fill be proposed in the area of the sewer manhole application shall be made to Council's Engineering & Operations Division for the raising of the manhole.

[DUR2655]

64. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

65. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

66. 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.

[DUR2545]

67. 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:-

- * 45⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50⁰C in all other classes of buildings.

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

[DUR2555]

68. Where two (2) or more premises are connected by means of a single water service pipe, individual water meters shall be installed to each premise beyond the single Council water meter (*unless all the premises are occupied by a single household or firm*).

[DUR2615]

69. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.

[DUR2515]

70. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

71. 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.

[DUR2535]

72. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

73. Swimming Pools (Building)

(a) The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).

(b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.

(c) The pool filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.

[DUR2075]

74. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

75. Rainwater must be disposed of to absorption/distribution trenches, positioned and constructed no closer than 3m to any building and below any effluent disposal area; to provide satisfactory stormwater disposal in accordance with Australian Standard AS/NZS3500.3.2.
- [DUR2275]
76. (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- [DUR0425]
77. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.
- [DUR1705]
78. The front boundary fence is not to exceed 1.8m in height, and on the northern boundary is not to exceed 900mm in height for the first 2m back from the front boundary.
- [DURNS01]
79. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate.
- [DUR0995]
80. All landscaping is to comply with the 88B Instrument pertaining to the site.
- [DUR1055]
81. 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.
- [DUR2485]
82. Exit signs which comply with Part E4.5 of the Building Code of Australia and are designed in accordance with Part E4.8 of the Building Code of Australia and installed. Mounting heights shall be in accordance with AS2293.1.
- [DUR1295]
83. 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:

- (a) All required erosion and sedimentation control devices have been installed and are operational.
- (b) Required toilet facilities have been provided on the site.
- (c) A sign has been erected on the site identifying:
- (d) Lot number
- (e) Builder
- (f) Phone number of builder or person responsible for site.

All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.

That the licensee has complied with the provisions of Section 98B of the Environmental Planning and Assessment Amendment Regulations 2000.

- 84. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection. [DURNS02]
- 85. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans. [DUR2445]
- 86. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications. [DUR0015]
- 87. 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: [DUR0005]
 - 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.
- 88. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake Works. [DUR0215]

[DUR0675]

89. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".
[DUR0785]
90. All fill and cut batters shall be obtained wholly within the subject land.
[DUR0825]
91. The applicant shall undertake a final geotechnical investigation on the subject site when the existing dwelling is removed to establish footing design parameters for the proposed structure.
[DURNS03]
92. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council.
[DUR0985]
93. The proponent 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.
[DUR1845]
94. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

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

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

95. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.
[DUR2375]
96. All water drawn from Councils reticulated system shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.
[DUR2415]
97. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.
[DUR2575]
[DUR2625]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

98. A person must not commence occupation or use of the whole or any part of a new building or structure (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).

[POC0205]

99. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

100. 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.

[POC1045]

101. Portable fire extinguishers containing an extinguishing agent suitable for the risk being protected must be installed in accordance with Australian Standard AS 2444 "Portable Fire Extinguishers - Selection and Location" and Part E1.6 of the Building Code of Australia.

[POC0515]

102. 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.

[POCNS01]

103. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

104. Works as executed plans of the relocated public sewer shall be provided to the PCA prior to the issue of an Occupation Certificate, for lodgement with Council. These plans shall be prepared in accordance with the requirements of Section D13.15 "Summary WAX Plans" of Council's Development Design Specification D13 - Engineering Plans (Subdivisions).

[POCNS03]

105. An easement to drain sewage benefiting Tweed Shire Council shall be created over the relocated sewer main and associated supports within the basement level, in accordance with the following terms. All costs associated with the creation and registration of this easement shall be borne by the developer.

106. Easement for Drainage of Sewage Within a Building

1. The body having the benefit of this easement may:

(a) drain sewage, sullage and other fluid wastes in pipes or any other sewage infrastructure located in wall or floor

- cavities or within a building constructed on each lot burdened, but only within the site of this easement, and
- (b) do anything reasonably necessary for that purpose, including:
- entering the lot burdened, and
 - taking anything on to the lot burdened, and
 - using any existing pipes or other existing infrastructure, and
 - carrying out works, such as constructing, placing, repairing or maintaining pipes and infrastructure.
2. In exercising those powers, the body having the benefit of this easement must:
- (a) ensure all work is done properly, and
- (b) cause as little inconvenience as is practicable to the registered proprietor and any occupier of the lot burdened, and
- (c) cause as little damage as is practicable to the lot burdened and any improvement on it, and
- (d) restore the lot burdened as nearly as is practicable to its former condition, and
- (e) make good any collateral damage but only if such damage is not related to the removal of any obstruction that impedes access to the site of the easement or the pipes and infrastructure located within the easement and where such obstruction is damaged in the course of its removal the owner or occupier of the lot burdened shall indemnify the body having the benefit of this easement against all liability relating to such damage.
3. The registered proprietor of the lot burdened indemnifies the body having the benefit of the easement against the following:
- (a) any negligent installation or construction of pipes or infrastructure within the easement;
- (b) any damage caused to the pipes or infrastructure through negligent acts, omissions, or accidental acts by any person not authorised by the body having the benefit of the easement or natural disasters (earthquakes, hurricanes, floods) wars, riots or other major upheaval beyond the reasonable control of the body having the benefit of the easement;
- (c) any damage or injury to adjoining land, property or person arising from the failure of any of the pipes or infrastructure due to the negligent use or misuse of the pipes or infrastructure by the registered proprietor or occupier of the lot burdened or any person who is a

servant, workman, tenant, invitee, employee or agent of the registered proprietor or occupier of the lot burdened.

- 4. Should any part of the pipes or infrastructure within the site of the easement be damaged by the registered proprietor or occupier of the lot burdened or by any person who is a servant, workman, tenant, invitee, employee, or agent of the registered proprietor or occupier of the lot burdened, the body having the benefit of this easement will repair the damage at the cost of the registered proprietor of the lot burdened.**
 - 5. In exercising these powers the body having the benefit of this easement is to have full and unimpeded right of vehicular or personal access to the site of the easement at any time;**
 - (a) for the purposes of this easement, a reference to a body that is entitled to the benefit of this easement includes a reference to any person authorised by such a body,**
 - (b) the body entitled to the benefit of this easement has an unrestricted right of vehicular or personal access at all times to pass and repass, with or without vehicles, machinery, implements and other equipment of every kind, over the roadways, ramps and land over which this right of access is created.**
 - 6. There will be no development within the site of the easement except with the written consent of the body having the benefit of the easement.**
 - (a) "development" for the purposes of this easement includes the installation of any pipes or infrastructure for services or utilities or any structural improvements;**
 - (b) "structural improvements" for the purposes of this easement includes any form of construction that surrounds, envelopes or integrates the pipes and infrastructure within such construction on a temporary or permanent basis.**
- [POCNS04]
- 107. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.**
- [POC0005]
- 108. Redundant road pavement, kerb and gutter or foot paving including and existing disused vehicular laybacks/driveways or other special provisions shall be reinstated in accordance with Councils adopted Development Design and Construction Specifications.**
- [POC0755]

USE

- 109. All air conditioning units, swimming pool pumps and other plant equipment shall be acoustically treated where required to the satisfaction of Council's Director of Environment and Community Services so as to avoid the creation of intrusive or unreasonable noise to any occupant of a neighbouring or adjacent residential premises.**

REPORT:

Applicant: Planit Consulting
Owner: Mr L M Lazarides
Location: Lot 1 DP 381437 No. 118 Marine Parade, Kingscliff
Zoning: 2(b) Medium Density Residential
Cost: \$1,800,000

BACKGROUND:

Council Resolution:

Council at its meeting of 23 May 2006 resolved as follows: -

"that Development Application DA04/1524 be deferred to the next Planning Committee meeting of 13 June 2006, pending further advice with regard to height restrictions and it be noted that the conditions for deferred commencement are supported in principle."

The following development applications are examples of proposals which have been approved with variations to the allowable building height:

DA05/0902 – Multi dwelling housing comprising 14 dwellings, part 3 and 4 storey development, 48-50 Kingscliff Street, Kingscliff

The development incorporated an internal staircase from the Units to provide access to the roof top areas. Consequently this consisted of a small fourth storey component, which was approximately 25 m².

The Development Assessment Panel on 24/02/2006 determined the development application.

DA03/0292 – Multi-dwelling housing comprising 6 units, part 3 and part 4 storey development, 21 Kingscliff Street, Kingscliff

The development incorporated a part three (3) and part four (4) storey configuration as the basement podium was more than 1.5m from natural ground level and extended for a horizontal distance of 12m from the middle of the project to the Kingscliff Street frontage.

The development application was determined by Council on 06/08/2003.

DA02/1438 – A 6 X 3 bedroom residential flat building, part 3 and part 4 storey development, 180 Marine Parade, Kingscliff

The development consisted of a minor fourth-storey component that provides a covered (15m²) stairway access to a 50m² observation/terrace area.

Council determined the development application on 19/02/2003.

DA02/0868 – 6 x 3 bedroom units & pool, part 3 and part 4 storey development, 51 Pearl Street, Kingscliff

The proposed development incorporates a roof top terrace and associated entry structure providing access from the internal stairwell. The structure constitutes a fourth-storey and is approximately 21m².

The Development Assessment Panel determined the development application was on 18/09/2002.

DA02/0732 – Multi-dwelling housing development comprising 6 x 3 bedroom units, part 3 and part 4 storey development, 282 Marine Parade, Kingscliff

The development incorporated an enclosure for the lift overrun and internal stairwell to the roof top terrace. This area represents a fourth-storey and is approximately 22m².

The development application was determined by Council on 18/09/2002.

DA02/1136 - Mixed commercial/tourist accommodation development including 8 units

The development incorporated a variation to the allowable height limit of 3 storeys to four storeys for a length of seven metres within the centre of the property.

Council determined the development application on 18/06/2003.

The land owner has submitted the following for consideration:

<i>“32 Marine Parade – No Nor East</i>	<i>Approved 2004</i>
<i>6-8 Seaview Street and Sutherland Street</i>	<i>Approved 2000</i>
<i>34 Marine Parade “Marine” (former ANZ Bank building)</i>	<i>Approved 2000</i>
<i>10 Moss Street, “Kings Mariner” – five stories</i>	<i>Approved 2004</i>
<i>48-50 Kingscliff Street</i>	<i>Approved 2006</i>
<i>180 Marine Parade</i>	<i>Approved 2003</i>
<i>Number 4 Kingscliff Street “Waves”</i>	<i>Approved 2001</i>
<i>282 Marine Parade “Aquamarine”</i>	<i>Approved 2002</i>
<i>150 Marine Parade “Aqua Luna”</i>	
<i>244 Marine Parade “Ariel”</i>	<i>Built 2005</i>
<i>196 Marine Parade (corner Pacific Street) Paradise</i>	

The above all have roof decks and some have a small enclosed area over a stairwell or lift shaft which constitutes the fourth storey”.

BACKGROUND:

An application has been lodged which seeks consent to demolish existing structures on-site and erect a multi dwelling housing development. The proposal is three (3) to four (4) storeys in height, contains three (3) x three (3) bedroom units, a basement car park, car wash bay and a roof top balcony and three pools. The application was lodged on 23 November 2004.

The site has an area of 550.10m², and has a 20.24m frontage to Marine Parade. The site ranges from a depth of 26.226m to 28.228m and is generally flat. The subject site contains an existing dwelling house and some vegetation. The submitted Statement of Environmental Effects states the vegetation is not considered to be of any significance.

Immediately adjoining site to the north-west is the Anglican Church (Lot 103 DP 1091112); to the south-east; a residential flat building; to the south-west is a dwelling house (Lot 3 DP 381437); and to the north-east a caravan park/open space area.

The current design of the development results in the need to realign a public sewer within the proposed basement. As a result of works to the sewer on the subject site, access to and sewer relocation works, including bypass pumping within adjoining lots, Lot 3 DP 381437 (No.39 Pearl Street Kingscliff) and Lot 103 DP 1091112 (No.120 Marine Parade Kingscliff) will also be necessary.

Extensive consultation has occurred with the applicant and land owner particularly in relation to whether the applicant should obtain the affected land owner’s consent (Lot 3 DP 381437 and Lot 103 DP 1091112) prior to determining the development application. Legal advice has been obtained in relation to this matter and is as follows: -

“It would be appropriate for the Council to require owner’s consent or even approval of a Development Application on the other parcels of land as a prerequisite to this development proceeding, because of the fundamental nature of the sewerage connection and its relevance to the Development Application itself. That is, for the development to be carried out it clearly requires works on other land in different ownership.

We do not think that such conditions recognising this would be unreasonable and a deferred commencement condition on that basis, in our view, is a reasonable alternative for the Council to adopt in dealing with this matter”.

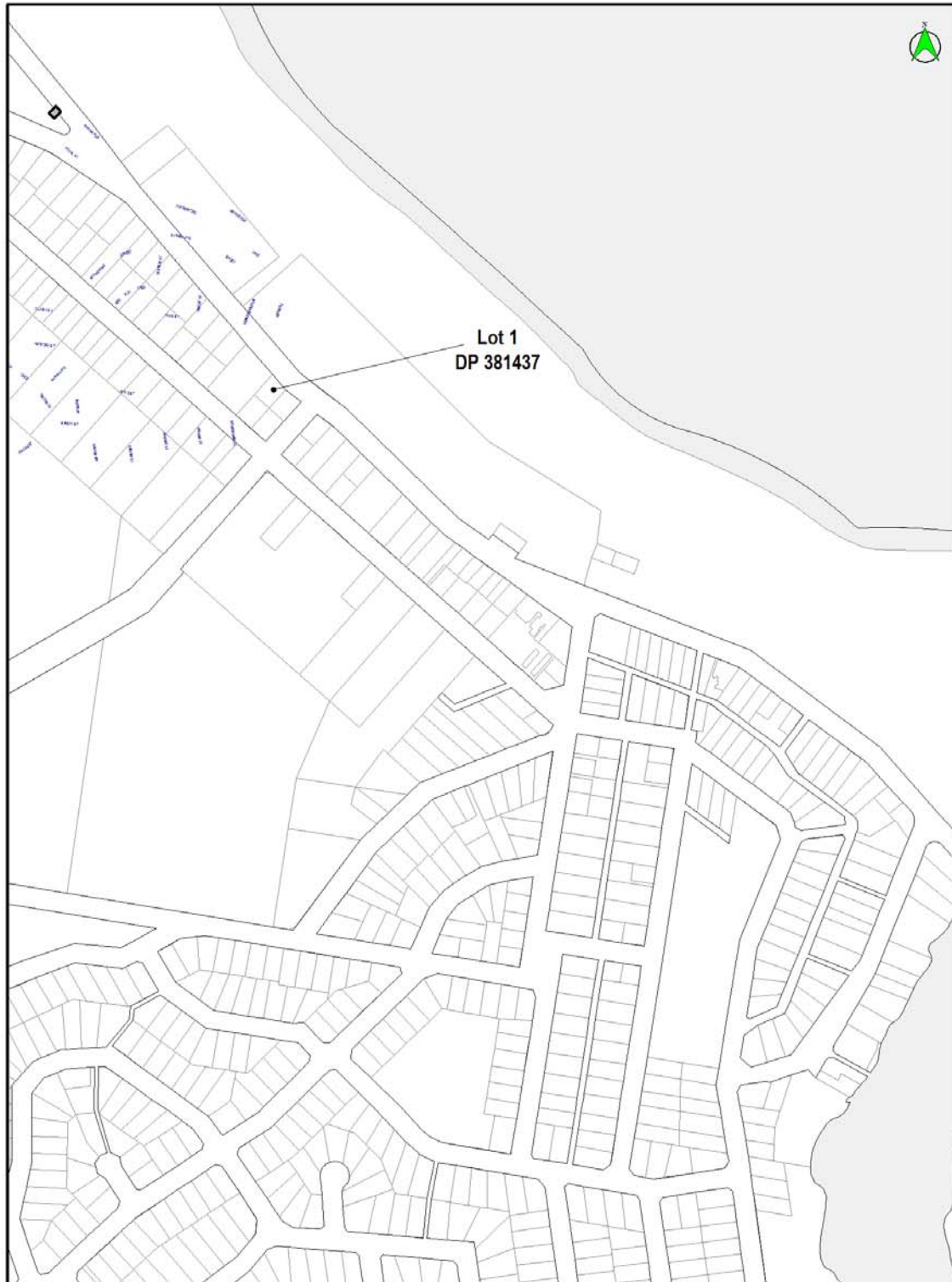
Based on the legal advice this report has been prepared on the basis of a deferred commencement consent requiring the owners consent of Lot 3 DP 381437 and Lot 103 DP 1091112, prior to the development consent becoming active.

A State Environmental Planning Policy No. 1 objection has been submitted regarding the building height development standard.

A separate SEPP No. 1 objection has been submitted regarding the overshadowing of the adjacent open space standard. These variations require Council to assume the Director's concurrence in accordance with the North Coast Regional Environmental Plan, 1988.

The applicant has requested that the application be assessed with regard to the acceptable solutions and performance criteria in accordance with Clause 2.0 *How This Plan Works* of Development Control Plan No. 6 – Multi Dwelling Housing: which states: *'acceptable solutions are provided as examples of what is considered acceptable to enable the performance criteria to be achieved, but should not be interpreted as an alternative prescriptive form of regulation. They are examples only of what is considered acceptable but they do not preclude other solutions which achieve the desired performance'*.

SITE DIAGRAM:



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 Murwillumbah, NSW, 2484
 Tel (02) 6670 2409
 Fax (02) 6670 2463

Tweed Shire Council
 Lot 1 DP 381437
 No. 118 Marine Parade, Kingscliff

File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 24/April/2006 Scale: 1:5,000 Sheet: 1 of 1

STRATEGIC
 PLANNING UNIT

Site Plan

DEVELOPMENT PLANS



118 marine parade Kingscliff nsw

DA-P-montage-02 12 september 2005

ABX Australia Pty Ltd kenny@better.net.au office: 02 66 743 868 mobile: 0414 667 236

Statement of Landscape Intent

The landscape philosophy for this proposal is to establish a theme which will complement the architecture of the Apartment building and is consistent with the existing landscape character of the area. Plant species are readily available and suitable for the conditions into which they are to be grown on site. The proposed building will:

- (a) maintain and strengthen the subtropical character;
- (b) create an aesthetically pleasing, safe and functional environment for people to live, work, visit and enjoy in the local area;
- (c) provide an attractive streetscape that reinforces the function of the street, enhances the amenity of the built form and is sensitive to the existing local conditions.

The landscape treatment is intended to create a bold, simple landscape statement which offsets the intensity of the built form at ground level and enhances the building image. The streetscape design remains consistent with that endowed by Marine Parade (Kingscliff) and will act to reinforce the existing character. Consideration has been given to:

- (a) taking full advantage of the relatively mild year-round climate;
- (b) creating a site identity by the arrangement of plant material at street level;
- (c) providing a varied style of outdoor recreation and living; and
- (d) the bold use of a few varieties of plant material in the planting design.

Due to the arrangement of the dwelling unit's foyers a landscape treatment incorporating screening is required to reduce the level of glare and to provide a sense of place and permeability. The landscaping within the communal and private areas of the development will include semi mature and mature palms/trees (small species) so as to reduce the scale of the built form and provide upper level screening to communal and private outdoor spaces wherever possible. An extensive planting palette of trees, shrubs and groundcover plants has been selected for the development. It will also be incorporated to reduce the level of maintenance within these planting beds and enhance the visual appearance of the development internally.

The selection of plant material (listed below) for the development will be based on the plants ability to perform such practical functions as:

- (a) Creating Privacy and Security;
- (b) Providing Contrasting Design Elements;
- (c) Cooling Buildings and Paved Areas by Providing Shade; and
- (d) Screening Objectionable Views.

The walkways are to be paved with some landscaping and hardscaping elements around the entry features. The entry feature is to include a unique water feature which will add dynamic appeal and visual interest to the entrance. The landscaping will be designed to provide privacy and security for residents and visitors by maintaining visual sight lines at entry and exit points. The safety of all planting and plant material will be maintained through regular maintenance. The safety of the residents and visitors is the priority for the landscaping of the proposal. To establish a safe and comfortable environment for all users, further to allow an aesthetic aura and to present a robust and permeable landscape.

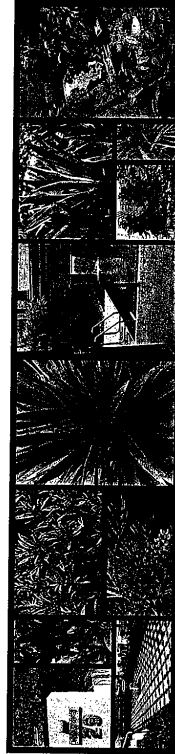
Planting Schedule

Scientific Name	Common Name	Flower Colour
<i>Trees <15 metres</i> <i>Archontophoenix</i> <i>Casuarina</i> <i>Conocarpus</i> <i>Pyramosporium laeviss</i> <i>Zantediacium chinensis</i>	<i>Cherry Palm</i> <i>Fig Palm</i> <i>Turkeroo</i> <i>Native Fraxinifolia</i> <i>Native Yucca</i> <i>Golden Parakee</i>	White Yellow White/Yellow White White
<i>Shrubs <15 metres</i> <i>Agave attenuata</i> <i>Banksia integrifolia</i> <i>Callitriche</i> <i>Commersonia bartramia</i> <i>Conocarpus laeviss</i> <i>Croton retusus</i> <i>Dracaena fragrans</i> <i>Ficus religiosa</i> <i>Heisteria rubra</i> <i>Myrsine torreyana</i>	<i>Arrowwood</i> <i>Agave Palm</i> <i>Banksia</i> <i>Callitriche</i> <i>Commersonia</i> <i>Conocarpus</i> <i>Croton</i> <i>Dracaena</i> <i>Ficus</i> <i>Heisteria</i> <i>Myrsine</i>	Blue Orange/Yellow N/A N/A N/A White White Purple N/A
<i>Groundcover/Herbaceous</i> <i>Agave attenuata</i> <i>Cyperus tenuifolius</i> <i>Drosera peltata</i> <i>Geranium</i> <i>Lythrum muscoides</i> <i>Utricularia</i> <i>Utricularia</i> <i>Utricularia</i>	<i>Agave Palm</i> <i>Cyperus Palm</i> <i>Drosera</i> <i>Geranium</i> <i>Lythrum</i> <i>Utricularia</i> <i>Utricularia</i> <i>Utricularia</i>	White/Blue Red Red/Orange/Yellow White/Pink White/Cream White/Pink N/A

* Species suitable for use within planter boxes

Labels on site plan:
 - Hedging and evergreen plants buffer wall and screen adjoining land uses
 - Non-slip finish to driveway
 - Shrubs and ground cover provide colour and variation increasing the visual interest and the internal aesthetics of the site
 - Swimming pool with cascading water feature
 - MARINE PARADE
 - PROPOSED THREE APARTMENTS
 - FEATHER TREE CROSSING
 - Large mature trees planted to provide colour, depth and privacy
 - Underplanting of native grasses in combination with gravel and weed matting
 - Large comfortable private spaces for residents
 - Variation in planting material breaks up the hardscape and the visual bulk of the building
 - Sewer manhole accessible
 - Cascading water feature to include selected plant species
 - Feature paving enhances the entry way and the architectural elements of the building
 - Shrubs and groundcover planting highlight the entry and soften the hardscape

Visual Elements Softscape & Hardscape



PROJECT:
118 Marine Parade, Kingscliff NSW
CLIENT:
Brian Kenny Architects

TITLE:
Statement of Landscape Intent Plan
REVISION:
SUJ_01_Ver.B

DATE:
14 September 2005

DRAWN BY:
NG
SHEET:
1 of 2

BRIAN KENNY
B.Sc.(Arch) B.Architecture

byron to brisbane
concept to construction
project

**PROPOSED
THREE
APARTMENTS**

location
LOT 1 DP 381437
No. 118
MARINE PARADE
KINGSCLIFF
NEW SOUTH WALES

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notes

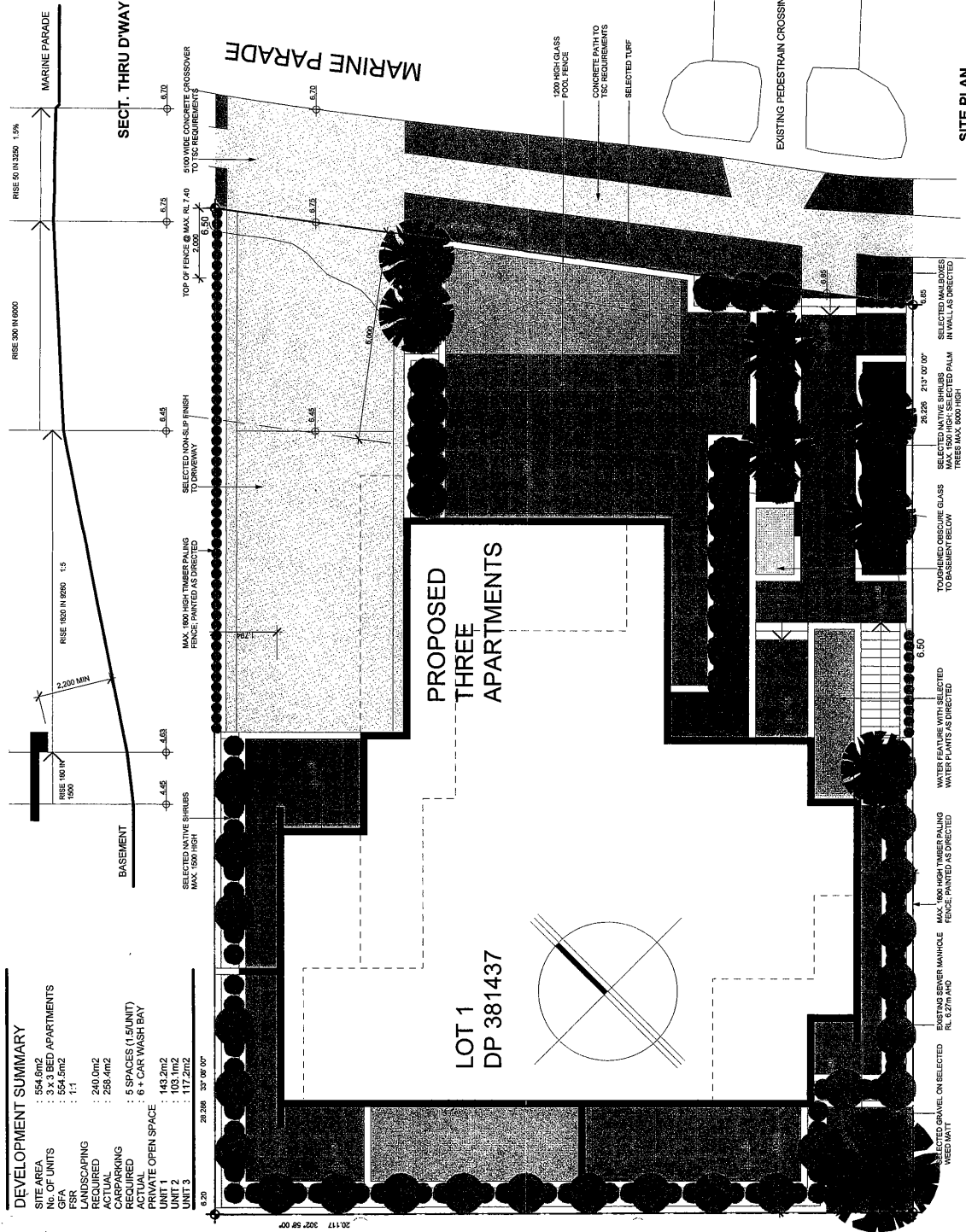
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drawing no.

DA-01

Issue	date
A	08/11/04
B	26/03/05
C	15/04/05
D	12/09/05



DEVELOPMENT SUMMARY

SITE AREA	: 554.6m ²
No. OF UNITS	: 3 x 3 BED APARTMENTS
GFA	: 554.6m ²
FLOORSCAPING	: 1:1
REQUIRED	: 240.0m ²
ACTUAL	: 258.4m ²
CARPARKING	: 5 SPACES (1.50 UNIT)
REQUIRED	: 6 + CAR WASH BAY
ACTUAL	: 6 + CAR WASH BAY
PRIVATE OPEN SPACE	: 143.2m ²
UNIT 1	: 103.1m ²
UNIT 2	: 117.2m ²
UNIT 3	: 22.9m ²

SITE PLAN

loading as abk australia p/l act 111 306 999 kingscliff office telfax 0266 743 888 bangalow office telfax 0266 870 708 po box 1166 kingscliff 2487 nsw kenny@batter.net.au

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B.Sc.(Arch) B.Architecture

byron to brisbane
concept to construction
project

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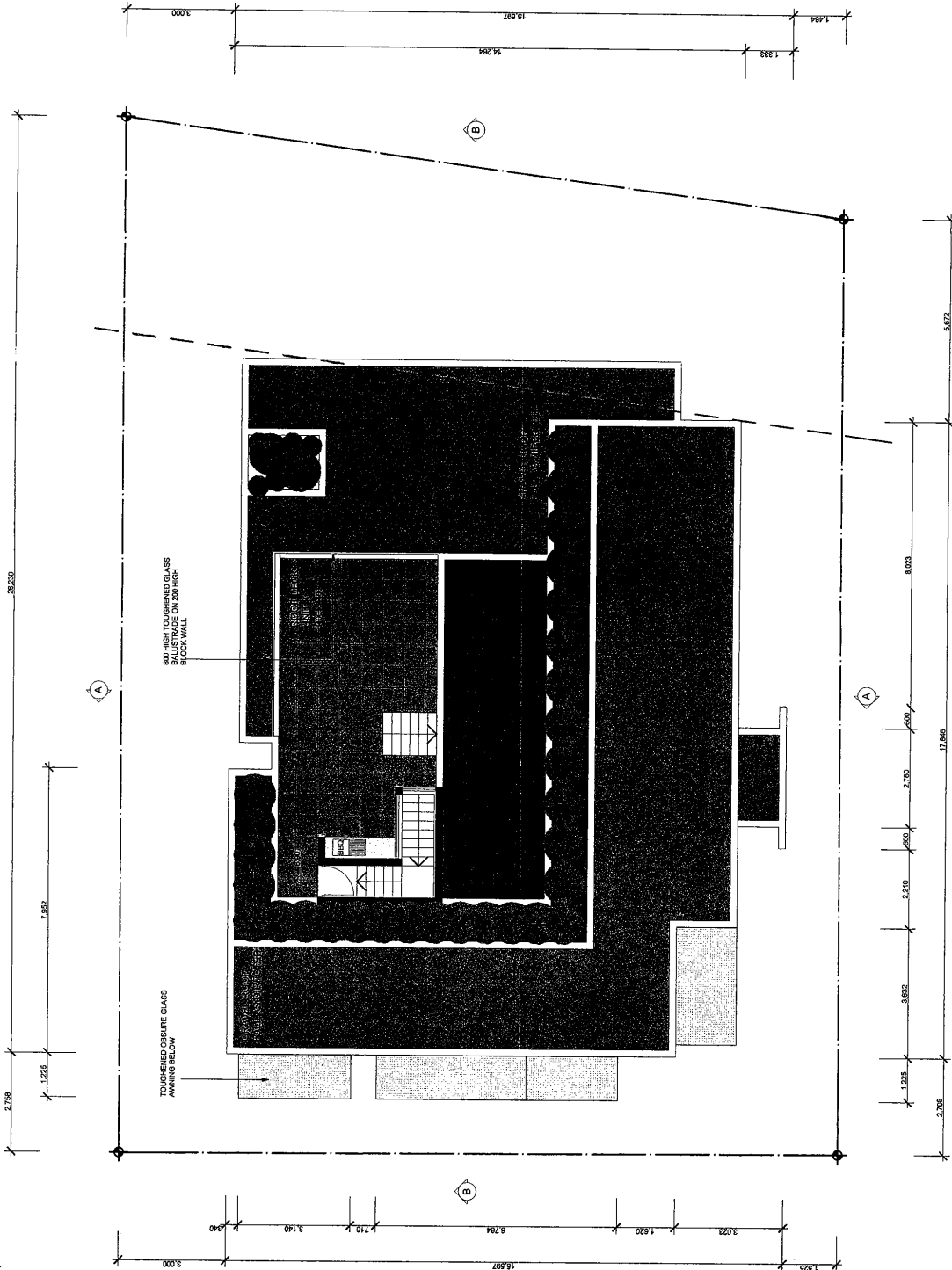
location
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No. 118
MARINE PARADE
KINGSCLIFF
NEW SOUTH WALES**

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drawing no.
DA:06

issue	date
A	09-11-04
B	25-03-05
C	15-04-05
D	12-06-05



ROOF DECK PLAN

trading as abk australia pty ltd aco 111 306 9998
kingscliff office tel/fax 0266 743 888
bangalow office tel/fax 0266 870 708
po box 1166 kingscliff 2487 nsw
kenny@baiter.net.au

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B.Sc.(Arch) B.Architecture

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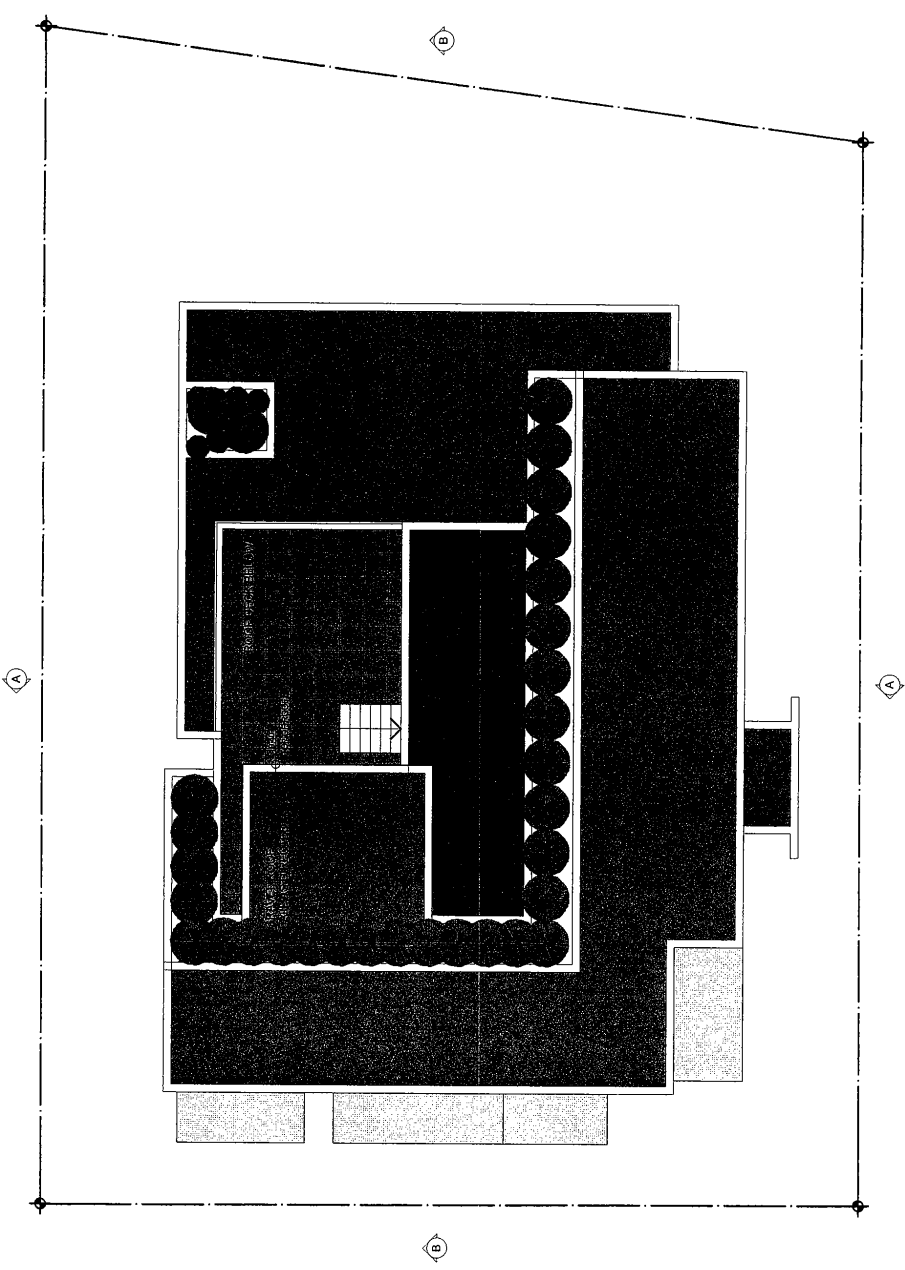
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drawing no.
DA-07

issue	date
A	08-11-04
B	25-03-05
C	15-04-05
D	12-09-05



ROOF PLAN

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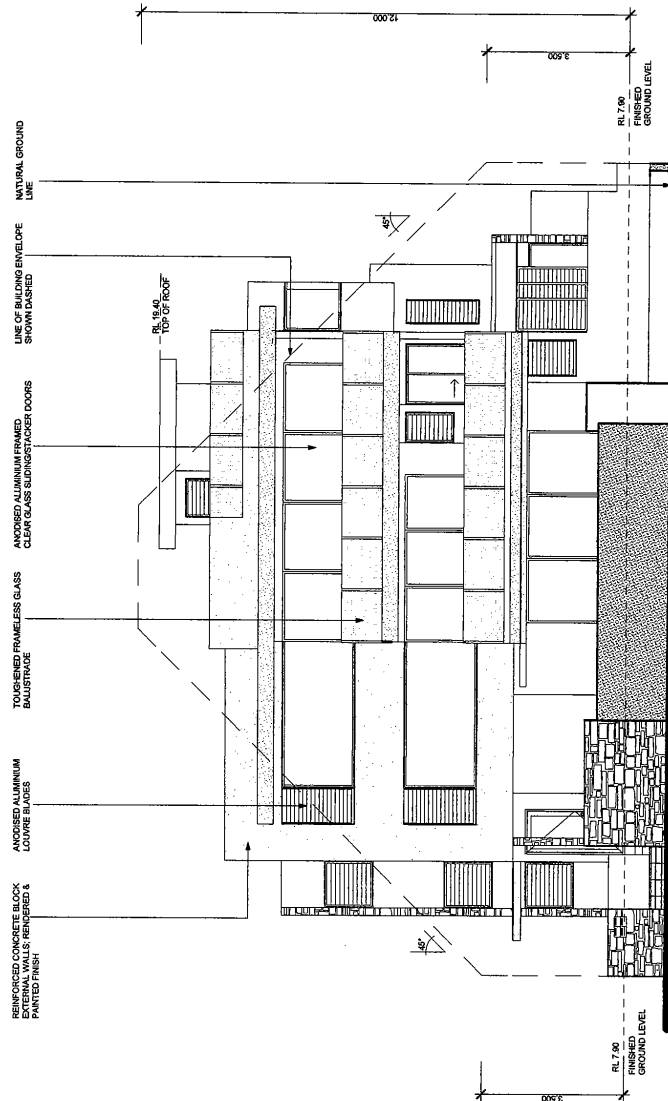
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DA-08

issue	date
A	08-11-04
B	25-03-05
C	15-04-05
D	12-09-05



NORTH EAST ELEVATION

kingscliff office tel/fax 0266 743 888 bangalow office tel/fax 0266 870 708 po box 1166 kingscliff 2487 nsw kenny@baker.net.au

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B.Sc.(Arch) B.Architecture

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concept to constructor
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THREE
APARTMENTS**

location
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No. 118
MARINE PARADE
KINGSCLIFF
NEW SOUTH WALES**

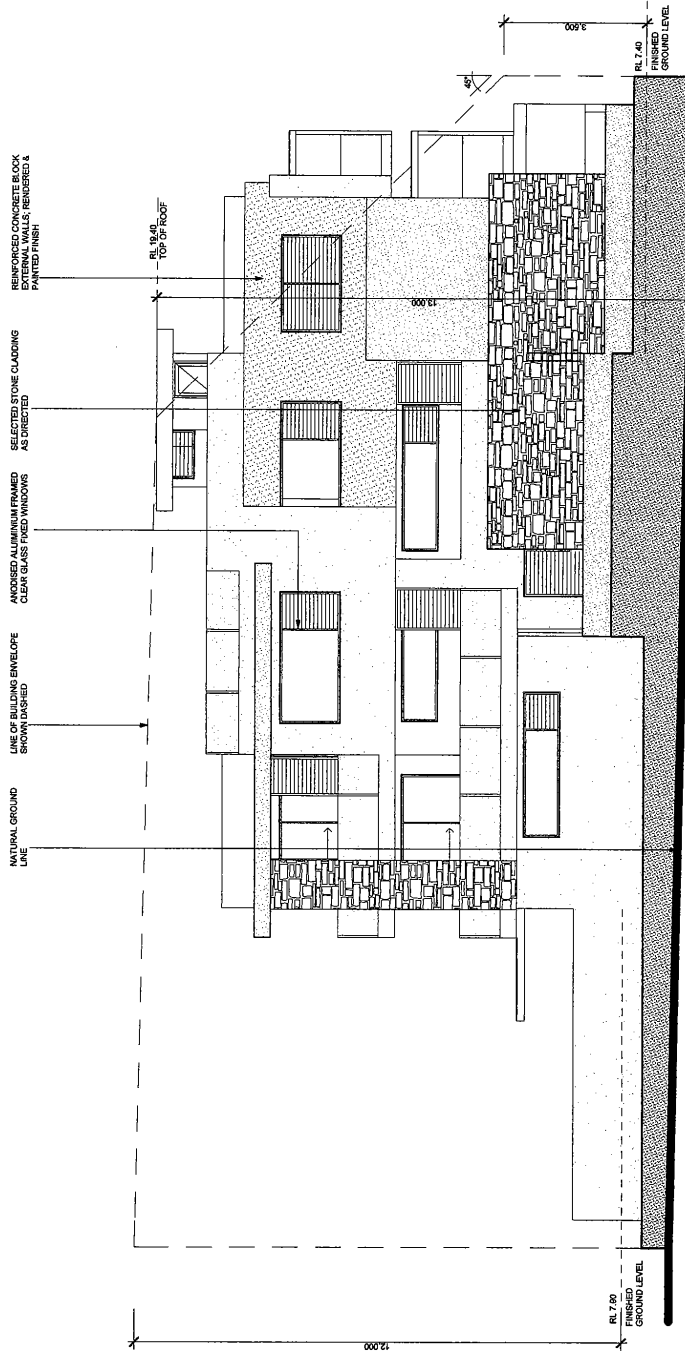
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drawing no.

DA:09

Issue	date
A	08.11.04
B	26.03.05
C	16.04.05
D	12.09.05



NORTH WEST ELEVATION

kenny@better.net.au

kingscliff office tel/fax 0266 743 888 bangalow office tel/fax 0266 870 708 po box 1166 kingscliff 2487 nsw

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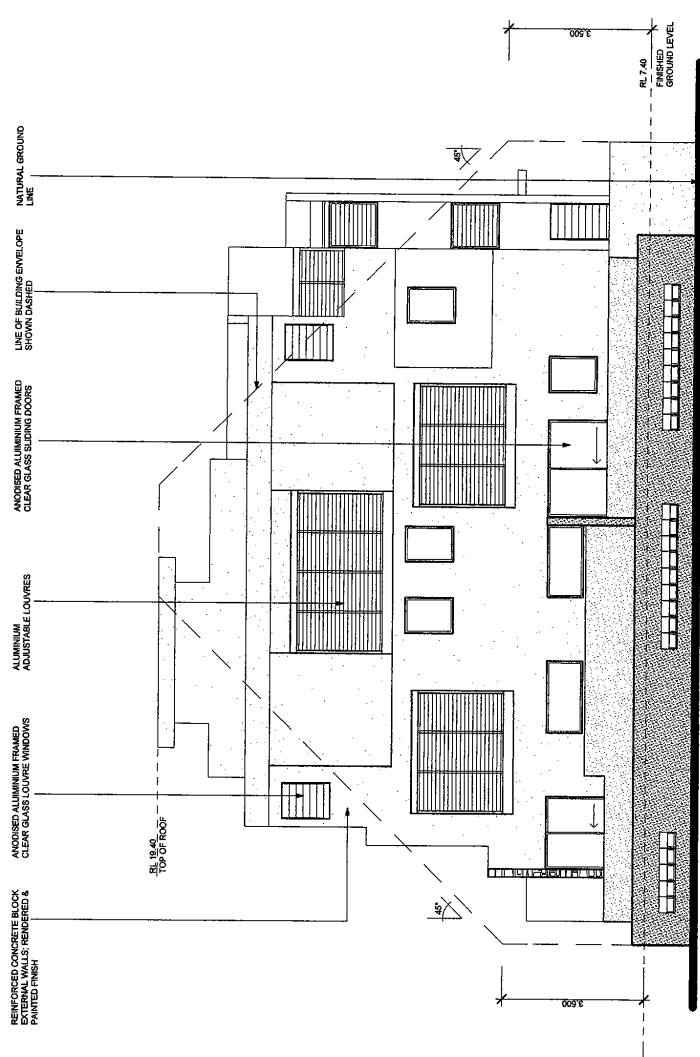
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DA:10

issue	date
A	08-11-04
B	25-03-05
C	15-04-05
D	12-06-05



SOUTH WEST ELEVATION

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kingscliff office tel/fax 0266 743 888 bangalow office tel/fax 0266 870 708 po box 1166 kingscliff 2487 nsw
kenny@baker.net.au

BRIAN KENNY
 B.Sc. (Arch) B.Architectural

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 THREE
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location
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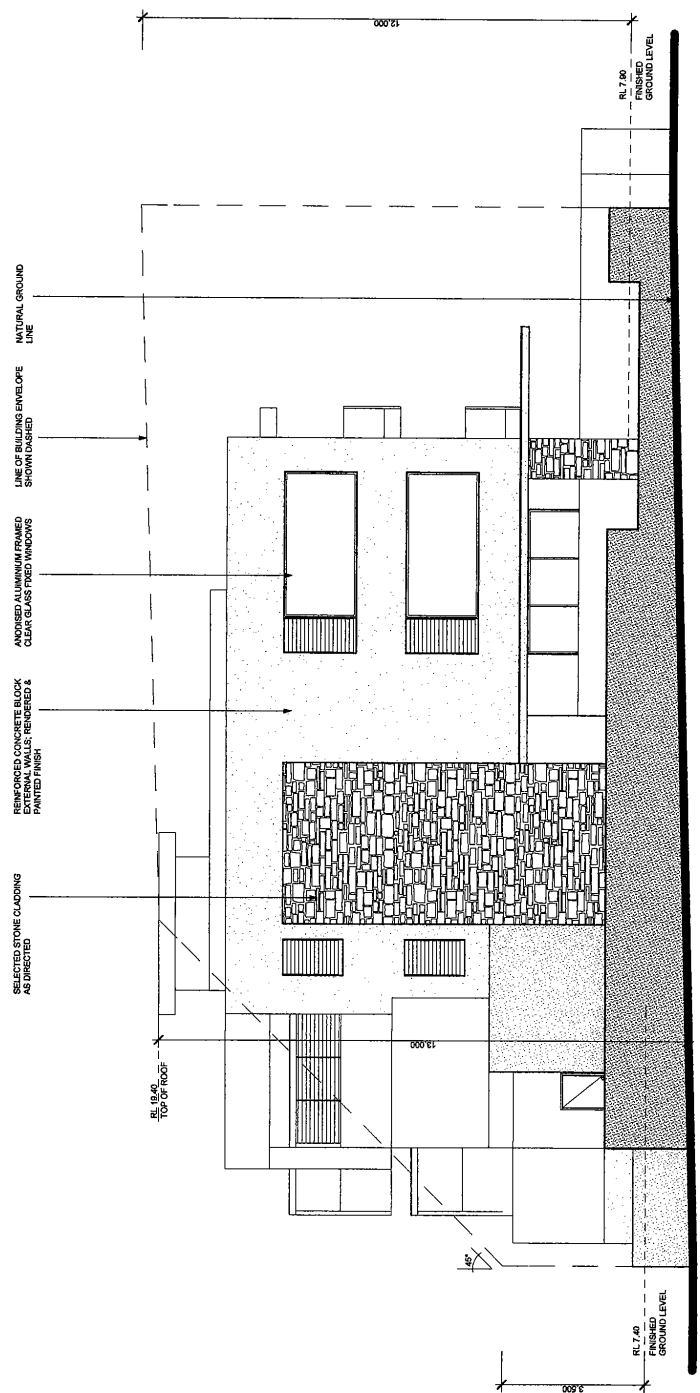
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DA:11

issue	date
A	09/11/04
B	25/03/05
C	15/04/05
D	12/08/05

kenny@battler.net.au



SOUTH EAST ELEVATION

trading as abk australia p/l a/cn 3111 306 999 kingscliff office tel/fax 02665 743 888 bangalow office tel/fax 02665 870 708 po box 1166 kingscliff 2487 nsw

BRIAN KENNY
B.Sc.(Arch) B.Architectur

byron to brisbane
concept to constructor
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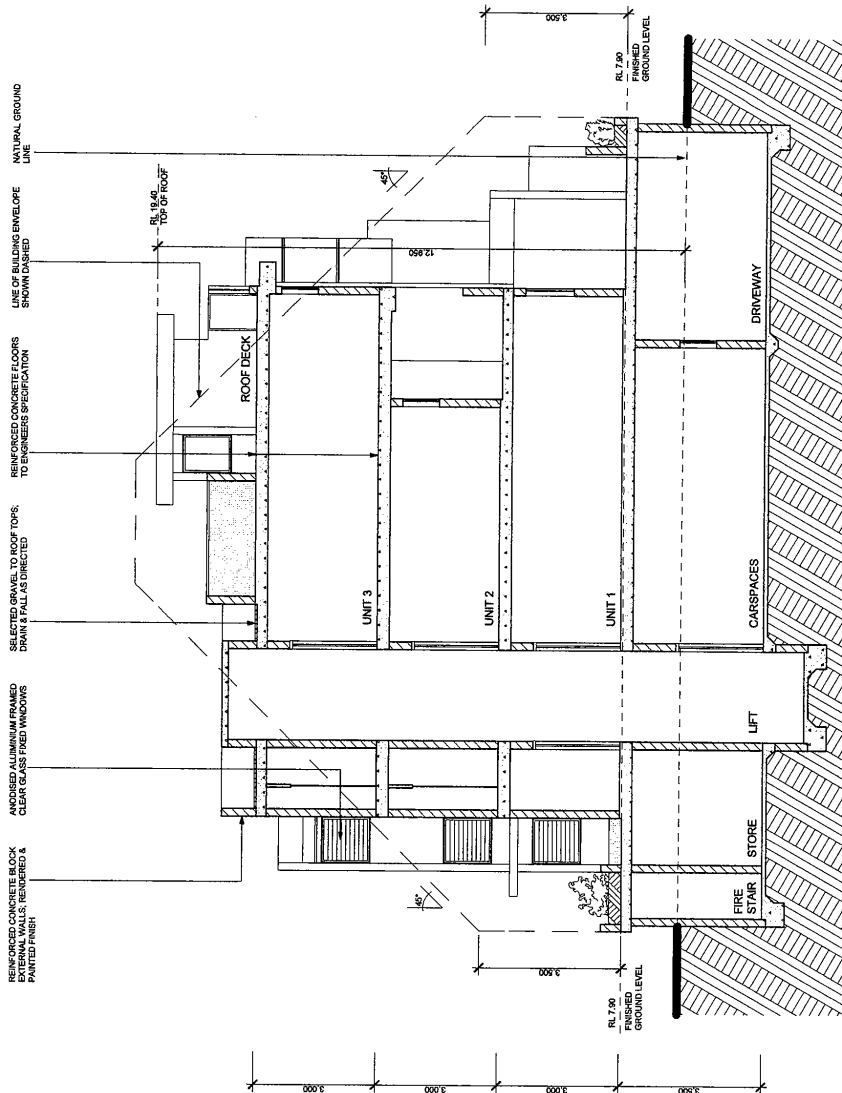
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DA:12

issue	date
A	09.11.04
B	25.03.05
C	15.04.05
D	12.09.05



SECTION AA

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B.Sc. (Arch) B.Architectural

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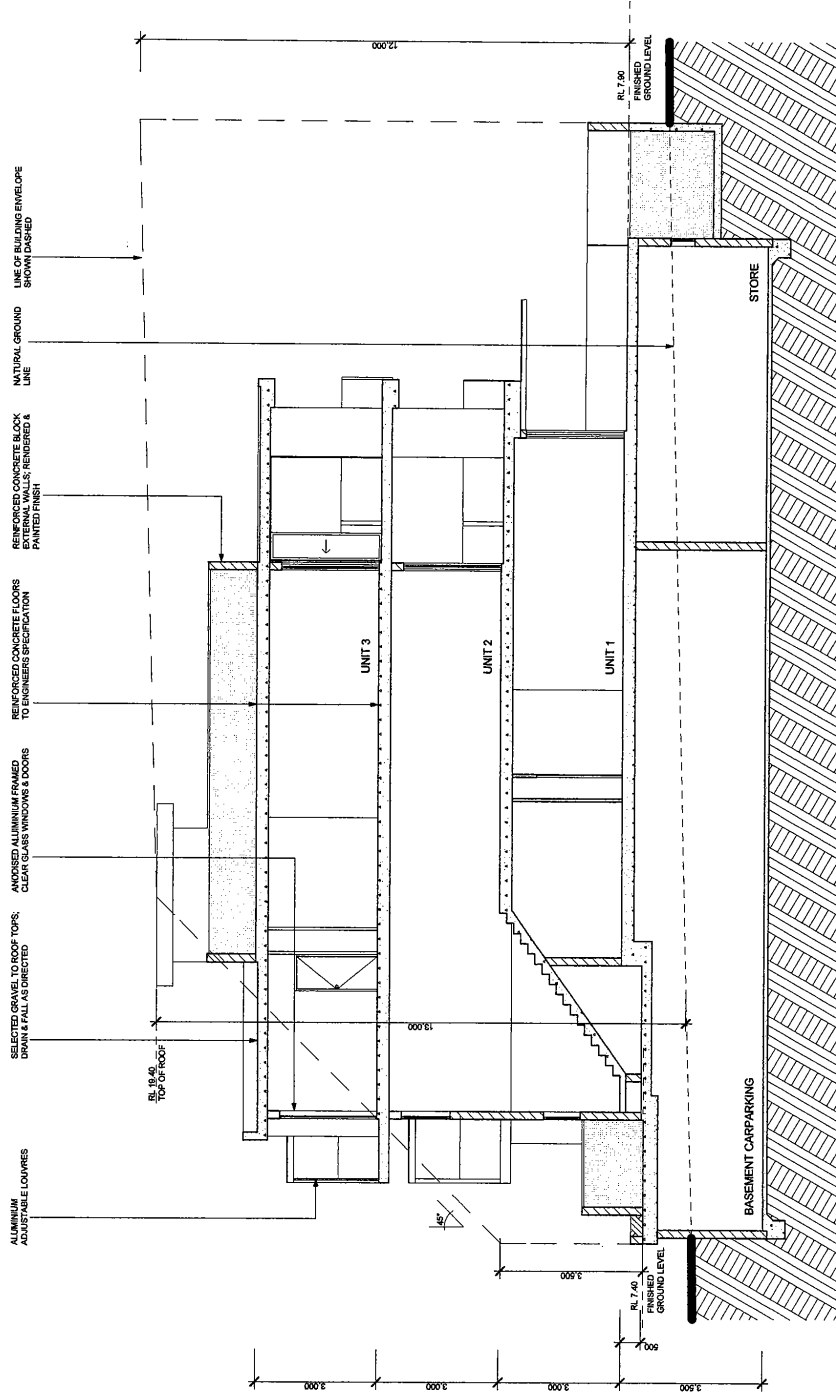
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DA-13

issue	date
A	08/11/04
B	25/03/05
C	15/04/05
D	12/09/05



SECTION BB

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kingscliff office tel/fax 0266 743 886 bangalow office tel/fax 0266 870 708 po box 1166 kingscliff 2487 nsw
kenny@baker.net.au

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B.Sc.(Arch) B.Architectural

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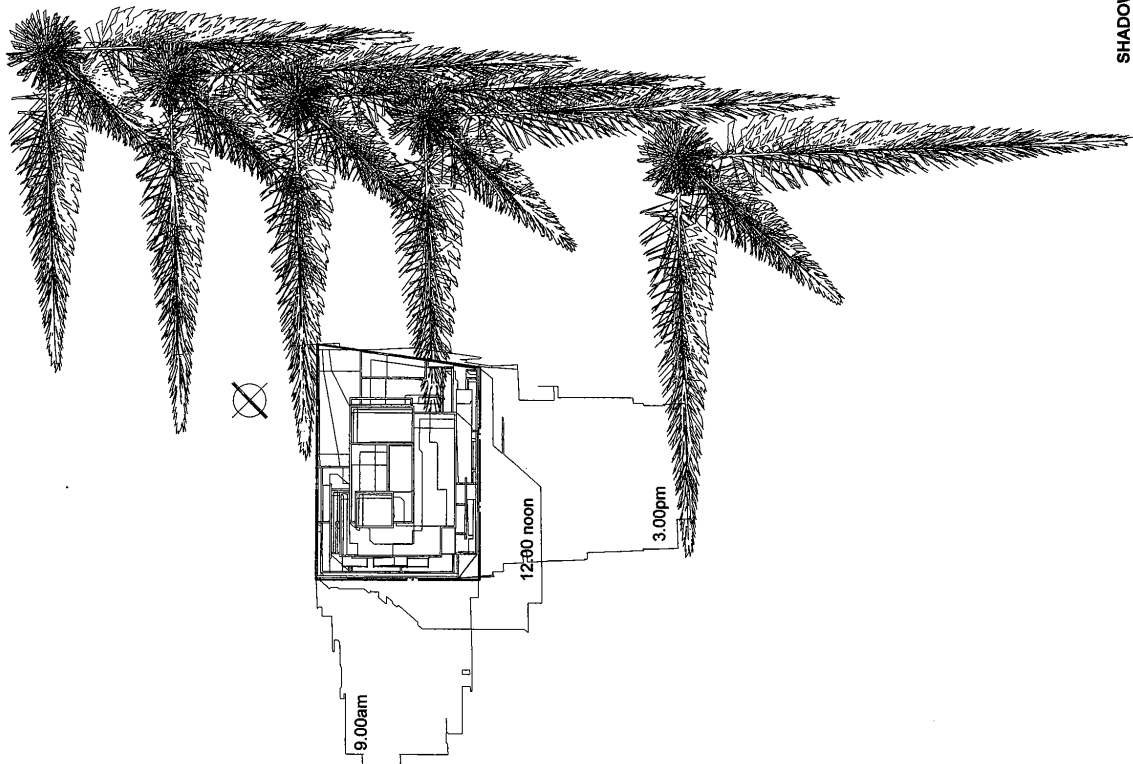
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drawing no.
DA:15

issue	date
A	09/11/04
B	25/03/05
C	15/04/05
D	12/05/05



SHADOW PROJECTION PLAN JUNE 21st

trading as abk australia ptl acn 111 306 999
kingscliff offices tel/fax 0266 743 888 bangalow office tel/fax 0266 870 708 po box 1166 kingscliff 2487 nsw
kenny@batter.net.au

BRIAN KENNY
B.Sc.(Arch) B.Architecture

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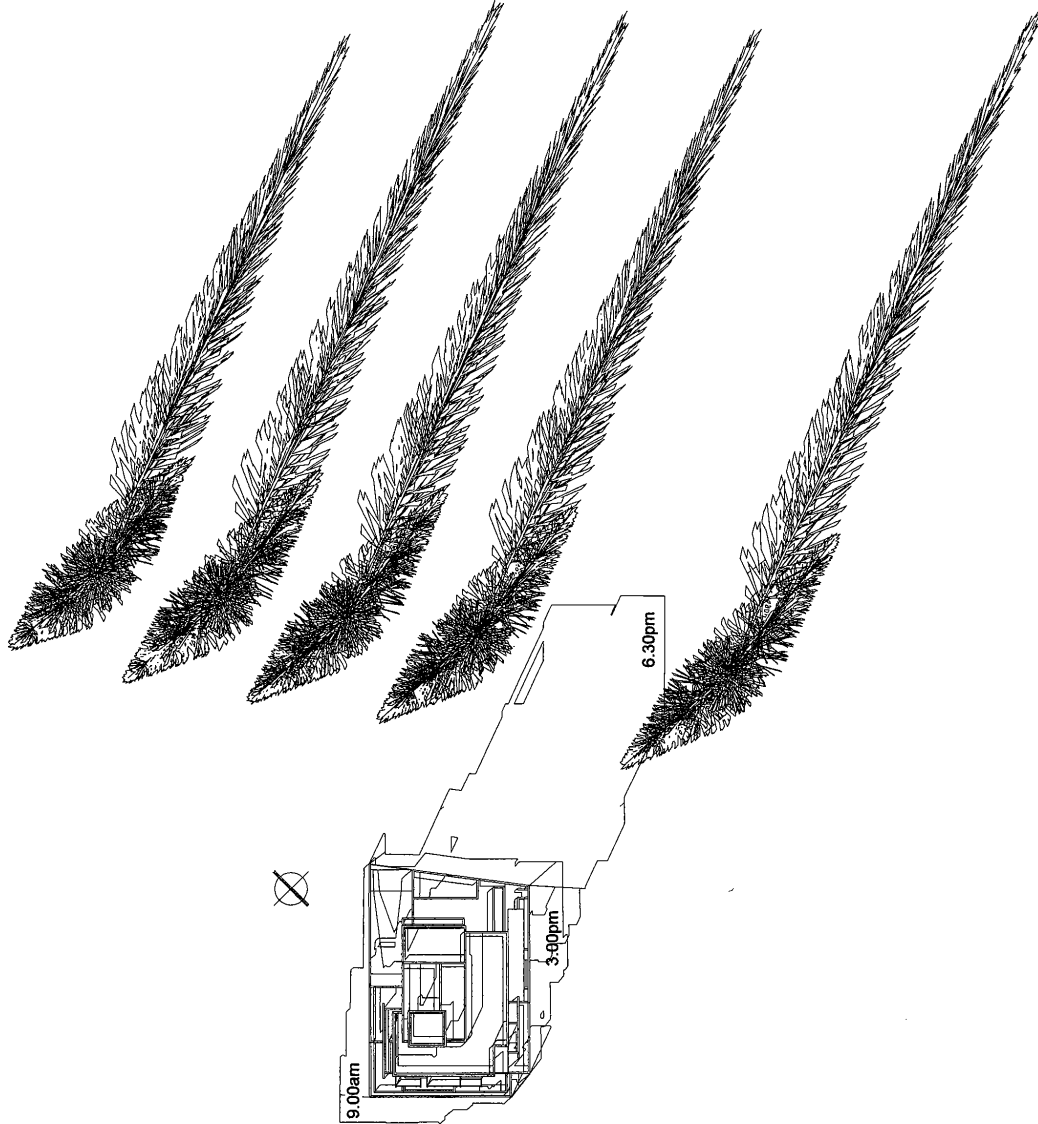
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scale
1:500
drawing no.
DA:16

issue	date
A	09/11/04
B	25/03/05
C	15/04/05
D	12/08/05



SHADOW PROJECTION PLAN DECEMBER 22nd

trading as abk australia pty ltd a/cn 111 306 999
kingscliff office tel/fax 0266 743 888 bangalow office tel/fax 0266 870 708 po box 1166 kingscliff 2487 nsw
kenny@batter.net.au

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

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

Tweed Local Environmental Plan 2000

The subject site is zoned 2(b) Medium Density Residential in accordance with the provisions of TLEP 2000. The objectives of the zone are:-

Primary objective:

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

Secondary objectives:

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

The proposed development is considered to medium density housing as permitted within the zone.

Clause 15 of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. Connection to water, electricity, sewerage and waste collection services are available for the site. Insert Engineering comments here

As previously discussed the proposed basement construction requires relocation of a public sewer, and as a result of works to the sewer on the subject site, access to and sewer relocation works, including bypass pumping within adjoining lots, Lot 3 DP 381437 (No.39 Pearl Street Kingscliff) and Lot 103 DP 1091112 (No.120 Marine Parade Kingscliff) will be necessary.

Extensive consultation with the applicant and landowner have been undertaken to resolve this issue. Legal advice has been sought from Council's solicitors regarding whether the applicant should obtain the land owner's consent of Lot 3 DP 381437 and Lot 103 DP 1091112 prior to determining the development application or whether a condition of consent could satisfy this requirement. The legal advice is referred to in the background section of this report.

Clause 16 of the TLEP requires development to be carried out in accordance with the height limitation plan. The site has an allowable height limit of 3

storeys. The proposed development is 3 to 4 storeys in height. A SEPP No. 1 objection has been lodged against this development standard, which is discussed later in this report.

North Coast Regional Environmental Plan 1988

Clause 32B applies to the proposed development as the proposal will result in the adjacent open space being overshadowed at and before 6.30pm midsummer (daylight saving time). The total area of overshadowing on the adjacent open space as stated in the Statement of Environmental Effects is estimated to be 296m².

State Environmental Planning Policy No. 1 – Development standards (SEPP No. 1) enables Council to assume the Director's concurrence to a variation to the development standard where it is considered that strict adherence is both unnecessary and or unreasonable in the circumstances of the case.

The applicant has lodged a SEPP No.1 objection to this standard, which reads as follows:

- *The extent of the overshadowing at the prescribed time (approx 296m²) is considered to be minor in scale, relative to the overall size of the Coastal Reserve;*
- *That area subject to overshadowing is already heavily overshadowed during the summer months by existing vegetation including mature Norfolk Island pines, caravans and other buildings within the park.*
- *The area in question contains the Kingscliff Beach Caravan Park, and as such is not utilised for passive recreation purposes.*
- *The proposed overshadowing in no way precludes the future use or reclassification of the adjacent reserve;*
- *No overshadowing will occur before 3pm in midwinter (please see attached overshadowing plan);*
- *The proposal does not overshadow the beach.*
- *The building has been designed and sited at the rear of the allotment to reduce the level of overshadowing upon the foreshore reserve; and*
- *Given the time frames of the overshadowing expected, no impacts will occur in relation to existing or future landscaping or specific stands of vegetation in the adjacent open space area.*

The deck area, which creates the partial fourth storey, is approximately 8m² and is setback 5.4m from the street elevation (NE) and 5.2m from the SE elevation. It is considered that the impact on overshadowing on the adjacent open space as a result of the fourth storey is not significant. It is considered

that strict adherence to this standard is unreasonable in this instance and Council can assume its concurrence.

Clause 43 of the NCREP provides guidelines for Council when considering residential development. These controls include density, the environmental constraints on the land and road widths. The density of the proposed development has been maximised without adversely affecting the environmental features of the land. The proposal is also consistent with the allowable building height for the site. Clause 32B is considered to be satisfied.

State Environmental Planning Policies

State Environmental Planning Policy No. 1

As previously discussed, a SEPP No. 1 variation to the 3 storey height limit has been lodged. In accordance with the definition of a storey, the proposed development is considered to consist of a fourth storey component due to the covered deck on the roof level, which is approximately 8m².

SEPP No. 1 enables Council to assume the Director's concurrence to a variation to the development standard where it is considered that strict adherence is both unnecessary and or unreasonable in the circumstances of the case. The applicant's submission to the height limit is as follows:

- *The fourth storey has been sited within the north-western quadrant of the building, therefore limiting what impacts it may generate in terms of overshadowing. In this regard it is submitted the fourth storey does not impact upon adjoining properties at noon and 3pm mid winter with any shadow cast falling upon the building itself (See shadow plans).*
- *The proposed non compliance relates primarily to the staircase providing access to the roof top deck which is sited approximately 5.7 metres from the boundary with the Anglican Church and 7 metres from the nearest residential boundary at the rear, thereby limiting opportunities to overlook the adjoining properties and impacting upon their privacy and amenity.*
- *The roof top deck and pool are orientated to take in distant views of South Pacific Ocean to the north and east and given its sitting within the roof (i.e. setback from street frontage), will be hardly visible from the Marine Parade frontage.*
- *Inclusive of the proposed small fourth storey, the subject development will result in an ultimate building height of only 12.8m (from NGL to ridge capping), while the bulk of the building which complies with the three store height limit has an ultimate building height of 10.4m (from NGL to ridge capping). Consequently the height of the bulk of the building is actually less than that provided*

by a number of genuine three (3) storey developments approved by Council within the Kingscliff locality.

- *The proposed fourth storey has an area of only 7.8m² and is therefore numerically minor. Accordingly, the proposed 4th storey will result in negligible adverse impacts upon the locality.*
- *Similar variations have been supported by Council in recent times with the approval and construction of developments at those places being identified throughout Marine Parade, each of which contain small fourth storey components.*
- *No weakening of the integrity of the building height standard will occur as a result of granting variation in this regard, with the fourth storey a result of providing access to the roof top deck while maintaining the waterproofing qualities of the floor below.*
- *The design of the fourth storey adds to the aesthetics of the building, adding a pronounced inward stepping and vertical gradation to the development as, opposed to one large flat roof.*
- *The proposed variation does not raise any matters of significance relative to state or regional environmental planning.*

The deck is situated so as to minimise overlooking into adjoining developments. The deck area is setback 5.4m from the street (Marine Parade) and 5.2m from the south-east boundary. The scale of the proposal is considered to be consistent with the desired future character of the area in relation to building height and scale. It is considered that strict adherence to this standard is unreasonable in this instance and Council can assume its concurrence.

SEPP 71 –Coastal Protection

The site is not located in a sensitive coastal location. Clause 8 of the policy details sixteen matters for consideration for land situated within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development is considered to be compatible with the intent for the development of the locality.

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

On 22 March 2006 Council resolved that:

- "1. Council prepares a draft Local Environmental Plan pursuant to Section 54 of the Environmental Planning and Assessment Act 1979 to rezone Lots 1, 2, 3 and 4 DP 381437 from 2(b) Medium Density Residential to 3(b) General Business.

2. *The Director-General of the NSW Department of Planning be requested to waive the requirement for an Environmental Study given the minor nature of the proposed Local Environmental Plan Amendment."*

The draft local environmental plan has not been exhibited to date.

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

DCP No. 2 –Site Access and Parking Code

The proposal is consistent with DCP No. 2 as detailed below:

Required	Proposed	Complies
Resident: 1.5 per dwelling = 4.5 car spaces	6 spaces	Satisfactory

DCP No. 6 – Multi Dwelling Housing

As previously stated, the acceptable solutions and performance criteria have been used to assess the development application in accordance with DCP No. 6.

Standard	Acceptable Solutions	Proposed	Consistent
FSR	0.5:1	1:1	Refer to assessment below.
Setbacks			
Street	6m	7m	Acceptable
Side	3m	Ground Floor SE = 1.5m to 7m NW = 1.8m to 5.4m First Floor SE = 1.5m to 5.7m NW = 2.5m to 6.9m Second Floor SE = 1.5m to 4.5m. NW = 3m to 4.1m Roof Top Deck and Pool SE = 8m NW = 4m	Refer to assessment below

Standard	Acceptable Solutions	Proposed	Consistent
Rear	3m	3m. The balconies situated along the south-western elevation encroach into the rear setback by 50% which is acceptable in accordance with DCP No. 6.	Acceptable
Minimum Landscaped Area	30% site area = 165m ² or 3 large dwelling x 80m ² = 240m ² Therefore 240m ² required	Approximately 210m ²	Refer to assessment below
Front Fences & Walls	1.2m maximum if solid	1.35m to 2m (solid).	Refer to assessment below
Building Envelope	45° from 3.5m high at the side and rear boundary (excluding eaves and the like)	Some encroachments	Refer to assessment below
Views, Visual and Acoustic Privacy	Direct views between living area windows of adjoining dwellings should be screened/obscured where: <ul style="list-style-type: none"> ground floor and first floor windows are within a 9m radius from any part of the window of the adjoining dwelling and other windows within a 12m radius. Direct views from living rooms of dwellings into the principle open space area of another dwelling should be screened/obscured within a 12m radius.	The windows which are evident along the south-east, north-west and south-west elevations have been designed to minimise overlooking into the adjoining development. These windows have been stepped inwards and positioned so as prevent direct views into the adjoining development. Privacy screening has also been implemented on the balconies and windows on the south-west elevation to prevent views from living rooms into the open space areas of adjoining developments.	Acceptable
Minimum Private Open Space	20% of site area (110.02m ²) with minimum dimension of 3m One part minimum 25m ² with minimum dimension of 4m directly accessible from a living area	Total area: 255.24m ² Unit 1: 108.05m ² Unit 2: 86.31m ² Unit 3: 60.88m ² . All units have private	Acceptable

Standard	Acceptable Solutions	Proposed	Consistent
		open space areas with a minimum dimension of 3m and one part with a minimum area of 25m ² directly accessible from a living area.	
Daylight & Sunlight	Sunlight to the principle area of ground level private open space of adjacent properties is not to be reduced to less than 2 hours between 9am and 3pm on June 21. Where existing overshadowing by buildings is greater than this, sunlight is not further reduced by more than 20%.	<p>The submitted shadow diagrams demonstrate that the property adjoining the subject site's south-east (Lot 2 DP 381437) will be partly overshadowed at 12 noon and in shadow at 3pm June 21.</p> <p>The submitted shadow diagrams demonstrate that the property to the subject site's south-west (Lot 3 DP 381437) will be in shadow at 9am and partly in shadow at 12 noon in June 21st.</p> <p>The submitted shadow diagrams demonstrate that the property to the subject site's north-west (Lot 103 DP 1091112) will not be affected by shadow as a result of the proposal at June 21.</p> <p>The affected properties have at least 2 hours of sunlight to the ground level principle open space between 9am and 3pm on June 21.</p>	Acceptable
Garage percentage of the street	The maximum width of garage fronting the street shall be 6m or 50% of the street frontage whichever is less	Less than 6m	Acceptable
Car wash bay	1 car wash bay for every 10 dwelling units with a minimum of 1 wash area being provided for each multi dwelling housing development of 5 or more units.	1 car wash bay/visitor space provided	Acceptable

Floor Space Ratio

The proposed development is likely to have a floor space ratio of 1:1, which is a departure from *DCP No. 6 – Multi-Dwelling Housing*, which requires a 0.5:1 ratio. It is generally accepted that the floor space ratio provision was not intended to apply to medium density development in the 2(b) zone due to its limiting nature. It is noted that many similar developments within the Tweed Shire operate at a similar density ratio. As such the variation being sought is not considered to be a matter requiring serious attention.

The applicant provided the following justification:

"Having regard to the performance criteria contained within DCP No. 6, the following matters are relevant to our clients request for variance:-

- 1. Council appears to be applying the 0.5:1 requirement inconsistently to all forms of Multi Dwelling Housing, inclusive of RFB's and Dual Occupancies. Having regard to Council's recent interpretation of the DCP, it appears as though the 0.5:1 FSR requirement is only strictly applicable to Dual Occupancies, with Residential Flat Buildings and the like subject to a loose restriction in the order of 1.1:1 to 1.2:1.*

As such it is considered that the FSR of 1:1 is considered satisfactory and in accordance with the medium density objectives of the zone".

It is considered that this is acceptable.

Side setbacks

The south-eastern setback does not meet the 3m setback provision (acceptable solutions) primarily due to the stairwell. The roof also encroaches into the required side setback. The ground floor will be screened from the adjoining lot to the south due to the erection of a solid wall. The bedroom on the ground floor does not contain windows along this elevation, the only rooms, which contain windows along this elevation, which encroach into the required setback, are bathrooms. The balconies situated along the south-eastern elevation have a 1m high balustrade and privacy screening which will reduce the opportunity of overlooking into the neighbouring property. Balconies can encroach up to 50% into the side and rear setbacks.

The north-western setback increases as the building height increases. There are no windows along the north-western elevation of the building, which encroach into the 3m setback. The areas of encroachment include a living room and bedroom.

The building encroaches into the 3m rear setback from the second floor and up to the roof level, by 300mm. The ground floor and first floors are setback 3m from the rear boundary. The balconies encroach into the setback by a

maximum of 1.5m which is permitted in accordance with the acceptable solutions of the DCP No. 6.

The applicant has addressed the performance criteria as follows: -

Amenity and Character

P1. Buildings are sited and are of such length and height that there is no significant loss of amenity to adjacent dwellings and land. This can be achieved through:

- Setbacks that are progressively increased as wall heights increase to reduce bulk and overshadowing while maintaining adequate daylight and sunlight;*

Complies. The building steps back progressively at each of the three floor levels resulting in a different floor plate configuration for each level.

- Building siting and height that are related to land form, with minimal cut and fill;*

Complies. As with most residential flat buildings, the proposal incorporates a basement car park and excavation is limited to this element, with no benching and or filling required or proposed.

- Building forms that enable a sharing of views with neighbours;*

Complies. No views are lost. The existing built form to the west does not capture views to the east (Pacific Ocean). Side setbacks are more than adequate to retain existing views.

- Building bulk that is generally distributed to reduce impact on neighbours and on the public street;*

Complies. As depicted in the plans, the proposal incorporates significant vertical and horizontal articulation, resulting in minimal façade lengths, varied setbacks and inward stepping elevations. Compliance with this requirement is a fundamental component of the design. Council will no doubt acknowledge that the distribution of the building form throughout the development is far more varied than a typical residential flat building.

- Building heights similar to those in the public streetscape, with higher buildings sited behind and out of direct view from the street*

Complies. As shown on the enclosed montages the proposal comprises a three (3) storey height in the main, with a small 4th storey component centralized on the roof to create an open

terrace/access area. This height is consistent with that exhibited within other recently constructed residential flat buildings in and around the subject site and in the Kingscliff locality.

- *Boundary walls limited in length and height to minimise the impact on neighbours*

Complies. The proposal incorporates shortened façade lengths, generous setbacks o Marine Parade and significant inward stepping on each of the side elevations. These combine to limit impacts upon adjacent properties as confirmed by the absence of objections.

- *Building to the boundary, which maximises privacy for neighbouring dwellings and their private open space*

Complies. No building is proposed to the boundary with the result that privacy for neighbouring dwellings and their private open space is maintained.

- *Adequate separation between facing dwellings for privacy*

Complies. Table 3 on page 20 of DCP 6 lists as an Acceptable Solution separation distances between proposed walls and adjacent habitation windows. A minimum separation of 5.8m is proposed between the proposal and adjacent habitable windows, which is equal to or greater than the distance prescribed by this Acceptable Solution, with the only exception being where the proposed windowless feature wall (centre of the southern façade) sits opposite obscured glass windows. However these windows are to a non habitable room. Accordingly, where the proposal differs from the acceptable solutions, no adverse impacts result.

Daylight and Sunlight

- P2. Buildings are sited and designed to provide adequate daylight to habitable rooms and winter sunlight to ground level open space*

Complies. Overshadowing plans submitted indicate that the shadow cast wraps around the rear of the adjacent building to the south. This ensures that the private open space areas contained at the front of the adjacent buildings are free from shadow impact. This is confirmed by comparing the generous front setback of the proposal in comparison to the adjacent building.

Overshadowing proposed is consistent with the prescribed acceptable solution. Side and rear setbacks comply with relevant building regulations (BCA) in accordance with the Acceptable Solution.

Also the proposed upper level, which is the common denominator in relation to shadow impacts, is generously setback from southern common boundary, with a façade length of only 13.8m. Only 4.0m of this façade length is setback a minimum of 1.5m at this level. Windows located immediately adjacent to the proposed feature wall on the southern façade are limited to obscured glass only. This confirms that no adverse privacy impacts or indeed sunlight loss will occur as a result of the proposed setback.

The shadows cast by the building comply with the acceptable solution given that greater than 2 hours sunlight access is afforded to the private open space areas located to the front of the adjacent building, between the hours of 9.00am and 3.00pm daily.

The separation between the front of the southern façade (bedroom 1 at levels 1 and 2) and the living rooms of the adjacent dwelling is a minimum of 5.8m, which is as required by the acceptable solution contained within table 3 on page 20 of DCP6.

Comment

The justification proposed by the applicant is considered to satisfy the performance criteria in this instance.

Landscaped Area

The proposed landscaping represents a shortfall of 30m². The applicant has provided the following justification of the performance criteria:

- P1. Site design minimises site disturbance and, where possible, preserves existing landscape elements such as rock formations, water courses, and trees.*

Complies. The site is highly disturbed in its current form and incorporates only one tree of any visual significance. This tree is to be retained in accord with the contents of the performance criteria. There are no rock formations, water courses or the like.

- P2 Landscaping is geared towards user requirements, taking into account maintenance, exercise opportunities, shade provision and aesthetic quality*

Complies. The landscaping proposed is functional in its form and aimed at providing internal pockets of privacy, shade and amenity. All planters proposed will be a minimum 1.0m deep, thereby permitting selected trees up to 4.5m in height with shading and aesthetic quality.

- P3. To the fullest extent possible, appropriate vegetation is used to provide shade to the northerly and westerly elevations of buildings in summer, while allowing sunlight in winter*

Complies. Refer to enclosed landscape plan and comments above. The location of planter boxes relative to pools and private open space terraces means that open spaces area will be suitable shaded and that adequate separation will exist between the dwellings. Landscaped beds are conveniently located to outdoor use areas and also to increase aesthetic appeal to passers-by and adjacent residents.

P4. The landscape design should, as appropriate:

- Be of an appropriate scale relative to both the street reserve width and the building bulk (Figure 28)*

Complies. Refer to enclosed montages.

- Improve privacy and minimise overlooking between dwellings*
- Appropriately account for streetscapes and landscapes of heritage significance*

Complies. Measures to secure privacy and minimise overlooking include shutters and or feature walls without window openings. The landscaping proposed will assist in this regard, with planter boxes capable of accommodating plants up to 4.0m located in several areas in and around the site.

- Provide adequate lighting for pedestrian and vehicular safety*

Complies. Low key domestic lighting will be provided and only in relation to internal manoeuvring.

P5. The landscape design specifies the location and species of trees, shrubs and ground cover in a way that:

- uses vegetation types and landscaping styles that minimise water usage and assist the development to blend in with the streetscape*

Complies. Refer enclosed landscape plan. All species proposed will be salt and drought tolerant native species. Where more ornamental species are proposed, such plantings will be minimised and limited to privately maintained areas.

- should not affect the structure of the proposed buildings and minimises risk of damage to overhead and underground power lines and other services*

Complies. Refer landscape plan enclosed. Careful attention has been given to ensuring there are no structural conflicts.

Landscaping consisting of deep planters will be appropriately drained and maintained.

- *considers personal safety, by ensuring good visibility along paths and driveways and avoiding shrubby landscaping near thoroughfares;*

Complies. Refer enclosed montages and plans. A combination of landscaping and lighting is proposed so as to ensure adequate safety and privacy in relation to internal access paths.

- *contributes to energy efficiency and amenity by providing substantial shade in summer especially to west-facing windows and open car park areas, and admitting winter sunlight to outdoor and indoor living areas (Figure 29);*

Complies. The appropriate energy efficiency certification has been achieved regardless of landscaping, however, the siting of the proposed beds will assist in minimising adverse northern and western sunlight, with further protection afforded by way of adjacent buildings. Refer enclosed montages and landscape plan.

- *achieves sightlines for vehicles and pedestrians, especially near street corners and intersections;*

Complies. Sightlines to the satisfaction of Council officers have been provided.

- *that uses Australian native vegetation*

Complies. Landscaping proposed is entirely consistent with native vegetation selections. Refer enclosed landscape plan which in accord with the acceptable solution has been prepared by a qualified landscape architect and certified by him as meeting the performance criteria. Furthermore, all species selected are consistent with the Council's document 'Trees and Shrubs' – a guide for selection in Tweed Shire.

P6. Paving is provided to driveways, walkways, entries, outdoor patios and in the vicinity of garbage bin enclosures, letter boxes and clothes lines. Such paving should be:

- *in materials and colours which complement the development and alternative adjoining streetscapes;*
- *in non-slip finishes and suitable for use by people with disabilities.*

Complies. Appropriate paving has been provided as demonstrated on the enclosed landscape plan. This paving will be finished in a

manner commensurate with the high architectural quality of the building, using non lip surfaces where appropriate.

Comment

The justification proposed by the applicant is considered to satisfy the performance criteria in this instance.

Front Fences and Walls

The proposed development incorporates a solid front fence to a maximum height of 1.8m along the Marine Parade frontage.

The applicant has submitted the following justification:

The proposed development contains elements of the front fence which exceeds a height of 1.2 metres across the front of the property (1.90m) for a distance of approximately 11 metres. A variation is sought to Council's Fence Height Policy for the following reasons.

- *The fence utilises various materials and articulation to ensure it does not impose upon the streetscape.*
- *The fence contains a recessed landscape bay adjacent to the pedestrian entrance into the property as is the normal requirements of Council.*
- *The fence being adjacent to the front swimming pool is required for safety reasons.*

In conclusion it is considered the fence is not obtrusive or adversely impacts upon the amenity of the area. Council's support for a fence height variation is respectfully requested in this instance.

Comment

Council's Building Surveyor assessed the height variation and recommended that the fence height variation be approved to allow the fence with landscape recess to be constructed to a maximum height of 1.8m along the Marine Parade frontage, as per the plans submitted with the development consent except that the northern side boundary fence is not to exceed 900mm in height for a 2m building line, measured from the front boundary.

Building Envelope

The proposed development exceeds the building envelope provision as seen on the northeast elevation, northwest elevation, southwest elevation, southeast elevation, Section BB and Section AA. The areas of encroachment can be summarised as follows:

South-east elevation: Through part balcony (first floor), part bedroom number 2 and its balcony (second floor), the roof top structure.

North-east elevation: Through the stairwell, part bedroom number 2 (first floor), part bedroom number 1 and kitchen (second floor), roof, roof top structure.

North-west elevation: Part balcony (first floor), part bedroom 3 and its balcony (second floor), roof and roof top structure.

South-west elevation: Stairwell, part bedroom number 2 and balcony(second floor), part bedroom number 3 (second floor), roof and roof top structure.

The applicant submitted the following justification:

The proposed development encroaches on the Building Height Plane on the two side elevations and the rear elevations, as indicated in the submitted plans. It is submitted these encroachments will not have an adverse impact upon neighbours in terms of privacy and overshadowing. It is requested Council assess this component of the development against the performance criteria.

The objectives of this design element are as follows

- 01. To ensure that the height, scale and length of new developments is not excessive and relates well to the local context.*
- 02. To encourage design, which creates desirable living conditions and ensures that the amenity of surrounding properties is properly considered.*
- 03. To allow flexibility in the siting of buildings and the provision of side and rear setbacks.*
- 04. To allow adequate natural light and ventilation between dwellings.*

It is considered that the height, scale, bulk and length of the development is not excessive having regards to the 2(b) Medium Density Zoning of the land and surrounds and the type of medium density developments already constructed and recently approved in Kingscliff. Of note the proposal involves substantial articulation along the side and rear elevations avoiding long monotonous walls so readily evident in the residential flat buildings constructed during the 1970's and 80's. It is concluded the proposal is consistent with the objectives of this design element.

The Performance Criteria for this element are as follows:

Amenity and Character

P1. Buildings are sited and are of such length and height that there is no significant loss of amenity to adjacent dwellings and land". This can be achieved through:

- Setbacks that are progressively increased as wall heights increase to reduce bulk and overshadowing while maintaining adequate daylight and sunlight;
- Building siting and height that are related to form, with minimal cut and fill;
- Building forms that enable a sharing of views with neighbours;
- Building bulk that is generally distributed to reduce impact on neighbours and on the public street;
- Building heights similar to those in the public streetscape, with higher buildings sited behind and out of direct view from the street;
- Boundary walls limited in length and height to minimise the impact on neighbours; and
- Building to the boundary, which maximises privacy for neighbouring dwellings and their private open space;
- Adequate separation between facing dwellings for privacy.

Daylight and Sunlight

P2. Buildings are sited and designed to provide adequate daylight to habitable rooms and winter sunlight to ground level open space.

The proposed development provides for substantial articulation to the side boundaries with setbacks varying from 1.8 to 5.4 metres on the north western boundary, and 1.5 to 7.0 metres of the south eastern boundary. Accordingly the proposal does not present to the side boundaries as one long wall in a three (3) storey configuration.

Living areas within the upper levels are orientated to the Ocean and therefore overlook the street as opposed to adjoining neighbours. The third floor which contains a small roof top balcony and pool is also orientated to overlook the ocean. Due to its centralised location, little opportunity exists to overlook adjoining residential properties to the south west, south and south east, while no adverse impacts are anticipated upon the adjoining Anglican Church or its patrons.

It is noted that the upper level balconies on the second floor contain aluminium adjustable louvers to limit any impacts upon neighbours in terms of privacy. Similarly, windows on the second floor will also be suitably screened (see notation on plan).

In terms of impacts upon neighbouring properties, the development will not result in significant loss of amenity from overshadowing or loss of privacy. (See shadow diagrams). With the shadow cast by the building swinging from the property to the rear to the property to the south during

midwinter and will comply with Council's Acceptable solution A6 under Section 3.3.1 of the DCP.

It is concluded that although not compliant with the acceptable building height plane solution, the proposed encroachments will not adversely impact upon the amenity of the two (2) adjoining residential properties or the amenity of those attending the adjacent Anglican Church. A variation to the Building Height Plane provisions of DCP 6 is respectfully requested.

Comment

The justification proposed by the applicant is considered to satisfy the performance criteria in this instance.

DCP No. 9 – West Kingscliff

Filling issues are addressed specifically in a later component of this report.

DCP No. 39 – Energy Smart Homes

A NatHERS assessment was submitted for the proposed development, which indicated that each unit could achieve a minimum of 3.5 stars.

DCP No. 43 – Kingscliff (Coastal)

The subject site is identified as being situated within Precinct 1 – Town Centre of the DCP. An assessment of the proposal in accordance with DCP No. 43 is provided below.

Acceptable Solutions/Standard	Proposed	Consistent
Building type 3 = 3 storeys	Height ranges from 3 to 4 storeys.	SEPP No. 1 Objection lodged as discussed previously
Setback from street alignment	See DCP No. 6 assessment	Satisfactory
Parking - Underneath building with rear lane access where achieved	Basement car parking	Satisfactory
Verandah Combination of both recessed and protruding verandah elements is preferred. Minimum 2.5m wide verandahs provided for ideally 75% of façade length	Protruding verandahs. The main balconies/verandahs are in excess of 2.5m wide but do not equal 75% of the façade length.	Satisfactory

Acceptable Solutions/Standard	Proposed	Consistent
Building setbacks to be established in accordance with the building height plane and setback requirements of DCP 6 – Multi Dwelling Housing.	Variation sought as discussed in DCP No 6 assessment	Considered to be acceptable
Maximum 1.2m in height and should have regard to the design of any adjoining front fences.	Variation sought as discussed in DCP No. 6 assessment	A fence height variation is sought.

The applicant provided the following:

“The proposal is considered to be generally consistent with the relevant provisions of DCP No. 43 – Kingscliff. Those elements of the building which do not comply a variation has been sought”.

DCP No. 47 – Cut and Fill

Council’s development engineer has provided the following comments:

“The applicants have provided a preliminary geotechnical investigation of the subject site. This investigation has identified the following;

1. *The fill material encountered on site has been placed recently and it is considered to be uncontrolled in accordance with AS 2870 – 1996 ‘Residential Slabs and Footings’ – Construction’.*
2. *Ground water was encountered at a depth of 4.6m which indicates that de-watering should not be required during construction. It is understood that bulk excavations for the basement will be between 2.5m to 3.5m.*
3. *The base of the excavation be saturated and compacted using a static drum roller and footing trenches be saturated and compacted to rectify an ‘soft spots’.*
4. *Earthworks are to be carried out in accordance with AS 3798 - 1996.*

The submitted report advises that the testing was limited due to restricted access and therefore the recommendations are preliminary only. A comprehensive geotechnical investigation must be completed once the dwelling is removed.

Based on the findings of the preliminary geotechnical report and the existence of similar sized structures in the immediate vicinity, it is considered that the geotechnical stability of the site is sufficient to support a structure of this size. A condition of consent has been imposed

which requires a final geotechnical report to be submitted once the dwelling has been removed."

DCP No. 48 – Tweed Coast Building Heights

The applicant has submitted an assessment as per DCP No. 48, which addresses the performance criteria as the proposed development does not meet the acceptable solutions, particularly in relation to the buildings' height as per the assessment table below.

Standard	Acceptable Solutions	Proposed	Consistent
Building Height	The building height measured from finished ground level to the uppermost ceiling or top plate of the highest external wall is 9m and The building height from the finished ground level to the highest point on the ridge of the roof and including all ancillary structures, such as, but not limited by, lift overruns, pergolas, satellite dishes, solar heating panels and kitchen exhaust shafts/cowls is 11m	10m 10.9m - 11.5m	Refer to assessment below
Building Setbacks Front setbacks	Front setbacks are to be within the range plus or minus 25% of existing adjoining and nearby setbacks, provided that in all instances, the setback is a minimum of 6 metres.	6m	Consistent
Side and Rear Setbacks	Minimum 3m	Variation proposed refer to DCP No. 6 assessment	Considered to be acceptable
Building Envelope	3.5m vertical line up from the property boundary and then at 45 degrees to the maximum height of the building	Variation proposed refer to DCP No. 6 assessment	Considered to be acceptable

Standard	Acceptable Solutions	Proposed	Consistent
Roof Design	Maintain diversity in the design of roofed areas and avoid the construction of a 'monotonous' roofscape. Roofed areas should not adversely impact on neighbouring properties, public streets, and not detract from the existing roofline character.	Predominately flat roof with some articulation. A pool and BBQ area are proposed on the roof deck. As previously discussed in this report, these are positioned so as to minimise overlooking into adjoining developments.	Acceptable

The applicant has provided the following justification to DCP No.48:

"This DCP was adopted by Council in October of this year" (2004). "In this regard, the resolution stated that although adopted, the provisions and prescriptive requirements contained within the LEP should not be granted full force or reign in the assessment of future applications until such time that a thorough review has been carried out in association with industry representatives. In this context, the following outlines the extent of compliance demonstrated within the attached plans, albeit in a manner that acknowledges that the document does not yet possess considerable weight.

The DCP incorporates a requirement that building heights be limited to 11.0m in height from finished ground level to the ridge of the roof and 9.0 metres in height from finished ground level to the underside of the eaves immediately above it. It is understood the DCP is to be reviewed by Council given the impractical nature of the prescribed height limits in trying to achieve variations to height lines and roof designs.

Nonetheless as the proposal contains a small fourth storey component it does not strictly comply with the requirements of the DCP. It is noted that the bulk of the building is three (3) storeys only and with a height of 10.4 metres above natural ground level, demonstrates consistency with the prescribed height limit. The fourth storey component in essence contains a staircase to provide access to the roof top deck, which in turn has an undercover area of 7.8m² only.

A variation is requested to the height requirements contained within the DCP, with particular reference to consistency with the following performance criteria:

P1. The likely impacts of new buildings on surrounding developments, particularly with regard to overshadowing, privacy and the obstruction of views are avoided.

Comment: The proposed development has minimal impact upon the adjoining properties from overshadowing and loss of views. In particular the submitted shadow diagrams indicate that overshadowing created by the proposal during mid summer will have minimal impact upon adjoining properties, while in midwinter the shadow will move from the property to the west to the property to the south throughout the day. This will ensure the private open space of adjoining properties is not adversely overshadowed for any substantial length of time and complies with the overshadowing requirements under DCP 6. It is important to note that the fourth storey component due to its siting within the northwest quadrant of the property does not substantially add to the overshadowing of this property with shadows cast at midday and 3pm midwinter falling back onto the building itself.

P2. Topographical features of the site and surrounding properties such as slope, existing natural vegetation and opportunities for the creation of views and vistas are identified.

Comment: The subject site is relatively level as are surrounding properties. The proposal does not restrict the redevelopment potential of surrounding properties in relation to the provision of views to the Pacific Ocean. Little vegetation needs to be removed with the bulk of the site already developed with a two (2) storey residence with open space areas covered in lawn and ornamental species of garden trees and shrubs.

P3. The scale of new developments is compatible with and sympathetic to the scale and bulk of existing development and/or the desired future character of the locality.

Comment: The proposed development has been specifically designed with a bulk and scale commensurate with the 2(b) medium density zoning of the area and the general provisions under DCP 6 Multi Dwelling Housing and DCP 43 Kingscliff. In terms of compatibility the proposed design and height of the building is consistent with contemporary buildings currently constructed or proposed for the area and is sympathetic with current design trends being employed in the Residential areas of Kingscliff.

P4. Buildings are designed and constructed to relate to the existing land shape with minimal cut and fill allowed.

Comment: The proposal has been designed with a basement car park. This could have been lowered further into the ground resulting in additional earthworks on site. It is considered however the proposal achieves a suitable balance between providing a functioning basement car park and limiting the height of the building.

P5. Grand vistas and views, including heritage or familiar dominant landmarks that are recognised and valued by the community, are not obscured by new development.

Comment: The proposal does not impact upon any grand vistas or views of heritage or dominant landmarks that are recognised and valued by the community.

In conclusion although the proposal does not strictly comply with the numerical requirements under the DCP, the building clearly satisfies the performance criteria in terms of heights of buildings, satisfying the objectives of DCP No. 48”.

Comment

The additional building height is not considered to significantly contribute in overshadowing on the adjoining lots. The scale of new development is compatible with and sympathetic to the scale and bulk of the desired future character of the locality whilst being sympathetic to surrounding development.

DCP No. 51 – Tweed Coast Strategy

The proposed development is consistent with DCP No. 51.

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

Clause 92(a) Government Coastal Policy

The land is identified under the Coastal Policy. The site is not affected by the Coastal Erosion Zones, is unlikely to be affected by the coastal processes, will not overshadow foreshore reserves and does not restrict public access to the coast. Therefore the proposed development is not in conflict with the policies and strategies contained within the coastal policy.

Clause 92(b) Applications for Demolition

The proposal requires the demolition of the existing dwelling. A demolition plan has been submitted in conjunction with the Statement of Environmental Effects. Appropriate conditions of consent have also been recommended to control the demolition.

(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

Effluent Disposal

As previously discussed, the provision of adequate sewer to the proposed development and in particular the impacts to adjoining property owners is a primary issue with this development application.

The proposed design of the development results in the need to realign the sewer however, engineering details demonstrating how the integrity of the sewer will be maintained have not been submitted.

An assessment of the proposed development identifies that at least two other properties (Lot 3 DP 381437 and Lot 103 DP 1091112) rely on this sewer and any change to this sewer as a consequence of the development will impact on these adjoining properties. As such, Council's Infrastructure Unit have recommended that the consent from the affected property owners be required to allow the carrying out of these works prior to a determination being made. Council's solicitors have advised that a deferred commencement condition is suitable in this instance, which requires the applicant to obtain consent from the adjoining property owners before the operation of the consent.

Overshadowing

The submitted shadow diagrams demonstrate that Lot 2 DP 381437, Lot 3 DP 381437 and Lot 103 DP 1091112, which adjoin the subject site, will be affected by shadow as a result of the proposed development.

The adjoining property to the subject site's south-east, Lot 2 DP 381437 will be overshadowed at 12noon and 3pm June 21. The principal open space areas for the development are balconies, which are situated at the north-western section of the building. At 12 noon approximately 23% of Lot 2 DP 381437 will be in shadow. At 12 noon these balconies are not in shadow. At 3pm approximately 75% of the site will be in shadow including the balconies.

At December 21st the shadow plans show approximately 11% of Lot 2 being in shadow. The shadow is generally restricted to Lot 2's North-North-Western section. The balconies will be partially in shadow at this time. The shadow diagrams demonstrate that at 9am and 12noon December 21st, Lot 2 will not be affected by shadow as a result of the proposed development.

The property to the subject site's immediate south-west, Lot 3 DP 381437 will be in shadow at 9am and partly in shadow in June 21st. The principal open space area for the development is situated in the North-North-East section/rear of the site. At 9am June 21st approximately 55% of the site will be in shadow. At 12 noon 11% of Lot 3 will be in shadow. By 3pm the site will be free of shadow as a result of the proposed development.

At December 21st the shadow plans show that 26% of Lot 3 will be in shadow at 9am. The shadow is generally restricted to the site's North-North-East. By 12noon, the site is free of shadow. The submitted shadow plans demonstrate that the site will not be affected by shadow at June 21st.

The submitted shadow diagrams demonstrate that the property to the subject site's North-North-West, Lot 103 DP 1091112 will be partially over shadowed at 9am December 21st; approximately 1.8% of the site will be in shadow at this

time. The extent of the overshadowing affecting this property is considered to be acceptable.

As previously discussed in this report a SEPP No. 1 variation has been submitted regarding the allowable building height. It is considered that if the proposal fully complied with the allowable building height limit of 3 storeys in accordance with the TLEP 2000, Lot 2 would be significantly affected by shadow at 3pm June 21st and Lot 3 will be significantly affected by shadow at 9am June 21st. The predicted overshadowing impact is the result of the allowable building height of the site and the east west orientation of the lots.

It is considered that the extent of overshadowing on the adjoining properties is acceptable in this instance.

(c) Suitability of the site for the development

The proposed development is to be erected on land that is zoned for medium density housing under the Tweed Local Environmental Plan 2000.

The proposed design and configuration of the development is considered to be consistent with the desired land use character and pattern. The suitability of the site for the purposes of the proposed development has been demonstrated by way of general consistency with the relevant Development Control Plans and sections of the Tweed Local Environmental Plan 2000 applying to the site.

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

In accordance with DCP No. 42 – Public Notification Policy the development application was notified for a period of fourteen (14) days. No submissions have been received to date.

(e) Public interest

The proposed development is not considered to be contrary to the wider public's interests.

OPTIONS:

1. Council support the development application with conditions and assume the Director's concurrence.
2. Council not support the development application and provide reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has the right to appeal in the Land and Environment Court should he/she be dissatisfied with the determination.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The subject land is generally considered to be suitable for the proposed development. The increase in traffic associated with the proposed development can be catered for within the existing road network.

The proposed development is considered to be generally consistent with the applicant development control plans.

As previously discussed a deferred commencement consent is considered to be appropriate in this instance.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Confidential Floor Plans (DW 1382697)
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P8 [PD-PC] Development Application DA05/0840 for Grazing of Cattle and Associated Works at Lot 76 DP 755701, Lot 272 DP 755701, Lot 323 DP 755701, Lot 326 DP 755701 Duranbah Road, Kings Forest

ORIGIN:

Director

FILE NO: DA05/0840 Pt3

SUMMARY OF REPORT:

Council resolved to enter into a Consent Order for the Land and Environment Court to approve this development subject to conditions on 12 April 2006. This was based on advice that there had been further submissions that the proposed development was temporary and the applicant was agreeable to a condition limiting the consent for three (3) years.

The Department of Planning has recently advertised the proposed zoning changes to the Kings Forest site including the Cudgen Paddock. The area in Cudgen Paddock which was previously advertised by Council as being suitable for urban development has not changed in the Department of Planning proposals for the Kings Forest Estate. Although the Department of Planning has carried its own review of all the ecological reports for the Cudgen Paddock and has advised Council that the cleared area is suitable for sensitive urban development it must be acknowledged that no decision has been made by the Minister in relation to the Department of Planning proposals for Kings Forest.

The Department of Environment and Conservation (DEC) has made further submissions in relation to the proposed cattle grazing on the areas of Cudgen Paddock which have been advertised as suitable for sensitive urban development by both Council and the Department of Planning. The main issue raised by the DEC is that approval of the cattle on these areas of Cudgen Paddock would pre-empt the Minister's decision on the Department of Planning zoning proposals for Kings Forest. This concern may be able to be overcome by deferring any decision on the cattle grazing until the Minister has decided which area, if any, of Cudgen Paddock is suitable for urban development. The cattle grazing could then be restricted to that area.

In relation to the previous Council decision to enter into a Consent Order for the Land and Environment Court to approve the development application subject to conditions, a Land and Environment Court hearing was held on 1 May 2006. Some of the objectors to the application made further submissions to Commissioner Moore. Council facilitated the objectors submissions to the Court as required under legislation. The application has been amended and different conditions drafted to address the additional concerns which have been raised in the Land and Environment Court hearing. A copy of the relevant correspondence which needs to be considered before determining this application was forwarded separately to each of the Administrators on 30 May 2006.

Council has been provided with previous reports that dealt with the background issues and planning matters which need to be considered before any determination is made on this application. The further submissions and reports which were made by the objectors at the Land and Environment Court hearing on 1 May 2006 now need to be considered before the application is determined.

This information was emailed on 30 May 2006. The issue that an approval now may pre-empt the Ministers' decision in relation to Cudgen Paddock is an important consideration. A new condition has been drafted which defers any commencement of the cattle grazing until the Minister has made his decision in relation to the zoning changes for Kings Forest. The cattle grazing would then be restricted to the area which has been determined as suitable for future urban development. Other conditions have been included to address the further concerns raised by the objectors at the Land and Environment Court hearing on 1 May 2006. It is recommended the application be approved subject to deferred commencement conditions.

RECOMMENDATION:

That Development Application DA05/0840 for Grazing of Cattle and Associated Works at Lot 76 DP 755701, Lot 272 DP 755701, Lot 323 DP 755701, Lot 326 DP 755701 Duranbah Road, Kings Forest be approved subject to the following conditions: -

"Deferred Commencement"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 12 months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.

- 1. That the Minister for Planning determines the area of Cudgen Paddock which is suitable for urban development sympathetic to the environment.**

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

- 1. The development shall be carried out in accordance with the Statement of Environmental Effects and the Flora and Fauna Assessment Grazing of Cudgen Paddock, Kings Forest prepared by Aspect North dated 7 October 2005 except where varied by the conditions of this consent.**
- 2. The Applicant shall provide for fencing as shown on the aerial photograph prepared by Aspect North and dated 5 May 2006 showing the location of the proposed paddock fences and fences around waterbodies, attached to this consent and Marked "A."**
- 3. The activities permitted by this consent are only permitted within the land zoned for urban development in the draft Local Environmental Plan (Amendment No. 20) for Kings Forest, as ultimately determined by the Minister for Planning. The buffer areas (50metres wide) are to remain intact ie. no cattle grazing permitted in the buffer areas pending further investigation as part of the DCP for urban development in Cudgen Paddock.**
- 4. The works allowed by this Consent, including any slashing preparatory to fencing or otherwise and any pasture improvement measures, shall not be commenced until the Local Environmental Plan (Amendment No 20) for Kings Forest is determined by the Minister for Planning, and shall be restricted to such areas which are finally determined in the Local Environment Plan for Kings Forest as suitable for urban expansion. Cattle grazing shall cease when the land is developed for urban purposes.**
- 5. The maximum number of cattle permitted to be grazed on the subject land is 45. In this regard the maximum number of cattle permitted in the eastern paddock is 30 and the maximum number of cattle permitted in the western paddock is 15, subject to such numbers being reduced proportionately to the extent, if any, that the areas of these paddocks (as indicated in the aerial photograph produced by Aspect North) are finally determined in the local Environment Plan as not suited for urban development.**
- 6. The amelioration measures contained in section 6.2 of the Flora and Fauna Assessment Report are to be undertaken, namely:**
 - Two rather than three grazing paddocks to be established – on the eastern and western halves of the site (refer Fig. 5).**

- Reduced grazing to be undertaken in the western paddock. This area is known habitat for threatened frogs (southwest) and Grass Owls (northwest).
 - A maximum of 45 cattle to be grazed on the site: 30 in the eastern paddock and 15 in the western paddock. This is based on effective grazing rates of 1 cow per 1 hectare on good pasture. Cudgen Paddock is considered marginal grazing land, therefore the ideal grazing rate has been halved. This figure is reduced in the western paddock to minimise impacts on threatened fauna.
 - Fencing to be erected around the perimeter of the Paddock and between the eastern and western paddock areas. All drains and waterbodies are to be fenced. Internal and external (where applicable) fencing to be installed so as to prevent impacts on waterbodies during construction (ie. star pickets and electric fence) and allow movement of Koalas (ie. greater than 250mm clearance).
 - The corridor proposed on existing constraints maps to be maintained down the centre of the Paddock (refer Fig. 5).
 - Effective erosion controls to be employed during fencing operations, if required, to prevent sedimentation of drains.
 - The fencelines are to be constructed at least 5m from drains or waterbodies.
 - Watering points to be installed at regular intervals to discourage use of the drains by cattle. Water points should be located away from areas where frogs have been recorded.
 - Water level in the dam, drains and wetlands should be monitored so as to determine the impacts of the use of water for cattle watering. If levels become low, water should be imported for cattle use.
 - Pasture improvement to be limited to broadcast of pasture seed. No clearing or slashing of native vegetation.
7. The measures contained in section 6.2 of the Flora and Fauna Assessment Report are amplified by the following:
- The restriction on slashing of native vegetation applies to areas of predominantly native vegetation.
 - The alignment of the perimeter fencing of the two paddocks may be slashed prior to the construction of such fencing to a width not exceeding 5m, provided that the width within areas of predominantly native vegetation shall not exceed 3m.
8. In regard to the above amelioration measures an initial compliance report is to be submitted to Council within 14 days after establishment of the grazing operation demonstrating compliance.
9. A vegetation monitoring programme will be implemented. The monitoring programme will utilize the vegetation survey methodology (including zone 5) outlined in the vegetation assessment of Cudgen Paddock by Specht and Gosselin (Dec 2004). The monitoring shall be

carried out by Southern Cross University and paid for by the Developer. An initial survey is to be conducted prior to the commencement of the grazing and at six monthly intervals thereafter. The areas of predominantly native vegetation shall be identified by, and their extent GPS plotted by Southern Cross University, prior to any slashing taking place. A monitoring report shall be submitted by Southern Cross University to Tweed Shire Council 18 months after commencement. If the monitoring report indicates any remedial measures that are required to be implemented by the applicant, the applicant at its own cost shall carry out such remedial works to the satisfaction of the General Manager or his or her delegate.

10. This consent is valid for three years from the date of commencement of the development.

GENERAL TERMS OF APPROVAL FOR A LICENSE UNDER THE WATER ACT 1912

General Conditions

- Before commencing any works or using any existing works for the purpose of Stock and Domestic Purpose, approval under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
- When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
- All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
- All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
- The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
- A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.

- A license so issued, from the date of issue, will be subject to Annual Cost Recovery Water Management Charges as set by the Independent Pricing and Regulatory Tribunal.

Conditions relating to water entitlements

- An approval will only be issued in relation to a water entitlement that is already held by the owner of the land subject to this consent or is purchased from another entitlement holder.
- A transfer of an entitlement shall be subject to the provisions of the Water Act 1912 the regulations made thereunder and the transfer rules applying at the time of application as determined by the Department.
- Extraction of water under the approval to be issued shall be subject to conditions with regard to availability of supply and such restrictions as are deemed necessary by the Department from time to time to ensure an adequate flow remains for other water users and the environment (unregulated streams).

Conditions for water use

- If and when required by the Department, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.
- All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.
- If required by the Department the extraction and use of water must be recorded and reported as specified by the Department. For instance, the Department may require that annual return of information on hours pumped, monthly extraction rate, and usage rate.
- The water extracted under the approval to be granted shall be used for the purpose of stock and domestic purposes and for no other purpose. A proposed change in purpose will require a replacement license to be issued.
- In order to protect the environment and the interests of other water users the approval may further specify how the water may be used and the land on which it may be used.
- The conditions of the approval may specify how water is to be distributed (for instance by the use of pipes) in order to prevent wastage or accessions to groundwater. The Department may alter the conditions of approval at any time for these reasons.
- Water will not be diverted unless notice has been given to the Department as stipulated in the approval to be issued (regulated streams).
- The use of water shall be conditional on no tailwater drainage being discharged into or onto -

any adjoining public or crown road

any other person's land
any crown land
any river, creek or watercourse
any groundwater aquifer
any area of native vegetation
any wetlands

Conditions for Bores and Wells

See also "general conditions" and "conditions for water use"

- The works must be at least 40 metres from the nearest bank of any river or creek.
- Officers of the Department or other authorised person must be allowed full and free access to the works for the purpose of inspection and testing.
- All works must be constructed and maintained to properly control the water extracted to prevent wastage or any reduction in quality of the sub-surface water. The Department may direct that any necessary repairs or alterations be undertaken to maintain the works in good working order.
- Any saline or polluted water located above a producing aquifer must be sealed by the use of cemented casing as specified by the Department.
- If the bore ceases to be productively used, the Department must be notified and the aquifer must be sealed by a method acceptable to the Department.
- The volumetric allocation from this bore must not exceed 3 megalitres in any 12 month period commencing 1 July. This volume will be reviewed and may vary depending on analysis by the Department of the Form "A" (particulars of completed groundwater work) completed by the driller. This allocation will also be reviewed if there is any change in ownership of the land.
- The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
- The Department may specify rules from time to time for the accrual of unused water allocations for use in future seasons.
- Both the pumping and non-pumping water levels must be recorded at least twice each year.
- The existing excavation shall not exceed the following surface area parameters of 3600m² and a width of 60 by 60m and depth of 4m.
- An investigation must be carried out on the spoil from the groundwater excavation work to determine if Acid Sulfate Soil (ASS) material is present. In the event that ASS is found to be present then an ASS Management Plan must be prepared to DIPNR's satisfaction in accordance with the ASSMAC guidelines (1998).

REPORT:

Applicant: Project 28 Pty Ltd

Owner: Project 28 Pty Ltd

Location: Lot 76 DP 755701, Lot 272 DP 755701, Lot 323 DP 755701, Lot 326 DP 755701 Duranbah Road, Kings Forest

Zoning: 2(c) Urban Expansion, 6(b) Recreation & 7(a) Environmental Protection (Wetland and Rainforest)

Cost: \$7,000

BACKGROUND:

As per summary.

Figure 1 - Aerial Photograph as per Condition 2



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ASPECT north Limited.

PO Box 292
Ballina NSW 2478 Australia
Ph (02) 6686 7744, Fax (02) 6686 7864
www.aspectnorth.com.au



Project: 00001056 Date: 09.05.06 Scale: as shown

CUDGEN PADDOCK - PROPOSED PADDOCK FENCING

Cadastre:- Department of Lands 2003
Aerial photography:- ASPECT north 2004
Fence lines, gates & bridges:- ASPECT north 2006
SEPP 14:- Dept of Lands 1987

Drawn: AV

Appd: GH

File: L00001056_06_PL5

FIGURE 1

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

P9 [PD-PC] Development Application DA06/0169 for Four (4) Light Poles to Sport Fields at Lot 10 DP 1014470, Casuarina Way, Casuarina

ORIGIN:

Development Assessment

FILE NO: DA06/0169 Pt1

SUMMARY OF REPORT:

Council is in receipt of a Development Application for the erection of four (4) light poles (Lot 10 DP 1014470) each measuring 18m in height to an existing football field at the Casuarina Junior Rugby Union sports field. The use of the lighting will be limited to 2 nights per week for training purposes, finishing at approximately 8.30pm. In addition the fields are occasionally used by other organisations for limited time periods e.g. training camps and use by visiting teams.

The application was originally lodged on 21 February 2006, however the applicant incorrectly nominated field No. 2 rather than field No. 1, which is now subject to this application. The purpose of providing lighting to field No. 1 is that this field is larger than field 2 and will accommodate a wider array of sports such as rugby union matches which require the larger field.

The application was first notified for a period of 14 days. During the notification period four (4) submissions were received. Details of issues raised in the submissions are addressed further in this report.

The application was subsequently re-notified for a period of 14 days over playing field one (1). During that period a further four (4) submissions were received. Details of issues raised in these further submissions are also addressed in this report.

Whilst the proposed development raised a total of eight (8) objections for light poles to playing field 1, the application is deemed to be an appropriate and desirable ancillary development for the football fields.

RECOMMENDATION:

That Development Application DA06/0169 for four (4) light poles to sport fields at Lot 10 DP 1014470, Casuarina Way, Casuarina 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 1-3 prepared by Tweed Shire Council, except where varied by the conditions of this consent. [GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0115]
3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property. [GEN0135]
4. All works must comply with Councils Acid Sulfate Soils Management Plan. [GENNS01]
5. The four (4) light poles to be erected are to be erected at the Casuarina Junior Rugby Union Club field No. 1 and are to stand no greater than 18m in height. Each light pole is to have no greater than GIGAN2000W Pierlite Wide Beam floodlights. [GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. [PCC0945]

PRIOR TO COMMENCEMENT OF WORK

7. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed. [PCW0005]
8. 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
 - (c) 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
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-building, 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.
9. 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.

[PCW0215]

[PCW0225]

DURING CONSTRUCTION

10. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

11. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).
[DUR0375]
12. 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.
[DUR0405]
13. 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 in accordance with WorkCover 2000 Regulations.
[DUR0415]
14. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
 - Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind
[DUR1005]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

15. A person must not commence occupation or use of the whole or any part of a new building or structure (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).
[POC0205]
16. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.
[POC0805]
17. Prior to issue of an occupation certificate, documentary evidence shall be submitted to the Principal Certifying Authority from a practising structural engineer stating the completed light poles will be structurally adequate for their intended purpose.
[POCNS01]

USE

18. 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.

[USE0125]

19. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises.

[USE0205]

20. The spill of light must not extend beyond the boundaries of playing field No. 1. Lights are to only shine onto the subject playing field and not directed elsewhere.

[USENS01]

21. The use of the light poles is not to extend beyond 9pm Mondays to Sundays.

[USENS02]

REPORT:

Applicant: Tweed Shire Council
Owner: Tweed Shire Council
Location: Lot 10 DP 1014470 Casuarina Way, Casuarina
Zoning: 2(e) Residential Tourist
Cost: \$68,500

BACKGROUND:

Council is in receipt of a Development Application for the erection of four (4) light poles (Lot 10 DP 1014470) each measuring 18m in height to an existing football field at the Casuarina Junior Rugby Union sports field. All light poles are proposed with a 2000 Watt Wide Beam Floodlight. The use of the light poles will be limited to 2 nights per week for training purposes, finishing at approximately 8.30pm. In addition the fields are occasionally used by other organisations for limited time periods e.g. training camps and use by visiting teams.

The area of the site, which this application applies, consists of two (2) Junior Rugby Union fields and a toilet block on a total land area of 4.19 Hectares. The rugby fields are used at various times during the week, however currently are not lit for night games or training. The purpose of providing lighting to field No. 1 is that the field is larger than field 2 and would suit more sports specifically rugby union.

The subject site adjoins the residential area of Casuarina and abuts Tweed Coast Road.

The proposed light poles are considered suitable for the location given the limited hours of use.

SITE DIAGRAM:



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Tweed Shire Council
 Lot 10 DP 1014470
 Casuarina Way, Casuarina
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 06/June/2006 Scale: 1:10,000 Sheet: 1 of 1

STRATEGIC PLANNING UNIT

Site Plan

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(e) under the Tweed Local Environmental Plan 2000. The proposed development is permissible with the consent of Council in the subject zone. The primary objective of the zone is:

“To encourage the provision of family orientated tourist accommodation and related facilities and services in association with residential development including a variety of forms of low and medium density housing and associated tourist facilities such as hotels, motels, refreshment rooms, holiday cabins, camping grounds, caravan parks and compatible commercial services which will provide short-term accommodation and day tourist facilities”.

The subject site accommodates the recreational use of sporting groups to use the playing fields and other resources that exist on the site. The proposal will facilitate the Junior Rugby Union Club to extend their playing and training times and provide a more usable sports field that can be used at all times of the day and night. The objective is therefore satisfied.

Clause 15 of the TLEP requires Council to be satisfied all essential services are made available to the site. At present all essential services are made available to the site. Electricity of the light poles will include electrical installation including conducting/cabing/trenching and wiring of the light poles.

Clause 16 of the TLEP requires development to be carried out in accordance with the height limitation plan and the objective is to ensure that the height and scale of development is appropriate to its location, surrounding development and the environmental characteristics of the land. The subject site has been dedicated as sports field for recreational use. As such, the poles are defined as a structure and are not bound by the building heights policy. The height of the light poles is 18m. The three-storey building height limit does not apply to structures. The poles are to be located approximately between 50m to 80m away from the residential dwellings and are to be positioned to avoid light spillage onto neighbouring residential properties.

Clause 17 of the TLEP requires Council to consider whether a Social Impact Assessment was required as part of this application. For the purpose of this application a Social Impact Assessment is not required, however, the social benefit from the light poles will greatly benefit local sporting groups and facilitate night training and activities.

Clause 35 of the TLEP requires an Acid Sulfate Soils Management Plan be assessed where the proposed development is likely to interfere with Acid

Sulfate Soils. The proposed site is classed as ASS 2, 3 and 4 under Council's GIS System. The poles are 18m in height and an extensive foundation needs to be established to ensure the poles are stable. Council's Environment and Health Unit were advised of the application and indicated as a condition of consent that acid sulphate soils must be in accordance with Tweed Shire Council's Acid Sulfate Soils Management Plan.

North Coast Regional Environmental Plan 1988

Clause 82 of the NCREP 1988 relates to new or proposed sporting fields whereby Council shall not grant consent unless there is a specific need to the community, access is achieved by the community to the facilities and conditions are imposed that ensures adequate public access is achievable. As the application is for an ancillary use to the current sports fields being in the form of light poles, and the above requirements have been addressed in the initial assessment of the playing fields and the application is therefore not seen to specifically relate to Clause 82, and therefore is deemed satisfactory.

State Environmental Planning Policies

State Environmental Planning Policy No. 71 – Coastal Protection

The SEPP 71 policy aims to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, protect and improve existing access to and along the coastal foreshore, limit overshadowing of foreshore areas and ensure that the type, bulk, scale and size of the development is appropriate for the location.

For the purpose of this application, it is best defined as a 'structure', whereby clauses 9 (1) (a) and 10 (1) state that any **building** over 13m in height is defined as specified development. This proposal incorporates light poles measuring 18m in height, however, they are classified as a 'structure' and do not attract the provisions of specified development, therefore this clause is considered satisfied.

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

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

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

Development Control Plan No. 2 – Car Parking

The proposed light poles will not generate an increase in the volume of vehicles to and from the sports fields, but rather allow the sports fields to be used at different times. At present there are 12 car parking spaces. The playing fields have been situated in their current location for some time with no known negative implications on the road network. It is therefore considered

that there would be no increase in car parking requirements and therefore DCP 2 is satisfied.

Development Control Plan No. 11 – Kings Beach

This DCP was and is the principal DCP to guide future development and management of the Kings Beach development site. The DCP details specific provisions that need to be taken into consideration when assessing an application, such as estimated population yields, urban design, management of infrastructure and management of environmental matters. However, for the purpose of this application, which seeks approval for light poles, it is considered that the provisions detailed within the DCP do not require a detailed assessment.

Development Control Plan No. 42 – Public Notification Period

The subject application was publicly notified incorrectly nominating the wrong playing field from Wednesday 8 March 2006 to Wednesday 22 March 2006. During this period four (4) submissions were received.

The application was re advertised with the correct playing field from Wednesday 5 April 2006 to Wednesday 21 April 2006. During this period a further four (4) submissions were received with the issues summarised further within this report.

Draft DCP No. 48 – Tweed Coast Building Heights

The Aim of the DCP is to protect the established and future character of the Tweed Coast by:

- Providing guidelines on building height;
- Providing guidelines on building setbacks; and
- Providing guidelines for the design and use of rooftops.

The objectives of this DCP are to:

- Protect the Region's public amenity by enhancing its diverse and unique built environment through qualitative urban design; and
- Provide the community with a pre-determined maximum height in relation to a building.

This DCP does not specifically apply to this application for light poles. The poles are defined as a 'structure' and do not fall within the provisions relating to building heights. Therefore no further assessment of this DCP is required.

Development Control Plan No. 51 – Tweed Coast Strategy

The Development Control Plan relates to the northern end of the Tweed Coast, which includes the:

- The town of Kingscliff;
- West Kingscliff;
- Cudgen Village;
- The Casuarina locality (including the Casuarina Beach development); and
- The future development area of Kings Forest.

The Plan sets objectives for future development concentrating on public services and design principals. This application does not contradict the objectives of this plan and actually adds to the versatility of services.

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

The proposed site is located within the area covered by the Government Coastal Policy, and has been assessed with the objectives of this policy in mind. 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. The proposal does not contradict 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

Compatibility with Adjoining Land Uses

The subject land is located on a large and prominent Residential Tourist zone within Casuarina. The surrounding development varies between single dwelling houses, medium density developments and vacant allotments awaiting development.

The subject area is changing to accommodate the intended density for the area and it is considered that this style of the development is consistent with the intent of the subdivision.

Whilst the light poles may create some amenity issues to adjoining landowners, the proposed restricted hours of use are not unreasonable.

Context and Setting

The light poles are to be situated in such a position that they will minimise the effect of light spillage to adjoining landowners and focus solely on the playing fields. The site is dedicated for use a sports field where lights poles are an ancillary component that would normally be expected.

Noise

The subject site is currently used for rugby union matches and training purposes. The playing fields have been nominated for use as such since this section of Casuarina was developed. Those residents living in the immediate vicinity of the playing fields should expect some noise from this use. The

proposed light poles are not proposed to unreasonably increase the amount of individuals accessing the playing fields, however, light poles will enhance the use of the fields and noise is an anticipated component of any playing fields.

(c) Suitability of the site for the development

The subject site is located in a position that will only have minor impacts to residents to the east and south of the playing fields. Vegetation exists between the residential areas and the playing fields, therefore reducing the impact the light poles may have. The site is considered suitable for light poles and is deemed necessary for the rugby union club.

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

The subject application was publicly notified incorrectly nominating the wrong playing field from Wednesday 8 March 2006 to Wednesday 22 March 2006. During this period four (4) submissions were received.

The application was re advertised with the correct playing field from Wednesday 5 April 2006 to Wednesday 21 April 2006. During this period a further four (4) submissions were received. The issues raised were:

1. Hours of operation for the light poles affecting the amenity and peacefulness of the neighbouring properties;
2. Traffic implications as a result of increased traffic movements to and from the site resulting from the use of the playing field for night games and training;
3. The required need for the light poles;
4. Light spilling to adjoining residential properties impacting upon the amenity of the area; and
5. Noise implications as a result of increased use of the playing field.

The submissions were forwarded to the applicant (Council's recreational Services Manager) to comment on. The applicant responded on 15 May 2006 by stating the following:

"Currently, the sports fields is utilised by the Junior Rugby Union (Casuarina JRU). The use of the lights by the JRU will be limited to 2 nights per week training, finishing around 8pm. However, the fields are occasionally used by other organisations for limited time periods eg. Training camps and use by visiting teams, or one off games. Additionally, the JRU may well expand in future and subsequently, their lighting demands change.

Therefore I have based the following responses on the lights potential use, as opposed to current planned use.

Hours of Operation:- *It is proposed to restrict the use of the lights to 8.30pm Tuesday to Friday and 9pm Saturdays.*

Traffic Implications:- *It is not anticipated that traffic movements resulting from the use of the JRU will increase due to the installation of the lights. However, the spread of hours of the movements will change. However, of the use of the lights is limited to 8.30pm, traffic movements should be finished by 9pm at the latest.*

As the JRU does not play night games of a weekend, traffic movements of a weekend will only be increased when one off or unscheduled events take place. These events will be limited to those expected from general weekend sports at any sports facility.

It is always anticipated that the current access via Casuarina Way would be 'temporary', with final access being through the town centre. The intent being that the sports field traffic would not be directed through residential areas.

Required need for light poles to this particular field:- *The advantages in lighting this field are (1) The northern field is restricted in size due to ancillary infrastructure (paths, etc). (2) The location of the carpark, approved facility extensions and club facilities are adjacent to the southern field. Therefore, it is appropriate to light the southern field for both practical and safety reasons. (3) Of the demand for the facilities grows over ensuring years, there is a likelihood both fields may require lighting, meaning these issues will need to be addressed eventually.*

It is noted that one of the submissions refers to the Master Plan and a community sports centre to be built adjacent to the northern field and town centre. Whist the Town Centre is currently subject of a DA application, and the final outcome of the Town Centre is uncertain, it should be noted that the community sports centre referred to in the plan is located centrally between the two fields, and orientated to the southern field. Additionally, the master plan shows residences adjacent to the northern field that will actually be closer to the field than the residences adjacent to the southern field.

Light Spill:- *The closet distance from a light pole to a residence is 50m. The lights fittings are narrow beam, designed to focus the light onto the playing surface with minimum spillage. However, if for some reason there is some light spillage, the fittings can be retrofitted with skirts to prevent the spillage."*

The above response by the applicant (Council's Manager Recreational Services) is considered reasonable.

(e) Public interest

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

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

It is not envisaged that any policy implications will arise as a result of this application being approved.

CONCLUSION:

Having had regard for the proposed development and controls provided for the site it is considered that conditional consent is warranted

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

P10 [PD-PC] Development Application DA05/1335 for Factory Units at Lot 2 DP 822879 & Lot 6 DP 856966, No. 19-25 Ourimbah Road, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA05/1335 Pt1

SUMMARY OF REPORT:

The application, the subject of this report, seeks a staged approval for the erection of 41 factory units with a combined gross floor area of 7788m² and provision of 106 on-site car parking spaces.

The key issue with the application is the height of the factory units along the southern boundary. This report includes design amendment options to mitigate potential impacts so as to permit a favourable determination.

This report recommends a conditional approval.

RECOMMENDATION:

That Development Application DA05/1335 for a factory units at Lot 2 DP 822879 & Lot 6 DP 856966, No. 19-25 Ourimbah Road, Tweed Heads be approved subject to the following conditions: -

GENERAL

- 1. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**
[GEN0115]
- 2. All works shall be carried out in accordance with the Contaminated Soil and Acid Sulfate Soil Investigations report for 19-25 Ourimbah Road, Tweed Heads prepared by Environmental Ground, Water, Air Consultants Pty Ltd dated 21 April 2006 (Reference No: B0645CB-Rep1-Rev0).**
[GENNS01]
- 3. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Planit Consulting Pty Ltd dated November 2005 and Development Plans DWG No. A4 sheets 4 to 6 dated 28 October 2005 and DWG No. A7 Sheet 7 Revision A dated 7 February 2006 prepared by Quattro Developments Pty Ltd, except where varied by the conditions of this consent.**
[GEN0005]

4. All units along the southern boundary shall have a maximum roof height of 3.7metres at the boundary extending 6metres into the building whereupon the roof height may be increased to a maximum 7.2m.
5. The first use and occupation of each and every unit shall be the subject of a separate development application and approval from Tweed Shire Council. Any application for units 9 to 12 and 26 to 32 that comprise an occupation that includes the use of air operated or electrical tools or machinery, metal fabrication or a similar type industry that is likely to generate noise impacts on the neighbouring residential land shall be accompanied with an acoustic assessment.
6. The provision and maintenance thereafter of a minimum 46 car park spaces for Stage 1 and a minimum 32 car park spaces for Stage 2. Access and Manoeuvring for an articulated vehicle in accordance with Tweed Shire Council requirements shall be maintained at all times.
[GENNS02]
7. 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.
[GEN0045]
8. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]
9. The Managing Agent of the site, whether by body corporate or otherwise, shall maintain an accurate car parking register that clearly sets out the allocation of car parks assigned to each and every unit, as approved by this and any future superseding development consent, that shall be made available to any applicant seeking development consent for the occupation of any unit and shall be made available on request to Tweed Shire Council's General Manager or his Delegate.
[GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.
[PCC0465]

11. Section 94 Contributions

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

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.

Stage 1

- | | |
|---|------------|
| (a) Tweed Road Contribution Plan:
S94 Plan No. 4 (Version 4.0)
Sector1_4 | \$42,800 |
| (b) Extensions to Council Administration Offices
& Technical Support Facilities
S94 Plan No. 18 | \$3,536.02 |

Stage 2

- | | |
|---|------------|
| (a) Tweed Road Contribution Plan:
S94 Plan No. 4 (Version 4.0)
Sector1_4 | \$31,783 |
| (b) Extensions to Council Administration Offices
& Technical Support Facilities
S94 Plan No. 18 | \$4,300.98 |

[PCC0215/PSC0175]

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:

Stage 1

Water DSP4:	2.58 ET @ \$4230	\$10,913
Sewer Tweed Heads:	2.58 ET @ \$6152	\$15,872

Stage 2

Water DSP4:	3.208 ET @ \$4230	\$13,570
Sewer Tweed Heads:	3.208 ET @ \$6152	\$19,736

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED 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.

[PCC0265/PSC0165]

13. The site is shall be rehabilitated in accordance with the advice prepared by Foundation Engineering Services, dated 2 October 2004 and AS 3798-1996 - Guidelines on earthworks for commercial and residential developments.

The following information is required prior to the issue of a construction certificate;

- (a) 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.

- (b) A full geotechnical assessment is to be provided to Tweed Shire Council, after the remediation measures have been completed which includes a complete retesting of the entire site with borehole logs. The borehole logs are to show that all voids have been removed and a level 1 standard in accordance with AS3798-1996 has been achieved.

The geotechnical assessment is also to include recommendations of adequate measures to ensure that any future structure is supported by the natural surface having a minimum bearing capacity of 100kPa or the fill material having a minimum bearing capacity of 100 kPa.

A registered geotechnical engineer shall provide engineering certification stating ALL of the above listed requirements have been adequately completed and that a bearing capacity of 100kPa can be achieved across the entire site.

14. The 3m wide easement for a right of carriageway located within Lot 5 DP856966 is to be extinguished prior to issue of the construction certificate.
15. If any of the existing trees located within the Lot 45 DP 259282 (public reserve) require trimming/pruning, consultation with Council's Arborist is required. If trimming or pruning is required the detail is to be submitted on the Landscaping Plans with the application for a Construction Certificate.
- [PCCNS01]
16. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

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

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the following attachments and the prescribed fee. The following information is to be provided with the s68 application form: -

- A. Stormwater Management Plan, for the occupational or use stage of the development. The plan is to be prepared in accordance with Section D7.07 of Council's Development Design Specification D7 - Stormwater Quality. The Stormwater Management Plan is to include supporting calculations

B. Sediment & Erosion Control Plan

[PCC1145]

17. If the works under Construction Certificate Approval CC06/0313 for the subject land are not completed, then an application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. The S138 application shall include engineering plans and specifications for the following required works: -

A. Upgrade of stormwater infrastructure

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

18. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works prior to the issue of a construction certificate.

[PCC1195]

PRIOR TO COMMENCEMENT OF WORK

19. 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
 - (c) 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
 - (d) 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.
- [PCW0215]
20. 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.
- [PCW0225]
21. 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
- [PCW0245]
22. 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.

[PCW0255]

23. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act 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.

[PCW0985]

24. 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 Principal Certifying Authority prior to commencement of building works.

[PCW1005]

25. 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.

[PCW1065]

26. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[PCW1075]

27. It is the responsibility of the contractor to identify and locate all underground utility services prior to commencing works.

[PCW1165]

28. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess

of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

29. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

[PCW0005]

30. Written approval for any application under Section 138 of the Roads Act 1993 is required prior to commencing works within the road reserve.

[PCW0705]

DURING CONSTRUCTION

31. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DUR0005]

32. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

33. 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.

[DUR0245]

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

[DUR0375]

35. 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.

[DUR0395]

36. 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. [DUR0405]
37. 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 in accordance with WorkCover 2000 Regulations. [DUR0415]
38. The finished floor level of the building should finish not less than 225mm above finished ground level. [DUR0445]
39. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind
- [DUR1005]
40. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction. [DUR2185]
41. 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.
- [DUR2485]
42. Plumbing
- (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.
- [DUR2495]
43. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]

44. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR2515]
45. 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. [DUR2545]
46. 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. [DUR2535]
47. 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:-
- * 45⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR2555]
48. No filling to is be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.
- No filling of any description is to be deposited, or remain deposited, within adjacent properties. [DUR0765]
49. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties. [DUR0805]
50. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0815]
51. Provision to be made for a flood free storage area for stock and equipment susceptible to water damage. [DUR1395]

52. Subject to the requirements of the local electricity authority, all electrical wiring, power outlets, switches, etc, should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level shall be provided with earth leakage devices.
[DUR1415]
53. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.
[DUR2205]
54. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.
[DUR2405]
55. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.
[DUR2415]
56. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".
[DUR0785]
57. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council.
[DUR0985]
58. 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/Occupation Certificate.
[DUR0995]
59. 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 in accordance with Councils adopted Development Design and Construction Specification.
- 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 works and its reconstruction.
[DUR1735]

60. 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. [DUR1795]
61. 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 in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1875]
62. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act. [DUR1885]
63. 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. [DUR1905]
64. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains. [DUR1945]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

65. A person must not commence occupation or use of the whole or any part of a new building or structure (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). [POC0205]
66. 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. [POC1045]
67. Prior to the issue of a final occupation certificate, all conditions of consent are to be met. [POC1055]

- 68. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.**

[POC0225]

USE

- 69. 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.**

[USE0125]

- 70. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light creating a nuisance to neighbouring or adjacent premises.**

[USE0225]

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

[USE0515]

- 72. All loading/unloading to take place within the boundary of the subject property.**

[USE0525]

REPORT:

Applicant: C & P Properties Pty Ltd

Owner: Mr LH Gudgin, Ms JL Gudgin, FJ & NJ Zagami Investments Pty Ltd, Webb Strategic Investments Pty Ltd, Staley Investments Pty Ltd, Mr CJ Martin and Ms WJ Martin

Location: Lot 2 DP 822879 and Lot 6 DP 856966 No. 19-25 Ourimbah Road, Tweed Heads

Zoning: 4(a) Industrial

Cost: \$5,700,000

BACKGROUND:

The application, the subject of this report, seeks a staged approval for the erection of 41 factory units with a combined gross floor area of 7788m² and provision of 106 on-site car parking spaces.

Advertising signage panels have been integrated into the facia design of the factory units. The Statement of Environmental Effects (SEE) states that the application seeks approval for signage also. Firstly, the application form does not nominate that approval for signage is being sought. Secondly, neither the future occupation of the units nor the requirement of the tenants is known. State Environmental Planning Policy No.64 – Advertising and Signage cannot be applied in the circumstances of this case and as such signage will not be considered as forming part of this application.

The site is devoid of any vegetation and is heavily disturbed. Recent subdivisional approvals over the site have resulted in significant infrastructure and earthworks. Geotechnical issues previously arose with respect to the lands bearing capacity, that is the capacity of the land to support (bear) a specified weight, however Council's Engineers have reviewed the relevant engineering reports and raise no objection to the development.

The construction of the factory units and associated access and parking is proposed in two stages, comprising: -

Stage 1 24 units (nos.18-41) and 64 car parking spaces,

Stage 2 17 units (nos.1-17) and 42 car parking spaces.

The application was publicly advertised from 13 November to 14 December 2005. In response, 11 identical (pro forma) submissions were received from individual property owners in the adjacent Caloola Drive. The three issues raised in the submissions are addressed later in this report.

Key Issue

The key issue with this proposal is the interface between the neighbouring industrial and residential lands, in particular the height of the factory units.

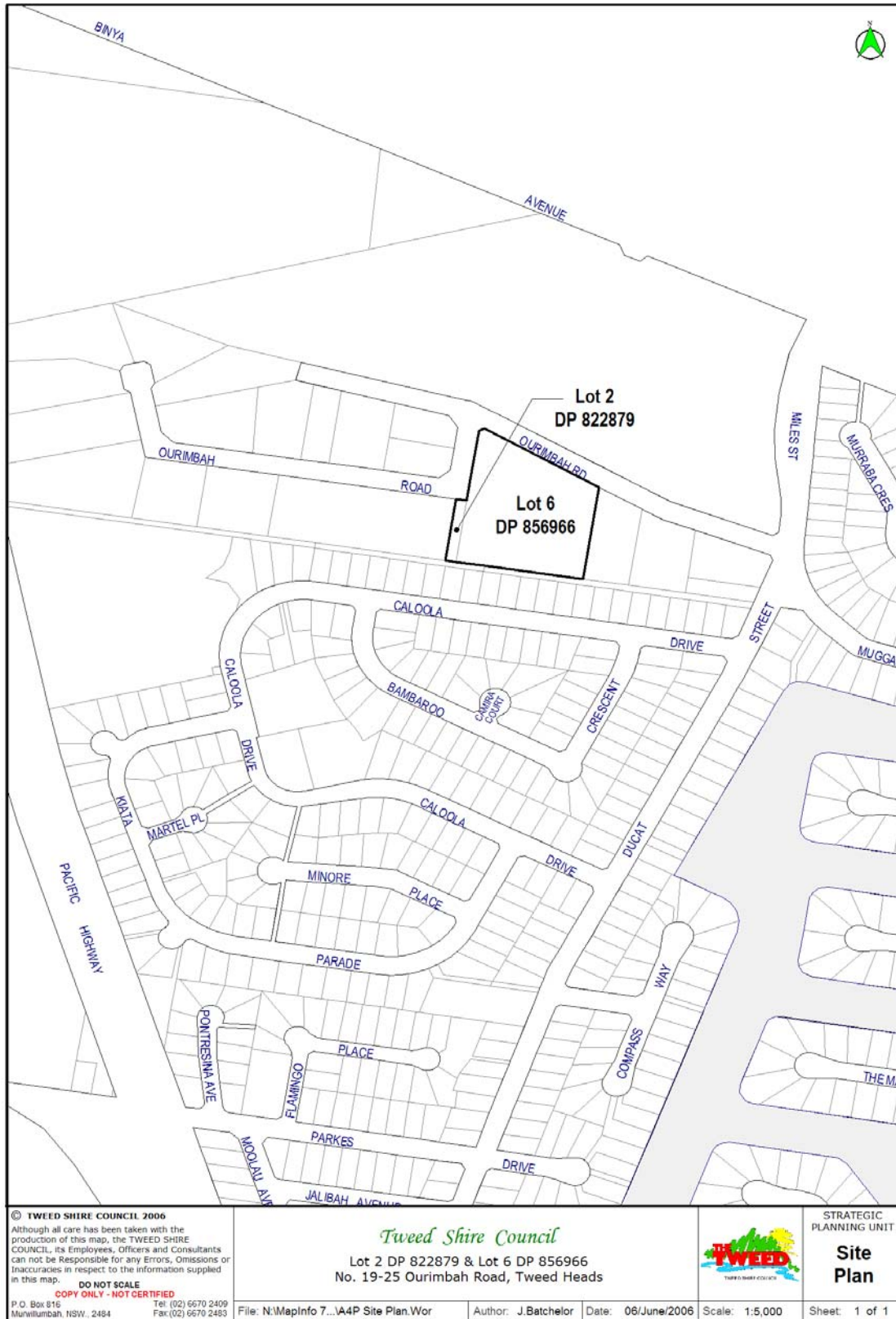
The factory units are to be constructed to a height of 7.2metres and are to be built to the boundary along the southern, western and part of the eastern boundary. The difference in land elevation between the industrial (which is filled) and residential land is approximately 1 to 1.2m. Consequently, the comparative height of the factory units is approximately 8.2metres.

Between the southern site boundary and the rear boundary of the residential premises fronting Caloola Drive there is strip of 6(a) Open Space zoned land of approximately 6m wide that is Council owned and serves as an easement for drainage and sewer and water infrastructure. The opportunity of vegetating this land, as a landscape interface between the residential and industrial zone, is highly restricted and any resultant landscaping would not likely yield any practical benefit.

The visual and amenity (air flow, access to sun light, shadow and the like) impact arising from the construction of the factory units would likely be significant. There has been no attempt in the submitted application planning documentation to identify the potential for adverse impacts and consequently no ameliorative design measures have been contemplated. This may however be overcome by a condition of consent that requires design modifications in any of the following ways: -

1. All units along the southern boundary shall have a maximum roof height of 3.7metres at the boundary extending 6metres into the building whereupon the roof height may be increased to a maximum 7.2m.
2. All units along the southern boundary shall be sited no less than 2.5metres from the boundary and shall not exceed 3.7metres in height for the first 3metres of the building and 7.2metres thereafter. The setback area is to be heavily landscaped so as to mitigate the impact of the factory units.
3. All units along the southern boundary exceeding 3.7m in height shall be sited no less than 4metres from the property boundary and the site is to be heavily landscaped so as to mitigate the impact of the factory units.
4. All units along the southern boundary shall have a maximum roof height of 3.7metres.

SITE DIAGRAM:



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

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

Tweed Local Environmental Plan 2000

The land is zoned 4(a) Industrial. The factory units are a class of development explicitly catered for within the zone.

The application has demonstrated pursuant to all relevant provision of the LEP that the development is compliant.

North Coast Regional Environmental Plan 1988

The proposed industrial use of the land is consistent with the provisions of the Plan.

State Environmental Planning Policies

State Environmental Planning Policy No.71 – Coastal Protection applies to land mapped under the Coastal Policy, which includes the subject site. The proposed development is not inconsistent with the schedule 1 matters for consideration, which relate predominately to lands in close proximity to and that may potentially impact on public access and the foreshore.

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

There are no draft EPI's of significance to this application.

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

Development Control Plan No.2 – Site Access and Parking Code applies. There is a requirement for 1 car space per 100m² gross floor area, which at 7788m² requires the minimum provision of 78 spaces. The proposal exceeds the minimum requirement.

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

The proposed factory development is not inconsistent with the NSW Coastal Policy 1997 or any other relevant requirement of the Regulations.

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

The subject site is located within an established industrial estate. The estate has residential lands to the north and south. No public submissions were

received from the residential area to the north, which is separated by a 20-metre road reserve serving Ourimbah Road.

A 6-metre Council owned reserve servicing a range of urban infrastructure separates the properties to the south. It is this area of the proposal that will have the greatest impact on the adjoining residential lands, ie those properties which front Caloola Drive.

The height of the buildings on the southern elevation is 7.2metres. The sites elevation is approximately 1-1.2metres above that of the residential properties providing a comparative vertical height of 8.2m. The viewing angle from the residential property boundary to the top of the factory is approximately 56.5 degrees. This steep angle indicates that the vertical height of the factory unit is likely to give rise to impacts on solar access, views and shadowing. Reducing the factory height to 3.7metres will reduced the view angle to approximately 35 degrees, which will increase solar access and views, and likely reduce the incidence of shadow.

The Development Assessment Unit considers that varying levels of impact are likely to occur and that this is largely brought about by the need to balance the orderly and economic land-use of two conflicting land-use zones. The ameliorative measures raised in this report will assist in reducing the impact on the residential land without being too restrictive on the likely future occupation tenancies of the factory units.

(c) Suitability of the site for the development

Having regard to the matters raised and the adoption of design alterations present in this report the site is considered suitable for the development.

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

The application was publicly advertised from 13 November to 14 December 2005. In response, 11 identical (pro forma) submissions were received from individual property owners in the adjacent Caloola Drive.

The issues raised in the submissions are:

1. Building height.
2. Noise.
3. Materials of construction / visual impact.

Building Height

As discussed in this report the height of the factory units on the boundary at 7.2metres is excessive having regard to their proximity to neighbouring residential properties, in particular because of the impact of shadow, solar access and views. Design measures have been presented in this report as a means of achieving an acceptable level of development.

Noise

The future occupation of the units is not known at this time and consequently the impact of noise is not assessable. The first use occupation of each and every unit will require separate approval, at which time acoustic impacts will be assessed.

Materials of construction / visual impact

The visual impact of the factory units is largely brought about by the height, which is then compounded by the use of untreated concrete tilt-up panels, that is, untreated in their being no architectural or design relief. This report recommends that the height of the factory units be limited at the boundary to 3.7metres, which should mitigate the visual impact to an acceptable level, having regard to the two competing land-use zonings.

There are design modification options presented in this report that includes the provision of landscaping however, because the neighbouring properties each have a boundary fence of approximately 1.8m in height any landscaping would need to be quite significant for there to be any real benefit. In this regard it should be noted that the lower portion of the factory units will be obscured by the residential property fence. Consequently, a better landscaping effect would likely result if plantings were actually located within the residential properties. It is noted that at present most of the properties have very little landscape screening and would benefit significantly from internal vegetation screening. The greatest benefit in doing so is that smaller plantings on the residential properties will have the same desired effect of much larger plantings on the factory site, without the impact on the industrial lands capacity and without giving rise to future management and maintenance issues.

Any one of the design modification options presented in this report is considered to result in an acceptable level of impact.

(e) Public interest

The development, as proposed to be amended, is not contrary to the public interest, although it is accepted that there will be a varying level of impact to those members of the public residing in Caloola Drive adjacent to the development site.

OPTIONS:

1. Approve the application in accordance with the conditions of consent and by nominating which design amendment option is to be incorporated, as a condition of consent, from the following (note that they are in order of preference). Option (a) has been included in the recommended conditions.

- a. All units along the southern boundary shall have a maximum roof height of 3.7metres at the boundary extending 6metres into the building whereupon the roof height may be increased to a maximum 7.2m.
 - b. All units along the southern boundary shall be sited no less than 2.5metres from the boundary and shall not exceed 3.7metres in height for the first 3metres of the building and 7.5metres thereafter. The setback area is to be heavily landscaped so as to mitigate the impact of the factory units.
 - c. All units along the southern boundary exceeding 3.7m in height shall be sited no less than 4metres from the property boundary and the site is to be heavily landscaped so as to mitigate the impact of the factory units.
 - d. All units along the southern boundary shall have a maximum roof height of 3.7metres.
2. Approve the application as submitted.
 3. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The subject site is constrained by the nature of its and the adjoining lands competing land-use zoning. The design of the factory units has not had due regard to the potential impact likely to result from the proposed height of 7.2metres. However, this is not fatal to the application as there are several options available that will reduce the likely impacts to an acceptable level. The issues raised in the public submissions are largely driven by the height of the factory units. Amendment to the proposal in accordance with one of the options presented in this report will reduce the impact of the development and to varying degrees address those issues.

The application, as proposed to be amended, is suitable for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

P11 [PD-PC] Development Application DA06/0348 for Construction of a 3 Storey Commercial & Retail Development at Lot 2 DP 573057 & Lot 1 DP 657258 Nos. 11-13 Pearl Street, Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA06/0348 Pt2

SUMMARY OF REPORT:

This matter was reported to the Planning Committee Meeting of 23 May 2006, as a late agenda item. At that meeting it was resolved that the item be deferred to this meeting to enable consideration of submissions received in relation to the development application.

The report is re-submitted for determination.

RECOMMENDATION:

That Development Application DA06/0348 for a construction of a 3 storey commercial and retail development at Lot 2 DP 573057; Lot 1 DP 657258, No. 11 Pearl Street Kingscliff; No. 13 Pearl Street Kingscliff be approved subject to the following conditions: -

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 12 months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.

- A. A remediation action plan is required to be submitted to address how sub slab contaminated materials will be addressed on the site.**
- B. The applicant is requested to submit a noise assessment report which considers potential for noise disturbances during the construction period and is to confirm that diesel pumps will not be used for dewatering. Should noise levels be projected above relevant NSW EPA**

limits, then a Noise Management Plan should also be submitted for consideration.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 2123-SDA Sheets 02/02A (as amended in red), 02/01A (as amended in red), 02/03, 02/04, 02/05, 02/06, 03/01, 03/02, 03/03, 03/04, 04/01 & 04/02 prepared by Blue Arc and dated Feb 05, except where varied by the conditions of this consent. [GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0115]
3. All works shall comply with the Preliminary Acid Sulfate Soil Assessment & Dewatering Management Plan HMC Environmental, submitted with this application. [GENNS01]
4. Any pumps used for dewatering operations are to be electrically operated only. Diesel pumps are not to be used unless otherwise approved by Council's General Manager of his delegate. [GENNS01]
5. Practical measures to the satisfaction of Council's General Manager of his delegate are to be taken to acoustically shield all pumps used for dewatering operations to minimise any noise disturbance to neighbouring residents. [GENNS01]
6. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining residential premises shall be notified accordingly prior to commencement of such operations. [GENNS01]
7. All waters from dewatering activities shall be directed to the on-site holding tank. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50 mg/kg. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters. Such results shall be made available to Council's Environmental Health Officer(s) upon request. [GENNS01]

8. All works shall comply with the Pre-Demolition Soil Contamination Investigation & Remediation Management Plan, HMC Environmental, submitted with this application. Sub-slab contaminated material shall not be placed in or below the groundwater table. Upon completion of sub-slab remediation (placement) works and prior to the commencement of any other works on the site Council shall be provided with a post remediation validation report to the satisfaction of the Council's General Manager of his delegate. Construction works shall not commence until this report is reviewed and approved by the Council's General Manager of his delegate.

[GENNS01]
9. All work shall comply with the Noise Management Plan submitted to Council within this application.

[GENNS01]
10. Deliveries of goods shall occur within the boundary of the property.

[GENNS01]
11. All works shall comply with the Erosion and Sediment Control Plan and Stormwater Management Plan Richard Harry Engineering Services, May 2005.

[GENNS01]
12. The oil and grit separator shall be monitored and cleaned at regular intervals so as to ensure that it is effective in removing relevant materials from stormwater runoff.

[GENNS01]
13. Lighting or plant shall not be permitted to unreasonably impact the amenity of any premise.

[GENNS01]
14. The bulk bin shall be placed at the Pearl Street frontage on the day of collection and removed the same day i.e. the bulk bin will not be left at the street storage area overnight.

[GENNS01]
15. All plant and associated equipment shall be acoustically treated where required to the satisfaction of Council's General Manager of his delegate so as to avoid the creation of intrusive or unreasonable noise to any occupant of a neighbouring or adjacent residential premises.

[GENNS01]
16. Noise levels from the development shall not exceed background LA90 levels at any receiving premise by more than 5dB(A) between the hours of 7am to 10pm and shall not exceed the background LA90 levels between the hours of 10pm to 7am. Notwithstanding the above noise from the development shall not be audible within any residential premises between the hours of 10pm to 7am.

[GENNS01]

17. All externally mounted artificial lighting is to be shielded to the satisfaction of Council's General Manager or his delegate where necessary or required so as to prevent the spill of light creating a nuisance to neighbouring or adjacent residential premises. [GENNS01]
18. 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. [GEN0045]
19. Submission of a further Development Application(s) for the first use of the shops, offices and industrial shed use, such to be approved by Council prior to their use or occupation. [GEN0055]
20. Advertising structures/signs to be the subject of a separate development application, where statutorily required. [GEN0065]
21. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property. [GEN0135]
22. No refreshment rooms are approved by this consent and are not permitted unless provision is made for the discharge of cooking gases above the roof line via an integrated ventilation system. [GENNS02]
23. No balconies that extend beyond the property boundary are approved by this consent, and any awning approved in Tweed Shire Council's Road Reserve shall not be permitted to act in any capacity as a balcony.
24. No awning supports shall be permitted within Council's Road Reserve. [GENNS03]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

25. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.

- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
 - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
 - (d) Specific Requirements to be detailed within the Construction certificate application include:

 - (i) Shake down area along the haul route immediately before the intersection with the road reserve.
 - (ii) Runoff from driveway and basement car park areas must be treated to remove oil and sediment pollutants prior to discharge to the public realm. Permanent treatment devices must be sized in accordance with Section D7.12 of Council's Development Design Specification D7 - Stormwater Quality. Full engineering details of all treatment devices, including maintenance schedules, must be submitted with a s68 Stormwater Application for approval prior to the issue of a Construction Certificate.
 - (iii) All stormwater discharged from the development shall be via pipe discharge into the public drainage system in Pearl Street.
 - (iv) All basement stormwater pump out systems shall be designed and installed in accordance with Section 9 of AS/NZS 3500.3.2(Stormwater Drainage - Acceptable Solutions), with engineering details, including the consequences of pump failure to be provided with the Construction Certificate Application.
- [PCC1105]
26. Where any existing sewer junctions are to be disused on the site, the connection point shall be capped off by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges.

[PCC1235]

27. Prior to issue of the Construction Certificate, a Construction Management Plan shall be submitted to the Director of Environment and Community Services for approval. The Plan shall address all relevant issues, including noise, dust, hours of construction, waste collection/disposal, complaint management etc.

[PCCNS01]

28. Prior to the issuing of a Construction Certificate, a full geotechnical assessment of the site is to be carried out and a report submitted to Council for approval. The report must include recommendations relating to site stability, proposed on-site excavation works including temporary and permanent retention methods proposed for the protection of adjacent structures, foundation design parameters, construction theories, dewatering requirements as well as any other geotechnical matters of relevance relating to the proposed development.

Ground anchors (or the like) to retain sacrificial sheet piling as required will not be allowed within Council property without prior approval for installation by the Director Engineering and Operations Division and removal on completion or substantial financial compensation. Council will only allow ground anchors with neighbouring private property if consent by the owners of the property to be burdened is obtained prior to installation.

[PCCNS01]

29. Prior to the issue of a construction Certificate, a waste management plan is to be lodged with Council for approval for the storage and collection of wastes generated on the site following occupation.

[PCCNS01]

30. 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: 8.22084 ET @ \$4230	\$34,774
Sewer Kingscliff: 13.33126 ET @ \$6152	\$82,014

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED 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.

[PCC0265]

31. Section 94 Contributions

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

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:** **\$141,789**
S94 Plan No. 4 (Version 4.0)
Sector6_4

Heavy Haulage Component

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

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

where:

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

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads
(trip one way)

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

Admin. Administration component - 5% - see Section 6.5

(b) **West Kingscliff - Drainage:**
0.0947 ha @ \$16070 \$1,521.83
DCP No. 9 S94 Plan No. 7

(c) **Extensions to Council Administration Offices
& Technical Support Facilities** \$5,808.06
S94 Plan No. 18

[PCC0215]

32. Prior to the issue of a construction certificate, the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-

(a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or

(b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.

(c) WorkCover Regulations 2000

[PCC0015]

33. The developer shall provide 49 parking spaces including parking for the disabled in accordance with DCP2, AS 2890 and Austroads Part 11.

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0065]

34. Any works to be carried out within the adjoining road reserve is subject to application and approval being issued by Tweed Shire Council as the road authority.

Application for these works and receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.

[PCC0075]

35. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

36. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

37. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.

[PCC0465]

38. Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, DCP47 and Councils adopted Design and Construction Specifications. Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.

[PCC0475]

39. A detailed plan of landscaping is to be submitted and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

[PCC0585]

40. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

41. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -

- (a) Driveways must be designed in accordance with DCP2 and AS2890.1 (section 3.4(a)) with the maximum driveway gradient for 6m from the property boundary not exceeding 1:20 or 5%.
- (b) Adequate sight lines, in accordance with Section 4.1.2 - *Sight Lines & Safe Visibility* of Council's "*Driveway Access to Property Design Specification*" pamphlet shall be provided for the driveway access.
- (c) 150 millimetres thick reinforced with F82 mesh measuring 7m at the boundary line and 9m at the kerb line.
- (d) Redundant vehicular laybacks/driveways or other special provisions shall be reinstated in accordance with Councils adopted Development Design and Construction Specifications.
- (e) A full width reinforced concrete footpath is to be constructed along the entire road frontage of the development from the property line to the back of the existing kerb in accordance with Councils adopted Development Design and Construction Specification.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

42. Prior to the issue of a Construction Certificate the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (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
- roadworks/pavement design/furnishings
- 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)

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

43. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Principal Certifying Authority PRIOR to the issue of a construction certificate.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

[PCC1065]

44. 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.

[PCC1145]

45. Erosion and Sediment Control shall be provided in accordance with the following:

(a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with

Section D7.07 of Development Design Specification D7 - Stormwater Quality.

- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

46. 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 shall be achieved in general accordance with Richard Harry Engineering Services Pty Ltd, Stormwater Runoff Plan Drawing No. A3-1228 dated 24 May 05. OSD devices, including discharge control pits, are to comply with standards in the Upper Parramatta River Catchment Trust On-Site Detention Handbook, Third Edition, Revision 2, June 2004, except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

The proposed roof level stormwater storage system must be limited to a maximum ponding depth of 60mm for the ARI 100 year storm event and must provide a failsafe overflow, to ensure stormwater will not overflow back into the building or neighbouring properties during larger rainfall events or if blockage of the system occurs.

[PCC1165]

47. Medium density/integrated developments will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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.

[PCC1185]

48. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works prior to the issue of a construction certificate.

Such application shall address the following requirements:

- (a) Unrestricted 24 hour access for maintenance and repair.
- (b) Mechanical protection of main from cars, vandalism, etc.

- (c) Additional rodding access points, from above the main at all junction points.
- (d) Unrestricted 24 hour access to all junctions off sewer main servicing existing properties.
- (e) Flexible joints provided either side of walls/petitions to allow for future replacement.

Detail how services to existing adjacent dwellings / commercial premises are maintained through out the construction phase including bypass pumping during the change over from existing to new pipe work.

[PCC1195]

PRIOR TO COMMENCEMENT OF WORK

49. 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
- (c) 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
- (d) 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.

[PCW0215]

50. 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.
[PCW0225]
51. 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
- [PCW0245]
52. 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.
- [PCW0255]
53. Sewer main, stormwater line or other underground infrastructure within or adjacent to the site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.
[PCW0965]
54. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act 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.

[PCW0985]

55. 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.
- [PCW1065]
56. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.
- [PCW1075]
57. 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:
- (a) The person must, at the person's own expense;
 - (i) Preserve and protect the building from damage; and
 - (ii) If necessary, underpin and support the building in an approved manner.
 - (b) 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.
- [PCWNS01]
58. Prior to the commencement of building works provide hydraulic drawings on the proposed sewer drainage systems including pipe sizes, details of materials and discharge temperatures.
- [PCWNS01]
59. Any sheet piling that utilizes ground anchors that extend under public roads or land must not be used unless the applicant or owner enters into a contract regarding liability for the ground anchors and lodges a Section 138 Application together with the prescribed fee and bond. Such bond will be refunded when all ground anchors are removed. If the ground anchors are not removed the bond will be forfeited to Council.

[PCWNS01]

60. Prior to the commencement of any demolition works on the site a Development Application for Demolition Works is to be submitted to and approved by Council.

[PCWNS01]

61. 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.

[PCWNS01]

62. Prior to the commencement of works all sedimentation and erosion control measures shall be placed to the satisfaction of Council's General Manager or his delegate.

[PCWNS01]

63. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

[PCW0005]

64. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

65. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.

[PCW0125]

66. Written approval for any application under Section 138 of the Roads Act 1993 is required prior to commencing works within the road reserve.

[PCW0705]

67. Prior to the commencement of building work, a certificate signed by a registered professional engineer is to be submitted to the Principal Certifying Authority to certify that adequate consolidation of foundation material has been achieved to support the proposed structure. [PCW0755]
68. 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:
- (a) The person must, at the person's own expense:
- (i) preserve and protect the building from damage; and
- (ii) if necessary, underpin and support the building in an approved manner.
- (b) 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. [PCW0765]
69. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period. [PCW0835]
70. Prior to commencement of works the proponent shall clarify:
- That the bulk bin will be placed at the Pearl Street frontage on the day of collection and removed the same day ie the bulk bin will not be left at the Pearl Street storage area overnight.
 - Confirmation from Solo that they are able to service the Pearl Street storage area.
 - Confirmation that there is sufficient space in the lower basement area to store both bulk bins simultaneously. [PCWNS02]
71. Prior to commencement of works, the preliminary pre demolition soil contamination report indicates that material under the cabins is uncontaminated. However, Table 1 references samples from under cabin 5 and indicates that they are above Health Investigation Levels. The proponent shall submit for approval an updated and accurate report.
72. The dewatering process proposes water to be directed to a holding tank for testing to ensure pH and SS are at acceptable levels before discharge to street stormwater. The proponent shall submit for approval Details of the location and capacity of the holding tank.
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73. It is requested that further laboratory analysis of soils be undertaken, including %S and TPA. Should the presence of ASS be detected, the Management Plan may also require modification to deal with lowering of groundwater levels during dewatering and treating ASS.

[PCWNS03]

DURING CONSTRUCTION

74. Car parking spaces for people with disabilities shall be provided and constructed in accordance with the provisions of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3.5 of the Building Code of Australia and it's requirement to comply with AS2890.1.

[DUR0095]

75. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

76. 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.

[DUR0215]

77. 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 was made).

[DUR0375]

- 78. 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.**
[DUR0395]
- 79. 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.**
[DUR0405]
- 80. 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 in accordance with WorkCover 2000 Regulations.**
[DUR0415]
- 81. Excavation**
- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
[DUR0425]
- 82. 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 in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.
- Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.
- Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.
- Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.
[DUR0435]
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83. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority. [DUR0645]
84. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0815]
85. 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/Occupation Certificate. [DUR0995]
86. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind
- [DUR1005]
87. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot. [DUR1015]
88. 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. [DUR1025]
89. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428. [DUR1685]
90. Where a building of part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code
-

of Australia and achieve the minimum design requirements provided under AS1428.

[DUR1695]

91. 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.

[DUR1795]

92. 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 in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

93. 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.

[DUR2185]

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

It is to be noted that the storage of bulk waste bins at the frontage of the development is prohibited.

[DUR2195]

95. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles.

[DURNS01]

96. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.

[DURNS01]

97. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DUR0005]

98. The provision of a minimum 49 off street car parking spaces and 1 loading bay including parking for the disabled where applicable. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls, the Building Code of Australia and AS 2890.

[DUR0085]

99. Practical measures to the satisfaction of the General Manager or his delegate are to be taken to acoustically shield all pumps used for dewatering operations to minimise any noise disturbance to neighbouring or adjacent premises.

[DUR0265]

100. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake Works.

[DUR0675]

101. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the General Manager of his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works.

[DUR0725]

102. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.

[DUR1045]

103. The proponent 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.

[DUR1845]

104. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.

[DUR1885]

105. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Pathways, footways, bikeways - formwork/reinforcement
- (c) Final inspections - on maintenance
- (d) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Final inspection - on maintenance
- (h) Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

106. 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.

[DUR1905]

107. 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.

[DUR1955]

108. A certificate from a suitably qualified practicing structural engineer shall be submitted to Council and the Principle Certifying Authority within seven (7) days of the site being excavated certifying the adequacy of the sheet piling or other retaining method used to support adjoining properties.

[DUR1965]

109. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

110. The works are to be completed in accordance with Councils Development Control Plans and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

- 111. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.**

[DUR2205]

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

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

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

[DUR2375]

- 113. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.**

[DUR2405]

- 114. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.**

[DUR2445]

- 115. Where two (2) or more premises are connected by means of a single water service pipe, individual water meters shall be installed to each premise beyond the single Council water meter (*unless all the premises are occupied by a single household or firm*).**

The bulk meter and fire service supply is to be located in an area of minimum dimensions of 3m X 2m at ground level and have 24 hour unrestricted access

[DUR2615]

- 116. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.**

[DUR2625]

- 117. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be**

transferred to the foundation material and will not effect or be affected by the sewer main.

[DUR2645]

118. 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 Tweed Shire Council prior to installation

[DUR2735]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

119. A person must not commence occupation or use of the whole or any part of a new building or structure (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).

[POC0205]

120. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

121. 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.

[POC0265]

122. 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.

[POC1045]

123. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

124. Prior to the issue of an Occupation Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works approved under Section 138 of the Roads Act (minimum \$1,000.00) which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[POC0165]

125. Work as executed plans are to be provided to Council in accordance with Councils adopted Development Design and Construction Specification.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

[POC0765]

126. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

127. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

128. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

129. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. 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.

[POCNS01]

130. Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 -

Subdivisions Manual and Councils adopted Design and Construction Specification.

The plans are to be endorsed by a Registered Surveyor AND a Consulting Engineer Certifying that:

- (a) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

[POCNS01]

131. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:

- (a) Easements for sewer, water supply and drainage over ALL services on private property.
- (b) Unrestricted 24 hour access to all public sewer and water metering infrastructure.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[POCNS01]

132. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

[POCNS01]

133. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.

[POCNS01]

134. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within DCP16, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.

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.

[POCNS01]

135. The six (6) months Defects Liability Period commences upon the registration of the Subdivision Certificate.

[POCNS01]

136. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of the stormwater pipes and sewerage system including joints and junctions will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils adopted Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[POCNS01]

137. The production of written evidence from the local telecommunications supply authority certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[POCNS01]

138. Electricity

The production of written evidence from the local electricity supply authority certifying that reticulation of underground electricity has been completed

[POCNS01]

USE

139. 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.

[USE0125]

140. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997. [USE0135]
141. No items or goods are to be stored or displayed outside the confines of the premises. [USE0445]
142. A backflow containment device will be installed adjacent to Councils water meter installation at the property boundary in accordance with AS3500. The device is to be maintained in accordance with the provisions of AS3500 by the owner of the property at the owners expense. [USE1455]
143. Hours of operation shall be restricted to 7AM to 7PM unless otherwise approved by the General Manager or his delegate, or approved by separate development consent. [USENS01]
144. All loading/unloading to take place within the boundary of the subject property. [USE0525]

GENERAL TERMS OF APPROVAL UNDER SECTION 10 OF THE WATER ACT 1912 (Licence to construct and use a work and to take and use water if any conserved or obtained by the work and to dispose of the water for the use of occupiers of the land)

- Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, an approval under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
- When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
- All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
- The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by

- petroleum products or other hazardous materials used in the construction or operation of the works.
- A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.

Conditions for Bores and Wells

- Works for construction of bores must be completed within such period as specified by the Department.
- Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
- Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
- Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.
- The use of water shall be conditional on no tailwater drainage being discharged into or onto -
 - any adjoining public or crown road
 - any crown land
 - any river, creek or watercourse
 - any groundwater aquifer
 - any area of native vegetation
 - any wetlands
- The work shall be managed in accordance with the constraints set out in the "Preliminary Acid Sulfate Soil Assessment & Dewatering Management Plan" produced by HMC Environmental as detailed in Appendix D of the Statement of Environmental Effects dated May 2005.
- The volume of groundwater extracted as authorised must not exceed **10** megalitres.
- The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
- The licence shall lapse within **six (6)** months of the date of issue of the licence.

REPORT:

Applicant: Azure Sea Developments Pty Ltd
Owner: Mrs GL Hayne
Location: Lot 2 DP 573057 & Lot 1 DP 657258 Nos. 11 & 13 Pearl Street, Kingscliff
Zoning: 3(b) General Business
Cost: \$597,000

BACKGROUND:

This report has been prepared for the determination of a three-storey retail and commercial building lodged under Development Application DA06/0348. The development comprises: -

- Basement car park level 1
- Basement car park level 2
- Ground floor – retail (922m²) & amenities
- 1st floor commercial offices (1050m²)
- 2nd floor commercial offices (1050m²)
- Roof terrace (1034m²)

The proposal was lodged under Development Application DA05/0602 on 31 May 2005. A comprehensive request for additional information was made on 8 September 2005 but having not received any additional information the application was reported to the Development Assessment Panel Meeting of 25 November 2005 where it was refused. A request for a review of determination was subsequently made on 6 December 2005 however due to the integrated approval provisions a s 82A review could not lawfully be made, not least determined by Council, and it was withdrawn on 3 April 2006.

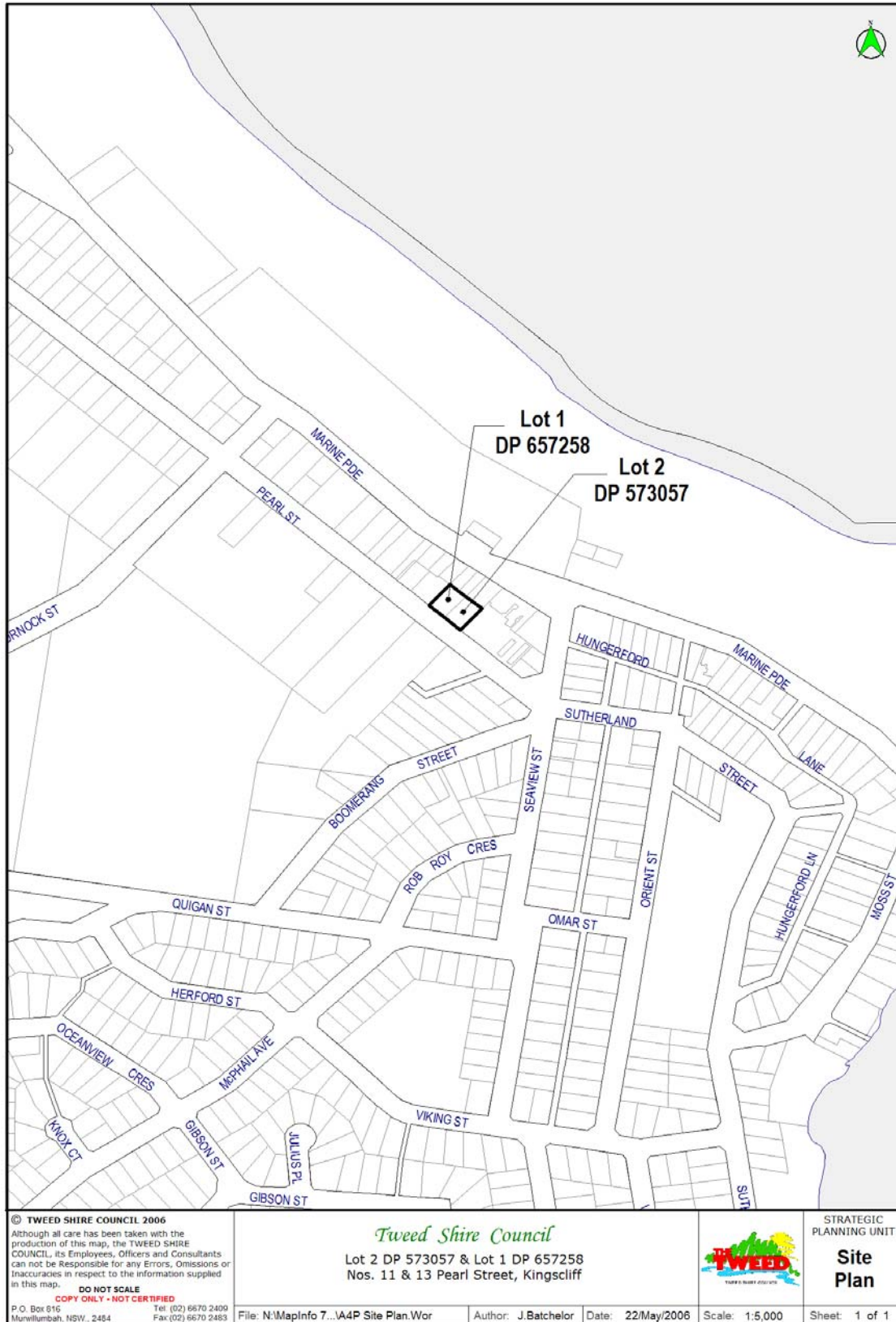
The present application was lodged on 7 April 2006. The application has been referred to the Department of Natural Resources relating to site dewatering under the *Water Management Act 2000*. General terms of approval have been issued. The application was also referred to the Regional Traffic Committee on 7 February 2006. The issues raised by the Committee mirrored those identified by Council Development Engineer who, after consideration of further detail, raises no objection subject to the inclusion of specified conditions.

The original application (DA05/0602) was publicly advertised between the 29 June and 29 July 2005. Four submissions were received. As the present application does not set any physical changes to its external appearance further public notification was deemed unnecessary however the previous submitters were advised of the new application and given an opportunity to provide further comment. The issues raised in the submissions are addressed later in this report.

The site comprises two lots with a combined area of 1247m² with a frontage to Pearl Street. An easement for pedestrian access over Lot C DP443463 permits access from

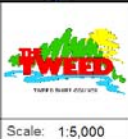
Pearl Street to Marine Parade. The site has a gentle west to east slope and presently contains two dwellings with associated gardens.

SITE DIAGRAM:



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Tweed Shire Council
 Lot 2 DP 573057 & Lot 1 DP 657258
 Nos. 11 & 13 Pearl Street, Kingscliff
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 22/May/2006 Scale: 1:5,000



STRATEGIC PLANNING UNIT
Site Plan
 Sheet: 1 of 1

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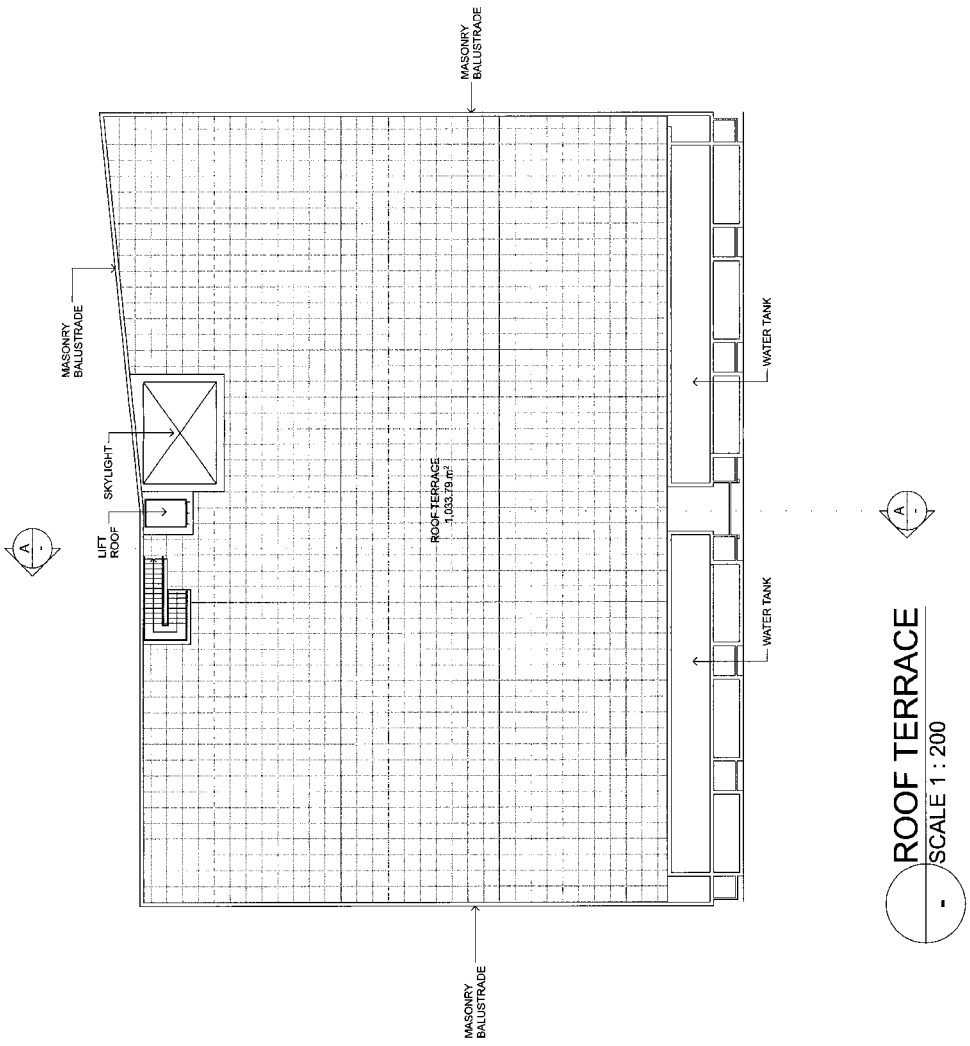
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 PO Box 3333 Kingscliff NSW 2486
 PH (61) 07 2371 814 FAX (61) 07 2371 816

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PROJECT
**KINGSCLIFF DEVELOPMENT
 PEARL STREET
 KINGSCLIFF
 NSW**

TITLE
**ROOF PLAN
 PLAN**

NO.	DATE	BY	FOR
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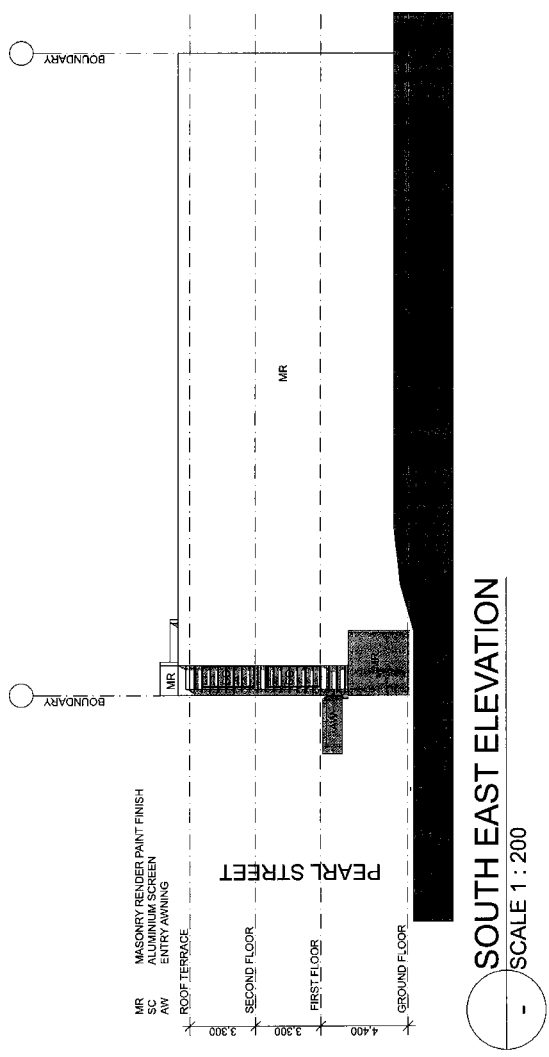
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AZURE DEVELOPMENTS

PROJECT
**KINGSCLIFF DEVELOPMENT
PEARL STREET
KINGSCLIFF
NSW**

FILE
SOUTH-EAST ELEVATIONS

SCALE	DATE	REVISION
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3	DATE OF LAST MODIFICATION	19/10/06
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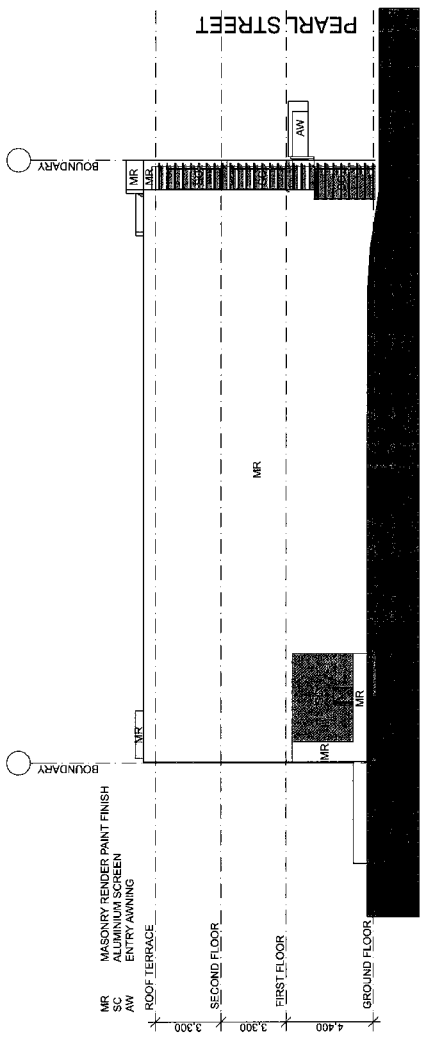
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PROJECT
**KINGSCLIFF DEVELOPMENT
 PEARL STREET
 KINGSCLIFF
 NSW**

TITLE
NORTH-WEST ELEVATIONS

SCALE	DATE	BY
1:200	FEB/05	JAG
1:200	JUN/05	DA
1:200	AUG/05	DA



NORTH-WEST ELEVATION
 SCALE 1 : 200

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NO.	DESCRIPTION	DATE
1	DESIGN DEVELOPMENT	15/02/06
2	PERMIT APPLICATION	15/02/06
3	PERMIT APPROVAL	15/02/06
4	CONSTRUCTION	15/02/06
5	COMPLETION	15/02/06
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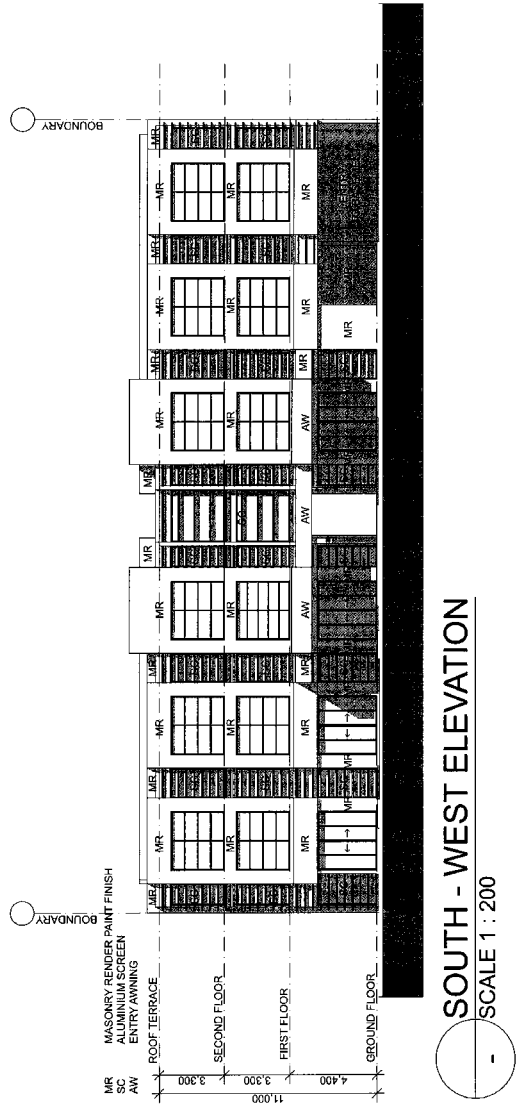
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 1/100-102, Main Street, Ballina
 NSW 2463
 Ph 02 3077 5104 Fax 02 3077 5106

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AZURE DEVELOPMENTS

PROJECT
**KINGSCLIFF DEVELOPMENT
 PEARL STREET
 KINGSCLIFF
 NSW**

DRAWN BY
SOUTHWEST ELEVATIONS

NO.	DATE	REVISION
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Note:
 1. All dimensions are in millimetres unless otherwise stated.
 2. All dimensions are to the centre of the wall unless otherwise stated.
 3. All dimensions are to the face of the wall unless otherwise stated.
 4. All dimensions are to the face of the slab unless otherwise stated.
 5. All dimensions are to the face of the ceiling unless otherwise stated.
 6. All dimensions are to the face of the floor unless otherwise stated.
 7. All dimensions are to the face of the roof unless otherwise stated.
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 9. All dimensions are to the face of the lower basement unless otherwise stated.
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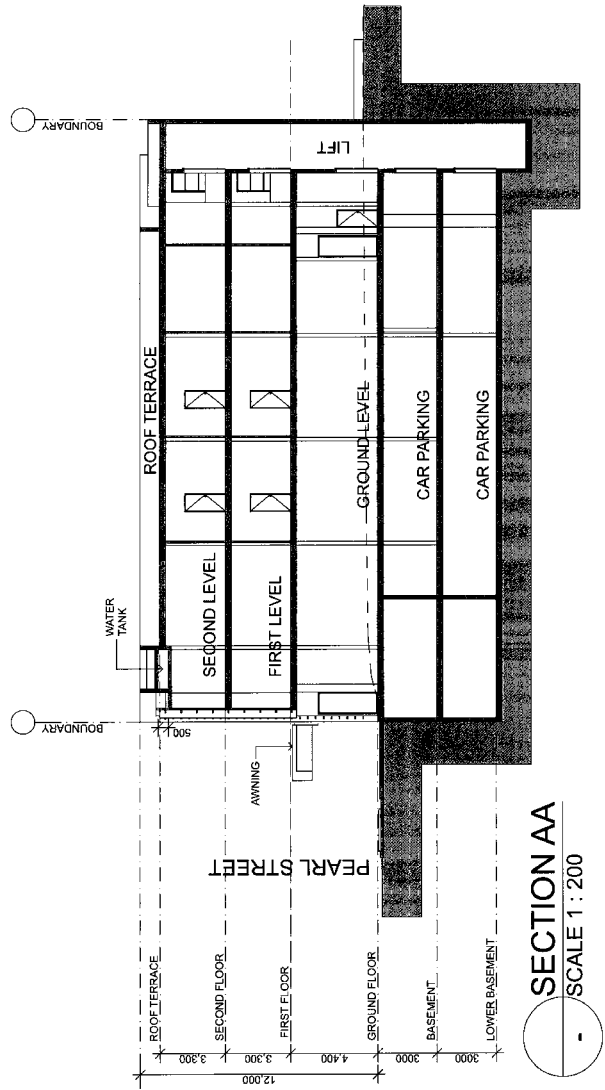
Embarque Office
 170-172 Market Street
 PO Box 2222, Market Street, Brisbane QLD 4000
 PH 07 3277 2344 FAX 07 3277 2346

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AZURE DEVELOPMENTS

PROJECT
**KINGSCLIFF DEVELOPMENT
 PEARL STREET
 KINGSCLIFF
 NSW**

FILE
**SECTION AA
 SECTIONS**

NO.	DATE	REVISION
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SECTION AA
 SCALE 1 : 200

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NO.	REVISION	DATE
1	ISSUED FOR PERMIT	12/02/06
2	REVISED PER PERMIT	12/02/06
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4	REVISED PER PERMIT	12/02/06
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Name:
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Brilliance Office
 1/100 The Esplanade, Gold Coast
 QLD 4217
 Ph: 07 5571 8544 Fax: 07 5571 8796

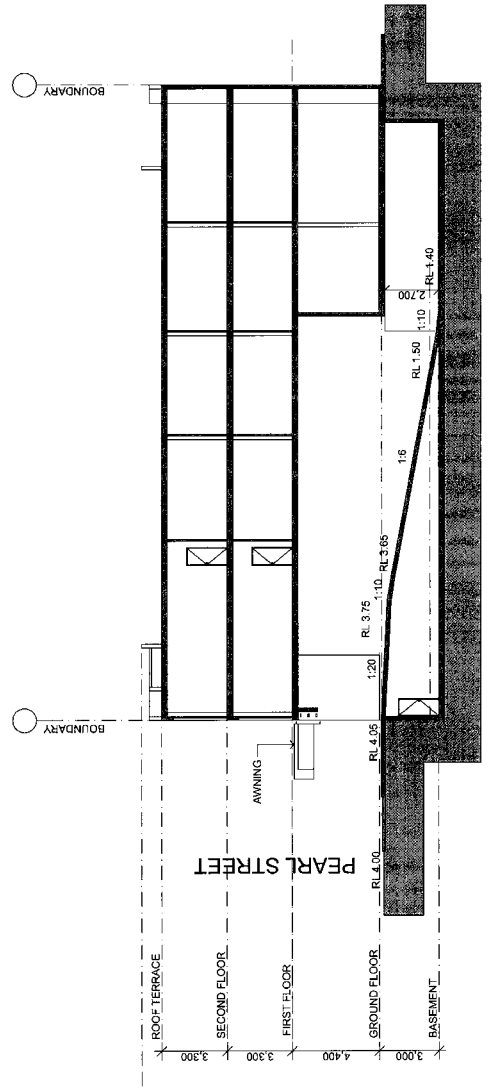
CLIENT
AZURE DEVELOPMENTS

PROJECT
**KINGSCLIFF DEVELOPMENT
 PEARL STREET
 KINGSCLIFF
 NSW**

TITLE
**RAMP SECTION
 SECTIONS**

SCALE	DATE
1:200	FEB/05
DRAWN	CHECKED
J.A.G.	J.A.G.
DESIGNED	APPROVED
S.D.A./M.P.	D.A.

Drawn by: S.D.A./M.P. Checked by: J.A.G. Approved by: D.A. Date: 12/02/06



ACCESS RAMP SECTION
 SCALE 1 : 200

Example
 Note: All quantities are in m³.
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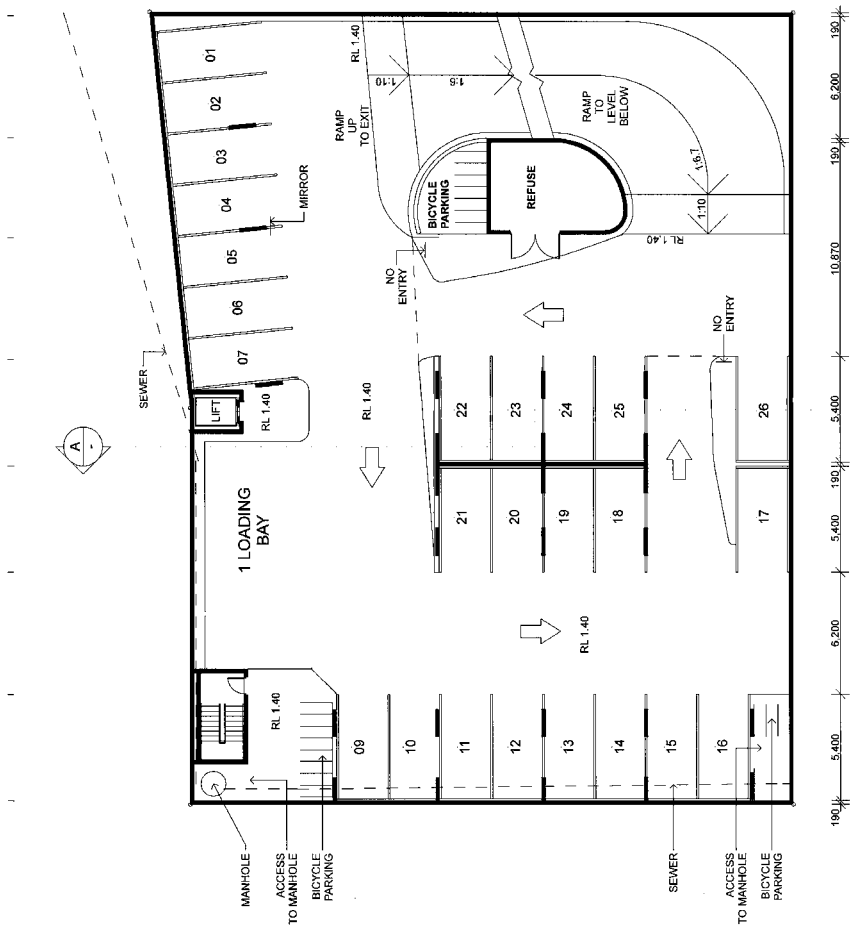
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CLIENT
AZURE DEVELOPMENTS
 PROJECT
KINGSCLIFF DEVELOPMENT
PEARL STREET
KINGSCLIFF
NSW
 TITLE
BASEMENT PLAN

DATE	REVISED	BY
FEB/05		JAAG
DA		



BASEMENT PLAN
 SCALE 1 : 200

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NO.	DESCRIPTION	DATE
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020	REVISIONS	14/06/06

Notes:
 1. All dimensions are in millimetres unless otherwise stated.
 2. All levels are in metres above sea level unless otherwise stated.
 3. All areas are in square metres unless otherwise stated.
 4. All areas are to be finished to the level of the ground level unless otherwise stated.
 5. All areas are to be finished to the level of the ground level unless otherwise stated.

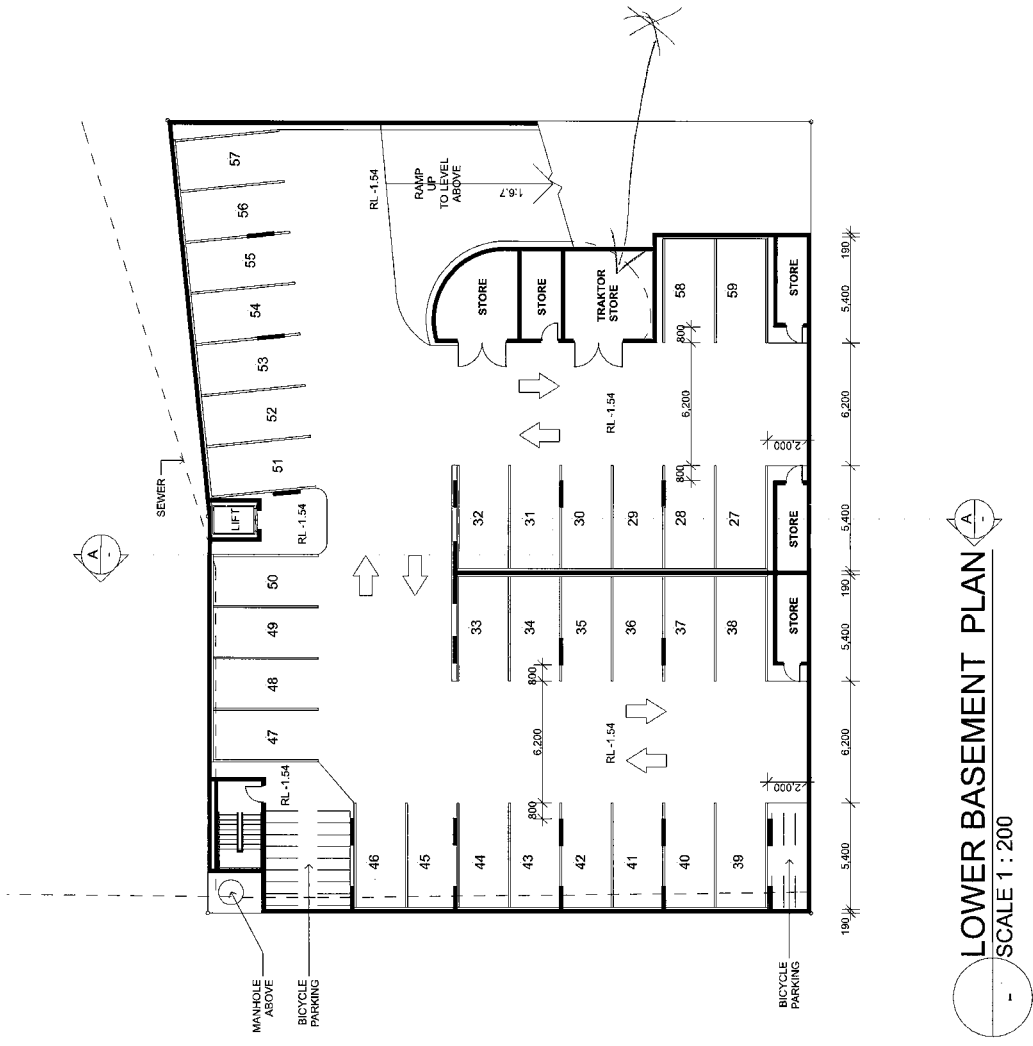


CLIENT
AZURE
 DEVELOPMENTS

PROJECT
KINGSCLIFF DEVELOPMENT
 PEARL STREET
 KINGSCLIFF
 NSW

TITLE
LOWER BASEMENT PLAN

SCALE	DATE	DESIGNED BY
1:200	FEB/05	JMAG
CHECKED BY	DATE	DESIGNED BY
SDA 02/04		JMAG
PROJECT NO.	DATE	DESIGNED BY
DA		JMAG



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 3(b) General Business and has a 3-storey height limit.

The proposed development is consistent with the zone objectives and is 3-storey in height.

North Coast Regional Environmental Plan 1988

The proposal has been considered against the provision of the Plan as satisfactory. In particular, the proposal will not overshadow, impede or impact on the public foreshore and it does not exceed 14m in height (being approximately 12.4m).

The proposal has also been considered against the relevant strategic actions of the NSW Coastal Policy 1997 and not being inconsistent with the objectives and desired outcomes of the Policy.

State Environmental Planning Policies

SEPP 11 – Traffic Generating Development applies to the development and has been complied with in so far as a referral was made to the Regional Traffic Committee.

SEPP 55 – Remediation of Land applies to the site and preliminary investigation has been undertaken. Additional testing will be required prior to the excavation for the basement car parking and appropriate conditions of approval have been formulated.

SEPP 71 – Coastal Protection applies and consequently the development has been considered against the Matters for Consideration provided under cl. 8 of the Policy. The proposal does not impede public access to or along the coastal foreshore, will not include any significant overshadowing of the coastal foreshore and will not impact on threatened species or wildlife corridors.

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

There are no draft EPI's of significance to this proposal.

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

By way of background information is of note that Council does not have a Development Control Plan specifically for commercial development.

The application initially identified a total of 54 parking spaces and 3 loading bays within the two levels of basement parking. Concern was raised for the adequacy of the loading bays and manoeuvring in the site. Subsequent amended plans indicate a total of 58 parking spaces and one loading bay is now proposed. The following tables identify assessment in accordance with Councils DCP 2 – Site Access and parking Code:

Table 1 - DCP 2 Assessment

Item	Development	Comment	Public transport bus stop seating	Bicycle parking	Delivery, service vehicle parking (50% must be truck size)	Staff parking	Customer car parking
C19	Shop		1/100m ² GFA, shops over 5000m ²	2/100m ² GFA up to 100m ² GFA and thereafter at 1/200m ²	1/1500m ² GFA, min 1, min 2 for supermarkets	0.5/100 GFA	3.5/100m ² GFA
G2	Commercial premises	In CBD may reduce requirement to 1/75m ² 1 st floor and 1/100m ² higher levels, if integration and sharing with other uses an option		1/100m ² GFA	1/200m ² GFA	1/40m ² GFA	Included in staff parking

Site Specific Parking Demand

Development	Area	Bicycle Parking	Delivery, service bay	Staff parking	Customer Parking
Shops	921.38m ²	10.2	1	4.61	32.25
Commercial (1 st floor)	1047.26	11.47	1	13.96	-
Commercial (2 nd floor)	1047.26	11.47	1	10.47	-
Sub Total		33.14	1 shared	29.04	32.25
DCP 2, Cl 4.1.1 – 20% reduction		-	-	23.23	25.8
TOTAL		33.14	1	49	

The above detail confirms the proposal meets the minimum requirement for loading bay, car parking and bicycles.

In relation to vehicle parking, 58 spaces are to be provided onsite, resulting in an excess of 9 spaces. Upon assessment for the first use of each retail unit on the ground floor these spaces may be accounted for depending on the proposed use, that is, where a greater traffic generating use is sought.

The DCP identifies this site as one having a preferred building type (Type 2) that is categorised as: -

Type 2 buildings are the preferred form of development in the vicinity of the Kingscliff Shopping Village. Generally, retail/commercial occupy ground floor level with commercial offices above. Two storeys is the preferred height, although one and three storey development is permitted. Where single storey development is proposed, parapets should be provided to increase the apparent building height. Parking is on ground level at the rear of the building.

The proposed building is three-storey in height and is consistent with the neighbouring commercial / residential building. Car parking at ground level would significantly compromise the design, integrity and ultimate floor space of the development and as such the provision of basement car parking is a preferred option. Buildings of Type 2 configuration would best suit an area of less growth that retains a relatively small population and business function more akin to the older township of Kingscliff. Development, population growth and demand for commercial premises appears to have gone beyond what may have been contemplated in the drafting of DCP 43, consequently the adherence to the preferred building designs should be weighted accordingly.

Development Control Plan No.48 – Tweed Coast Building Heights applies and specifies a maximum building height of 13metres for a 3-storey commercial building. The proposal has a maximum height of 12.4metres and complies.

The proposal has been assessed against the performance and objectives criteria of the relevant DCPs' and is considered satisfactory.

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

The proposal is not inconsistent with the NSW Coastal Policy 1997 and is satisfactory with respect to the relevant provisions of Regulation 2000.

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

The proposed development provides a modern rectilinear design, and although not a relevant consideration, it is of a design that is consistent with the residential building designs illustrated in the *Residential Flat Design Pattern Book*, as published by the Dept of Planning, except for the street

awnings. It will provide a positive contribution to the present urban environment and will not have significant impact on the natural environment.

(c) Suitability of the site for the development

The site is considered suitable for the proposed development.

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

Of the four submissions received three were from the same person. The bulk of these submissions are not well founded, for example, statements rather than issues are made. The following are considered to be the main issues: -

ISSUE	IMPACT ASSESSMENT	
Soil sampling from minimal depth	It is noted that soil sampling was taken from depths of approx 500mm, this is partly due to the presence of existing buildings and the like however conditions of approval are proposed that require further detailed site investigation prior to the commencement of works. It should be noted that various contamination issues have arisen in a number of applications in this locality and on each occasion remediation, were required, did not pose any significant limitation or obstacle.	Conditions of consent requiring further testing have been included. No additional action required at DA stage.
On-site parking seems inadequate	As detailed in the report the proposal complies (exceeds) with the required number of car parks.	No action required.
The size and location of awning supports will impact the line of sight between pedestrians and vehicles.	Council's; Traffic and Development Engineers have assessed this element of the proposal and advise that in accordance with Council standards for retail development, a full width paved path shall be required for the full frontage of the development site. Initial plans indicated columns were to be located in the footpath area. Amended	Conditions imposed. No further action required.

ISSUE	IMPACT ASSESSMENT	COMMENT
	plans have removed any reference to these and in addition conditions of consent have been formulated so as to confirm that columns are not permitted to be located in the road reserve.	
The building will impact on the air circulation on the adjoining building (Paradiso)	The adjoining building occupants were advised of the application and no submission were raised. It should be noted however that the Paradiso was designed and constructed to the boundary and that the burden of responsibility for providing amenity does not rest solely on the adjoining property but did so with the designers of that building. Having regard to the zoning of the land it appears that the proponent anticipated the erection of a similarly designed building on this site. Any potential amenity impact on the Paradiso is more a design flaw with that building rather than a design issue on this site.	No action required.
DCP 43 prefers a two storey building	The Type 2 building design espoused in the DCP is not the best design solution to this site. Maximising the floor space of building will yield better results in the long term as the demand for space increases. Providing parking at ground level does not have any significant advantage but will impact on the overall design and utility of the building.	Type 2 building design is a preferred option under the DCP but is not considered the preferred option for in this instance. No action required.
The provision of disabled toilets appears inadequate.	Toilet facilities will be required in accordance with the provision of the BCA.	No action required.

ISSUE	IMPACT ASSESSMENT	COMMENT
Balconies on the awnings is public space should not be supported.	No balconies shall be permitted to encroach beyond the property boundary.	Condition imposed. No further action required.
The building will impact on views from Boomerang and Seaview Streets.	The proposed building is of an appropriate height for a three-storey commercial building and is of a contemporary architectural design that is characteristic of the building types and designs in the locality. The visual impact generated by the proposed development is within acceptable limits.	No action required.
The wall of the roof terrace raises the actual roofline to 12m	The impact of the additional height to facilitate the active / passive use of open space resource is considered negligible by comparison to the benefit derived from the use of that resource. The benefit to future occupiers will likely be far greater than the cost of the wall height on aesthetics. In this regard it is noted when viewed from the street level the additional height will be imperceptible and of no consequence, and in relation to adjacent properties there exists sufficient spatial separation to allow equitable access to sun/day light and views. It is also noted that no objections have been received from properties in either Boomerang or Seaview Streets.	No action required.
The building is too high.	Under DCP 48 the maximum external building height for a 3-storey commercial building is 13metres. The proposed building is less than the	No action required.

ISSUE	IMPACT ASSESSMENT	COMMENT
	prescribed maximum height.	

(e) Public interest

The proposal is not detrimental to the public interest.

OPTIONS:

1. Approve the application subject to the conditions provided in this report.
2. Defer the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposal will improve the level of commercial and retail space available in the area in a building that is modern and architecturally consistent with other building designs in the area. Appropriate on-site work practices will not result in environmental impacts and as such the proposal is, on balance, recommended for approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Confidential Floor Plans (DW 1396519)
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P12 [PD-PC] Development Application DA04/0814 for a Two (2) Lot Subdivision and Dwelling at Lot 346 DP 755701, Coronation Avenue, Pottsville

ORIGIN:

Development Assessment

FILE NO: DA04/0814 Pt1

SUMMARY OF REPORT:

LEP 63 has been gazetted which enables the abovementioned development to be determined. Council considered the report for the draft LEP and the development application on 3 August 2006. The contributions and one of the conditions are required to be updated given the time period between Council's resolution and gazettal of the LEP. The only purpose of this report is to update the conditions of consent.

RECOMMENDATION:

That Development Application DA04/0814 for a two (2) lot subdivision and dwelling at Lot 346 DP 755701, Coronation Avenue, Pottsville be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No 2113-2 dated 14 April 2004 prepared by Chapman Surveys and Plan No. 280 Amendment 1 Sheets 1 to 6 dated 10 February 2001 prepared by Parameter Designs, 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 subdivision is to be carried out in accordance with Development Control Plan No 16 - Subdivisions Manual.**
[GEN0040]
- 4. No retaining walls or similar structures are to be constructed over Council's sewer main.**
[GEN0090]
- 5. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**

[GEN0120]

6. 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
 - roadworks
 - road pavement
 - road furnishings
 - 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
 - the relevant maintenance manuals (eg. G.P.T's, water pump station)

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]

7. 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]

8. The proponent may not:

- a) encroach upon the Crown land,
- b) remove any vegetation from the Crown land,
- c) use the Crown land as access to the property,
- d) stockpile materials, equipment or machinery on the Crown land,
- e) direct stormwater dischargers,
- f) use the Crown land for bushfire hazard reduction works

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. 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]

10. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- i) Contours and terraces where the height exceeds 1m.
- ii) Cover with topsoil and large rocks/dry stone walls in terraces as

necessary.

- iii) **Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.**
- iv) **Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.**
- v) **The landscaping shall be completed to the satisfaction of the Director Planning and Development PRIOR to the issue of a Subdivision Certificate.**

[PCC0330]

- 11. **The habitable areas of all residential buildings are to be at a level not less than Council's adopted minimum level of 3.1 AHD**
- 12. **Prior to release of a construction certificate for subdivision works or building works a weed control strategy for proposed Lot 2 is to be submitted to Council for approval by the General Manager or his delegate. In this regard the works required are to be funded by the owner and carried out by Council.**

The Strategy is to include the following: -

- **Identification of both environmental and noxious weeds.**
 - **A strategy for control of weeds including the prioritising the location and nature of weed control actions.**
 - **Identification of required follow up maintenance work for a minimum of 1 year.**
 - **A costing for the initial and follow up works.**
- 13. **An amended site plan is to be submitted to Council for approval prior to the issue of the construction certificate demonstrating compliance with the NSW Rural Fire Service conditions regarding asset protection zones. In this regard the 20m asset protection zone is to be measured from the southern boundary of the drainage reserve.**

[PCCNS01]

- 14. **Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).**

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the Director Planning and Development.

The bond will be refunded, if not expended, when the final Subdivision Certificate is issued.

[PCC0080]

15. 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]

16. The site is to be filled to a minimum of RL 2.8m AHD. The filling is to be retained by perimeter structural walls with concrete lined perimeter drainage, or other approved treatment, to a design submitted to and approved by the Director, Engineering & Operations prior to the release of the Construction Certificate. The filling plan of the site is to address the drainage on the site as well as any existing stormwater flows onto or through the site and the likely impact on stormwater drainage in the locality from the proposed filling.

[PCC0100]

17. The Engineering Plans and specifications to accompany the Construction Certificate application shall provide for:-

- i. Construction along the full length of the proposed subdivision vertical face kerb and gutter on an approved alignment along with associated sub-surface and over-land stormwater drainage systems widening of the road pavement from the lip of the new kerb and gutter to the edge of the existing bitumen pavement including tapers.
- ii. Construction of a stormwater drainage system that will convey all waters through the site to a legal point of discharge. The sub-surface and over-land drainage systems shall convey the respective flows from minor and major storm events. Clearly defined upstream catchment areas and supporting stormwater calculations shall accompany the engineering design plans.

[PCC0180]

18. 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]

19. 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.

[PCC0230]

20. 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]

21. 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]

PRIOR TO COMMENCEMENT OF WORK

22. Subdivision work in accordance with a development consent must not be commenced until:-

- (a) a construction certificate for the subdivision work has been issued by:
- (i) the consent authority, or
 - (ii) an accredited certifier, and
- (b) the person having the benefit of the development consent:
- (i) has appointed a principal certifying authority, and
 - (ii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

[PCW0020]

23. 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 Planning and Development. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0030]

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

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

[PCW0040]

25. 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]

26. 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]

27. 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]

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

[PCW0090]

29. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the Director Planning and Development.

[PCW0140]

30. 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]

31. 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]

32. 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]

33. Where water is required to be drawn from Council's water reticulation system it shall be the applicants responsibility to notify the Engineering & Operations Division prior to taking water.

All drawn water shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[PCW0260]

34. 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]

35. Residential building work:

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

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

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

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

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

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

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

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

[PCW0290]

DURING CONSTRUCTION

36. 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]

37. 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]

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

[DUR0030]

39. 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]

40. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.

[DUR0080]

41. 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]

42. 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]

43. 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]

44. 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]

45. Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-

- (i) Compliance Certificate - Roads
- (ii) Compliance Certificate - Water Reticulation
- (iii) Compliance Certificate - Sewerage Reticulation
- (iv) Compliance Certificate - Drainage

Note:1. Where Council is requested to issue compliance certificates, applications for such certificates must be accompanied by documentary evidence from the Developers Supervising Consulting Engineer certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and good Engineering Practice.

2. Where Council is requested to issue the construction certificate all compliance certificates and a Subdivision Certificate, Council will carry out the following inspections as deemed necessary by Council based on the rates contained in Council's current Fees and Charges:-

Roadworks

- a. Pre-construction commencement erosion and sedimentation control measures
- b. Completion of earthworks
- c. Excavation of subgrade
- d. Pavement - sub-base
- e. Pavement - pre kerb
- f. Pavement - pre seal

- g. Pathways, footways, bikeways - formwork/reinforcement
- h. Final inspections - on maintenance
- i. Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- a. Excavation
- b. Bedding
- c. Laying/jointing
- d. Manholes/pits
- e. Backfilling
- f. Permanent erosion and sedimentation control measures
- g. Drainage channels
- h. Final inspection - on maintenance
- i. Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

- 3. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".
[DUR0360]

- 46. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
 - a. That the pavement has been designed and constructed in accordance with subgrade analysis as per Austroads Pavement Design, A Guide to the Structural Design of Road Pavements.
 - b. That the pavement materials used comply with the specifications in RTA Form Q3051 (June 1998)
 - c. That the pavement layers have been compacted to RTA specifications.
 - d. That site fill areas have been compacted to the specified standard.
 - e. That supervision of Bulk Earthworks has been to Level 1 and/or Level 2 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
 - f. That pavement testing has been completed in accordance with Table 8.1 of AS 3798-1996.
[DUR0370]

- 47. All proposed road/streets, drainage and associated works within the subdivision shall be designed and constructed in accordance with the development consent plans AND the relevant provision of DCP No. 16 - Subdivisions Manual, except where varied by the conditions of this consent.
[DUR0400]

48. 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]

49. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet.

[DUR0460]

50. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.

[DUR0550]

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

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

[DUR0560]

52. The land to be filled to the design flood level of RL 2.8m AHD.

[DUR0610]

53. 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]

54. Building materials used below Council's minimum floor level of RL2.8m AHD must not be susceptible to water damage.

[DUR0690]

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

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

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

[DUR0730]

56. 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]
57. 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]
58. 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]
59. All necessary precautions shall be taken to minimise impact from dust during filling operations from the site and also from construction vehicles. [DUR0880]
60. 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]
61. 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]
62. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0920]
63. The burning of builders waste on site by open fire is prohibited. [DUR0940]

64. 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]
65. 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]
66. 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]
67. 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]
68. 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]
69. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
[DUR1050]
70. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
[DUR1090]
71. 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]

72. **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]

73. **The finished floor level of the building should finish not less than 225mm above finished ground level.**

[DUR1150]

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

- * **43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and**
- * **50⁰C in all other classes of buildings.**

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

[DUR1160]

75. **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]

76. **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]

77. The habitable floor area of the building is to be at a level not less than RL 3.1 m AHD. [DUR1440]
78. A survey certificate signed by a registered surveyor is to be submitted to the PCA at floor stage to certify that the habitable floor level of the building to be at a level of not less than RL 3.1m AHD. [DUR1460]
79. Excavation and treatment of soils, particularly those excavated greater than 1 metre below the existing ground level shall comply with the Acid Sulfate Soils Assessment Border Tech, February 2004. [DURNS01]
80. All fill material shall be from a Council approved source and be free from contaminants or acid sulfate soils. [DURNS02]
81. The site shall not be dewatered. [DURNS03]
82. Vegetation within the proposed lot 2 shall not be removed, lopped or damaged. [DURNS04]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

83. 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]
84. 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]
85. Prior to occupation of the building a Occupation Certificate is to be obtained. If Council is requested to issue the Occupation Certificate, the application must be accompanied by relevant Compliance Certificates or documentary evidence of compliance. [POC0040]
86. 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]

87. 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]

88. The proposed two (2) lot subdivision is to be registered with the Land and Property Information prior to issue of the occupation certificate for the proposed dwelling.

[POCNS01]

USE

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

[USE0110]

90. 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]

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

[USE0170]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

92. 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 Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate or Construction Certificate for the dwelling (whichever occurs first) shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been

paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water:	1.2 ET @ \$4230	\$5,076
Sewer:	1 ET @ \$2634	\$2,634
Pottsville Levy:	1.2 ET @ \$1416	\$1,699

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]

93. Section 94 Contributions

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

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate or Construction Certificate for the dwelling (whichever occurs first) 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: \$3,370
S94 Plan No. 4 (Version 4.0)
Sector8a_4

Heavy Haulage Component
Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the

issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

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

where:

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

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads (trip one way)

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

Admin. Administration component - 5% - see Section 6.5

b.	Open Space (Structured): S94 Plan No. 5	\$780
c.	Open Space (Casual): S94 Plan No. 5	\$167
d.	Shirewide Library Facilities: S94 Plan No. 11	\$688
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$131
f.	Community Facilities (Tweed Coast) (South Coast) S94 Plan No. 15	\$584
g.	Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$200
h.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$1268.80

- i. **Cycleways:** **\$352.00**
S94 Plan No. 22

- j. **Regional Open Space (Structured)** **\$2,327**
S94 Plan No. 26

- k. **Regional Open Space (Casual)** **\$855**
S94 Plan No. 26

[PCC0050/PSC0005]

94. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions relating to the subdivision component of Development Consent No DA04/0814 have been complied with.

[PSC0010]

95. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:

- i. **Easements for sewer, water supply and drainage over ALL services on private property.**

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0020]

96. Submit to Council's property officer an appropriate plan indicating the rural address number to both new and existing lots for verbal approval. Prior to the issue of a Subdivision Certificate, each lot shall have its' rural address number displayed in accordance with Council's "Rural Addressing Policy".

[PSC0030]

97. Prior to the issue of a Subdivision Certificate, Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council.

[PSC0040]

98. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Councils Surveyor within two months of the issue of the Subdivision Certificate.

[PSC0060]

99. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the Director Planning & Development PRIOR to the issue of a Subdivision Certificate. 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.

[PSC0070]

100. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.

- (i) The following information must accompany an application:

- original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- relevant development consent
- detailed subdivision engineering plans endorsed with a construction certificate (where applicable)
- evidence that the applicant has complied with all conditions of consent, that it is required to comply with before a subdivision certificate can be issued (where applicable)
- a certificate of compliance from the relevant water supply authority (where applicable)
- for subdivision involving subdivision works evidence that:
 - the work has been completed, or
 - agreement reached with the relevant consent authority regarding payment of the cost of work or as to the time for carrying out the work, or
 - security given to the consent authority with respect to the completion of the work
- Work as Executed Plans for ALL works

- (ii) Documentary evidence that all matters contained in Section 109J of the Act have been complied with.

- (iii) Written evidence from Council that the proposed road/street names have been approved.

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.

[PSC0090]

101. Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual.
-

The plans are to be endorsed by a Registered Surveyor AND a Consulting Engineer Certifying that:

- (i) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;
- (ii) the plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

[PSC0100]

102. Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued and will be refunded following the remedying of any defects arising within the 6 month period.

[PSC0110]

103. Prior to issuing a Subdivision Certificate, outfall sewerage reticulation shall be provided to all lots within the subdivision including a minimum 150mm diameter sewer junction terminated at least 1.0m inside the property boundary of each lot in accordance with engineering plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

Council does not permit the building over Council's sewers. When buildings are located in close proximity to the sewer, detailed plans of footing types, location and depth relative to the sewer are required to be included with the Construction Certificate Application.

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.

[PSC0150]

104. Prior to issuing a Subdivision Certificate, Town Water shall be provided to each lot including a minimum size 25mm outside diameter water service terminated 1.0m inside the property boundary of each lot in accordance engineering with plans to accompany the Construction Certificate application. The reticulation shall be designed and constructed in accordance with DCP16 - Subdivisions Manual.

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.

[PSC0160]

105. The production of written evidence from Country Energy certifying that the reticulation of overhead electricity (rural subdivisions) has been completed.

[PSC0180]

106. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording to the satisfaction of the Director Planning and Development.

[PSC0220]

107. Payment to Council of the agreed amount for weed control works as required by Condition 12 prior to the release of the subdivision certificate.

108. Proposed Lot 2 is to be dedicated to Council at no cost.

[PSCNS01]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. The proposed dwelling shall be located within the lot so that an Asset Protection Zone in the shape of an Inner Protection Area as defined by section 4.4.2 (b) within 'Planning for Bushfire Protection 2001' can be adopted to an area defined by:

An area 40 metres to the south and south-west adjacent and parallel to the southern boundary and measured from the external wall of the proposed dwelling. An area 20 metres to the northwest and parallel to the open drainage reserve measured from the external wall of the proposed dwelling.

The remainder of the APZ will be formed by the existing northern boundary on Coronation Avenue and the boundary adjoining existing residential development to the east.

2. The proposed dwelling shall be constructed to comply with level 3 requirements of Australian Standard AS3959.

REPORT:

Applicant: Mr G Jones & Mrs J Jones
Owner: Sunvista Pty Ltd
Location: Lot 346 DP 755701 Coronation Avenue, Pottsville
Zoning: 1(a) Rural
Cost: \$120,000

BACKGROUND:

On 3 August 2006 Council resolved as follows-

"That Council: -

- 1. Forwards a copy of draft Tweed Local Environmental Plan 2000 (Amendment No.63) to the Minister for gazettal.*
- 2. Upon gazettal of draft Amendment No.63 to the Tweed Local Environmental Plan 2000, Council assume the concurrence of the Director of the Department of Infrastructure, Planning and Natural Resources for the variation of the 30 metre setback contained in clause 24 of the Tweed LEP 2000 and development application DA04/0814 for a two lot subdivision and dwelling house at Lot 346 DP 755701 Coronation Avenue, Pottsville be approved subject to the following: -"*

Condition 93 sets out the S.94 contributions applicable for the development and is required to be updated to reflect the current rates. The contributions that are required to be updated are for Cemeteries, Lifesaving, Council Administration, Cycleways and Regional Casual and structured Open Space.

Condition 94 is a standard condition that states-

"A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of Development Consent No. DA04/814 have been complied with."

This condition needs to be amended so that the subdivision can be carried out prior to the construction of the dwelling house. This is necessary so that the key component of dedication to Council of the land zoned environmental protection is carried out prior to occupation of the proposed dwelling.

The condition is to be amended to read-

*"A Subdivision Certificate will not be issued by the General Manager until such time as all conditions **relating to the subdivision component** of Development Consent No. DA04/814 have been complied with."*

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Conclusion

All other matters have been considered previously and determination of the Development Application is the only outstanding matter.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

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P13 [PD-PC] Development Application DA06/0251 for a Hire and Drive Pontoon Boat Rental Business at Lot 437 DP 755740 & Lot 709 DP 726652 No. 126 Wharf Street & Lot 1 DP 1045752 No. 156 Wharf Street, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA06/0251 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application to establish a commercial boating operation comprising up to four (4) party pontoon boats for hire, to be berthed at the newly completed Pier 2 Marina.

The application was notified for two (2) weeks in accordance with Council's Notification Policy. During this period, no submissions were received.

The main issues associated with the application relate to the following matters:-

- Car parking availability;
- Proposed mini-bus transfer for clientele; and
- Precedence in terms of other commercial boating operators looking to use the facility.

Each of these issues is discussed within the body of the report.

RECOMMENDATION:

That Development Application DA06/0251 for a hire and drive pontoon boat rental business at Lot 437 DP 755740 & Lot 709 DP 726652 No. 126 Wharf Street & Lot 1 DP 1045752 No. 156 Wharf Street, Tweed Heads be approved subject to the following conditions: -

GENERAL

- 1. The consent is valid for a period of 12 months from the date of this consent. Prior to completion of the 12 month period it is open to the applicant to extend this period via a Section 96 application pending an investigation on the car parking situation for the subject site.**

[GENNS01]

- 2. All customers seeking to rent the pontoon boats are to be transported to/from the marina in a private bus.**

[GENNS02]

3. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.

[GEN0015]

4. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

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: \$793
S94 Plan No. 4 (Version 4.0)
Sector1_4

[PCC0215]

USE

5. 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.

[USE0125]

6. Hours of operation of the business are restricted to between 8:00am and 4:00pm daily.

[USE0185]

7. All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate. Suitable waste receptacles with close fitting lids must be provided on each vessel.

[USE0875]

8. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW.

[USE1035]

9. All activities and marine vessels shall be maintained and operated in accordance with the requirements of the NSW Maritime Authority (Waterways Authority).

[USENS01]

10. The vessels are not permitted to discharge effluent in any Tweed waterways.
[USENS02]
11. The business operator shall complete a log detailing the dates, times, locations and volumes (in litres) of all effluent discharged to each toilet facility. The log records are to be presented to Council and NSW Maritime Authority where requested.
[USENS03]
12. No wastes or chemicals such as fuels, oils (including oil and grease from the barbeque), cleaners, paints and the like shall be discharged into local waterways.
[USENS04]
13. Appropriate temperature control to the satisfaction of Council's Director of Environment & Community Services shall be provided on each vessel for the storage of food.
[USENS05]
14. The toilet system shall provide a holding capacity of at last 50 litres.
[USENS06]
15. Prior to the commencement of operation, Council is to be provided with proof of a formal lease between Pier 2 and the applicant.
[USENS06]
16. Prior to the commencement of operation, all works associated with the Pier 2 car park are to be completed.
[USENS06]
17. The operation is to provide for a maximum of four (4) rental boats.
[USENS07]

REPORT:

Applicant: Mr N Wynne & Mrs L Wynne
Owner: Pier 2 Marina (NSW) Pty Ltd
Location: Lot 437 DP 755740 & Lot 709 DP 726652 No. 126 Wharf Street & Lot 1 DP 1045752 No. 156 Wharf Street, Tweed Heads
Zoning: 3(d) Waterfront Enterprise
Cost: \$35,000

BACKGROUND:

The overall Pier 2 development comprises a tavern, 29 berth marina, boardwalk, managers office, commercial/retail premises and associated car parking. Work has commenced on the development with the marina near completion and construction underway on the commercial/retail building containing the tavern.

The subject property has a long history and a number of Development Consents have been issued including:-

- K98/708 Demolition of Markwells Fishery;
- D98/211 Mixed Commercial Retail Development;
- K98/839 Boardwalk, Public Car Park and Additional Commercial Floor Space;
- 0675/2000DA Dredging of the Back Channel;
- 0685/2000DA Marina Facility; and
- 0770/2000DATavern

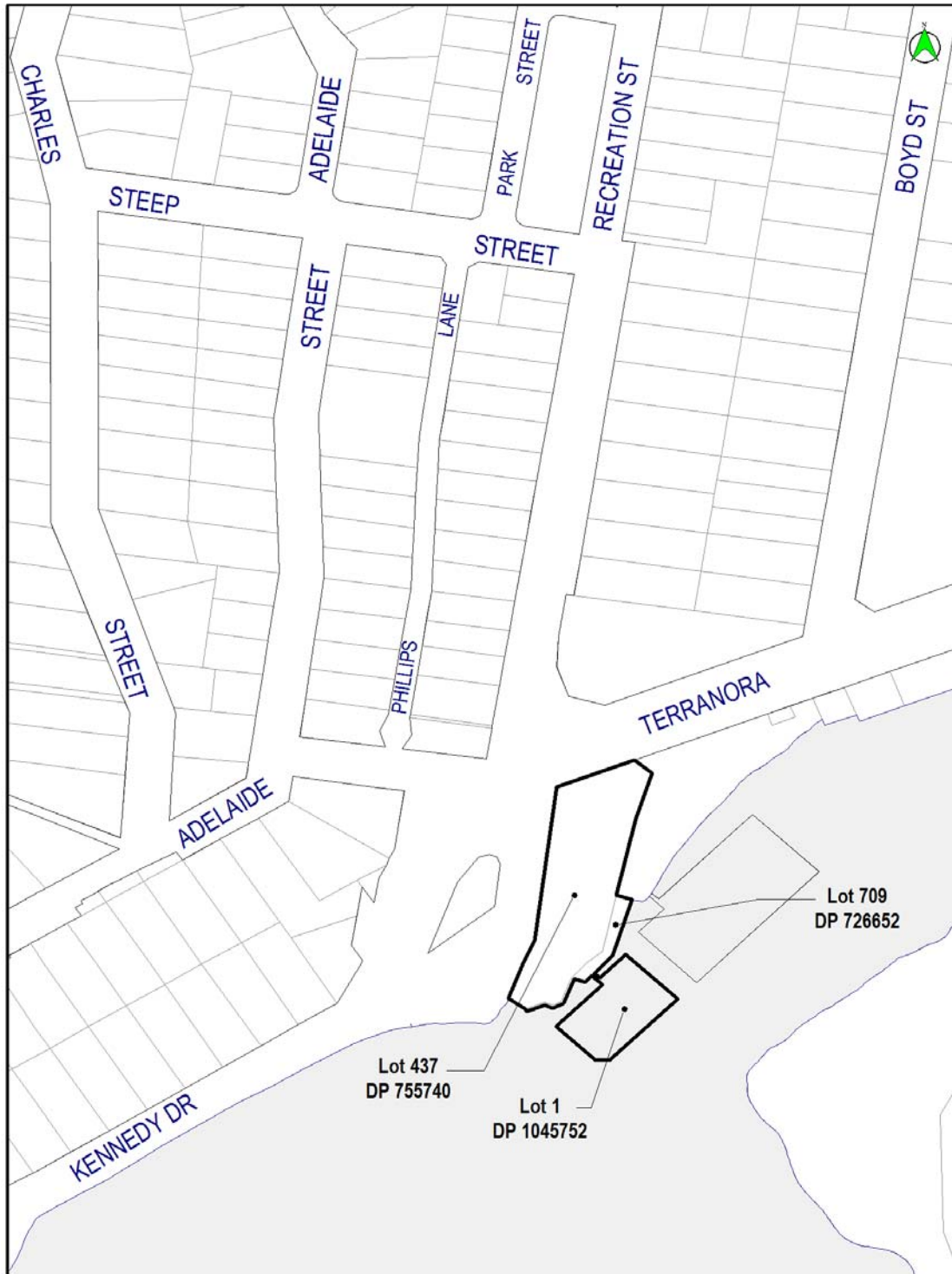
The proposed development seeks consent to operate a commercial boating operation from berth no.29 within the marina.

The application originally related to a single pontoon boat (5.8m x 2.4m), to be rented out during daylight hours, for recreational use on the surrounding waterways.

The applicant has since amended the application to relate to 4 pontoon boats – all of which are to be moored at berth no.29 of the Pier 2 marina.

In terms of the estimated cost, the application fees have been based on the cost of a single boat at \$35,000. Since amending the proposal to include 4 boats, there may therefore be an argument that the estimated cost and consequently, the development application fees should be revised prior to the application being determined.

SITE DIAGRAM:



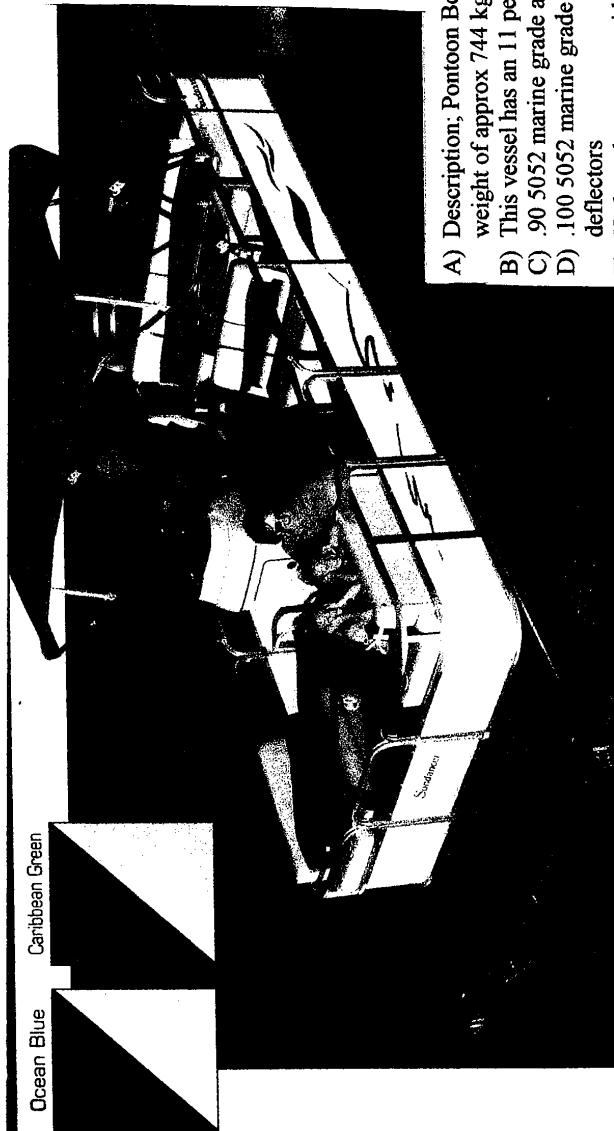
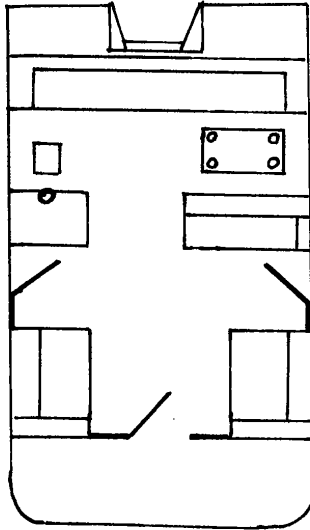
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 Murwillumbah, NSW, 2484 Fax: (02) 6670 2483

Tweed Shire Council
 Lot 437 DP 755740 & Lot 709 DP 726652, No.126 Wharf Street &
 Lot 1 DP 1045752, No.156 Wharf Street, Tweed Heads
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 07/June/2006 Scale: 1:2,500 Sheet: 1 of 1



STRATEGIC PLANNING UNIT
Site Plan

DESCRIPTION OF PROPOSED DEVELOPMENT. DIAGRAMS SIMILAR - NOT TO SCALE



- A) Description; Pontoon Boat of 5.8 metres in length with a width of 2.4 metres and weight of approx 744 kg.
- B) This vessel has an 11 person capacity or 793kg.
- C) 90 5052 marine grade aluminum pontoons.
- D) 100 5052 marine grade aluminum pontoon nose cones with heavy duty water deflectors
- E) U-shaped pontoons with closed cell flotation.
- F) 31.7mm etched anodized rails
- G) Heavy duty gauge side sheets
- H) 20mm CCA treated deck with lifetime warranty
- I) 63.5mm extruded aluminum cross members on 406mm centres under deck.
- J) Tongue and groove deck construction
- K) Rattle resistant gate latches
- L) Waterproof underdeck electrical connectors
- M) 18-8 Bolted deck cross members with nylon inserted lock nuts
- N) Top marine grade 18-8 stainless steel fasteners (nuts, bolts, screws etc).
- O) Push, heavy duty marine back carpet
- P) 1kg vinyl with stain resistant treatment
- Q) Fiberglass reinforced acrylic console
- R) Reinforced rotocast furniture frames
- S) Running lights
- T) Transducer bracket

- U) S.100 5052 heavy duty aluminum motor pods with splash shields
- V) Fuse protected wiring system
- W) Electric horn in dash
- X) Trailer towing eye
- Y) Full standard safety pack including regulation life jackets, boarding ladder.
- Z) Extras: Barbeque on stand, porta loo, roll down clear wet weather covers.
- AA) Capacity of unleaded fuel tank - 60 litre
- BB) 50HP. Governor to max. 10 knots

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

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

Tweed Local Environmental Plan 2000

The subject site is identified as uncoloured land and is therefore subject to the provisions of Clause 13 relating to the development of uncoloured land.

The objectives of Clause 13 seek, among other things, to ensure that the development of unzoned land is compatible with surrounding development and zones.

The majority of the issues raised under Clause 13 have been addressed in the assessment of the original application for the marina.

The proposed commercial boating operation is consistent with the intended use of the marina and is compatible with the other activities proposed on the Pier 2 site.

The application is therefore seen to be consistent with Clause 13.

North Coast Regional Environmental Plan 1988

The proposed commercial boating operation is consistent with the objectives of the NRCEP 1988.

State Environmental Planning Policy No.71 – Coastal Protection

The proposal is considered satisfactory with regard to the matters outlined in Clause 8 and is considered to be in accordance with the intent of the Policy.

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

There are no draft EPI's relevant to the proposed commercial boating operation.

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

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

The Pier 2 marina was approved using the car parking generation rate outlined in DCP No.2 of 0.5 spaces per berth. The marina incorporates 29 berths and therefore generated a car parking requirement for 15 spaces.

The overall Pier 2 development provides for 97 spaces, servicing the marina, tavern and associated commercial/retail tenancies.

Of the 97 spaces, 15 relate directly to the marina, with each berth having a credit of 0.5 of a space.

There are no specific generation rates for a commercial boating operation within the DCP and as such, an assessment has been undertaken on estimated demand instead.

In this regard, each pontoon boat has the capacity for up to 11 passengers. Assuming not all passengers arrive in a private vehicle, it is anticipated that each boat will generate a car parking requirement for 1 – 4 cars.

Should the business expand to accommodate the four (4) boats as intended, the associated car parking requirement would be in the region on 12 – 16 spaces.

The following table, details the various uses and respective car parking generation rates for the overall Pier 2 development.

The table reflects previous development consents issued over the site – all of which acknowledge a variation in parking demand for different uses across the day and over the weekend.

	Definition under DCP	Generation Rate under DCP No.2		Requirement (as per DCP)	Requirement (Mon-Fri 9-5)		Off Peak (After Hours)		Off Peak (Weekends)	
		Customer	Staff		Utilisation	Rate	Utilisation	Rate	Utilisation	Rate
Tavern Office	110m ² Office	Included in staff parking.	1/40m ² GFA	2.75	100%	2.75	0%	0	0	0
Marina Office	60m ² Office	Included in staff parking.	1/40m ² GFA	1.5	100%	1.5	0%	0	0	0
Retail Shops	505m ² Shop	3.5/100m ² GFA	0.5/100m ² GFA	20.2	100%	20.2	0%	0	0	20.2
Tavern	284m ² Hotel	1/4m ² GFA	Included in customer rate	71	60%	42.6	100%	71	80%	56.8
Marina	29 berths	0.5/berth	-	14.5	100%	14.5	50%	7.25	100%	14.5
Totals				110		82		79		92

As demonstrated in the table, the peak period for car parking demand is likely to be on weekends when the marina, tavern, shops and offices are likely to all be operating simultaneously and at near to full capacity.

Of the 97 spaces available, the table indicates that over the weekends, a total of 92 car parking spaces are necessary to meet the numerical requirement.

It follows therefore, that there is a surplus of 5 spaces available to the proposed commercial boating operation during the peak period.

Assuming the business reaches full potential and incorporates 4 boats, the 5 surplus spaces alone are insufficient in meeting the likely parking demand of up to 15 spaces.

To address this apparent car parking shortfall, the applicant has proposed a shuttle-bus service to bring clients to/from the site.

No specific details on how the shuttle bus will operate have been provided with the application and it is unclear whether the applicant will have a dedicated vehicle linked to the business or be reliant on hiring a private contractor when required.

In the absence of this information, the applicant has requested the issue be addressed via a condition of consent.

There are serious reservations about the practical realities of providing a shuttle bus to make up for a car parking shortfall. Claims by the applicant that all passengers will be picked up and dropped off are difficult to accept with confidence.

However, there is also a degree of uncertainty as to whether the numerical requirements of the DCP will accurately reflect the 'real' car parking requirement once the development is fully operational. The car parking requirements have a foundation, in part, on traffic studies undertaken by experts in the field of traffic management. They remain however, an estimate, and there remains a possibility that the 97 approved spaces are sufficient in servicing the development – inclusive of the proposed commercial boating operation and even during peak periods.

An important point to note on the issue of car parking availability is that due to the location of the subject site and the fact it is bordered by the Pacific Highway and Terranora Creek, there is no opportunity for overflow car parking as there are no easily accessible surrounding streets. As such, it is critical that the car parking demand for the development be entirely provided within the subject site.

Given there is a degree of uncertainty relating to both the effectiveness of the proposed shuttle-bus and the actual car parking situation on-site, one option

for the application may be to issue a development consent that is valid for a limited time frame.

Such a condition could read:-

“This consent is valid for a period of 12 months from the date of this consent. Prior to completion of the 12 month period it is open to the applicant to extend this period via a Section 96 application pending an investigation on the car parking situation for the subject site.”

To complement to above condition and ensure the shuttle-bus is utilised as proposed, a further condition in the following terms could be applied:-

“All customers seeking to rent the pontoon boats are to be transported to/from the marina in a private bus.”

Limiting the timeframe of the consent in this manner, will enable the situation on site to be monitored, both in terms of the effectiveness of the proposed shuttle-bus and the actual car parking demand for the fully operational development.

(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

While there are no direct impacts to the natural or built environment envisaged as a result of the proposed commercial boating operation, there are some potential impacts related to the car parking situation that require consideration.

Should Council elect to support the proposal, on the basis of a proposed shuttle-bus, there is the potential for other similar businesses to seek the same concession.

Particularly in the case of the Pier 2 marina, it is possible that approving the proposed pontoon boat business without adequate car parking may lead to other similar businesses (including those with current leases over the Council marina) seeking to establish/relocate their business to the Pier 2 facility – under the same arrangement, i.e. providing a shuttle bus in lieu of the required car parking.

The likelihood of this occurring is increased by the commercial advantages offered by the Pier 2 marina associated with its prominent location and visibility to passing traffic.

Naturally, any such proposal would be subject to a separate development application, however, approval of the current application may set a dangerous precedent in terms of Council being pressured into accepting group travel arrangements instead of providing the required amount of car parking.

(c) Suitability of the site for the development

The marina approved within subject site has recently been completed and is suitable in accommodating a commercial boating operation – subject to satisfactory arrangements being in place in relation to car parking/transport.

It is noted that whilst works on the marina itself may have been completed, the associated commercial building and car parking are still under construction. As such it is recommended that any development consent for the proposed pontoon boat hire business be subject to the completion of the associated car park.

The following condition is proposed in this regard,

“Prior to the commencement of operation all works associated with the Pier 2 car park are to be completed.”

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

The application was notified for a 2 weeks in accordance with Council’s Notification Policy. During this period, no submissions were received.

(e) Public interest

Subject to the draft conditions of consent included in this report, the proposed commercial boating operation is considered consistent with the public interest.

OPTIONS:

1. Approve the development as proposed, subject to conditions of consent.
2. Approve the development in a modified form – limiting the scale of the business to one (1) boat and therefore ensuring compliance with the required car parking demand.
3. Refuse the development and provide reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Approving the development without the necessary car parking requirement on-site may undermine the provisions of DCP No.2 and lead to future development applications seeking a similar variation.

CONCLUSION:

Whilst the proposed pontoon boat hire business represents a reasonable proposal for the newly completed Pier 2 marina, the issue of car parking presents a significant constraint. Approval of the development on the basis of a shuttle-bus service has the potential to create a precedent for similar proposals in the future. The provision of a shuttle-bus is difficult to monitor and as such, there is potential the available car parking to be unreasonably burdened.

Aside from refusing the application, other options open to Council include;

- 1) Limiting the timeframe of a consent to enable the car parking situation to be properly assessed; or
- 2) Approve the development for a single pontoon boat only – thereby reducing the necessary car parking demand and maintaining compliance with the numerical requirement.

UNDER SEPARATE COVER/FURTHER INFORMATION:

<p>To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).</p>

Nil.

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P14 [PD-PC] Development Application DA05/1013 for a Three (3) Lot Subdivision at Lot 8 DP 618883, No. 782-786 Upper Burringbar Road, Upper Burringbar

ORIGIN:

Development Assessment

FILE NO: DA05/1013 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application to undertake a three (3) lot subdivision over a rural parcel of land, 82.05 hectares in size. The land is predominantly zoned 1(b1) Agricultural Protection (approximately 67 hectares) with a 15 hectare portion zoned 7(l) Environmental Protection (Habitat).

The respective lot size and zoning of the proposed lots are as follows:-

Proposed Lot 1	14.1 hectares	1(b1) Agricultural Protection
Proposed Lot 2	44.81 hectares	Part 1(b1) Agricultural Protection (approx. 30 hectares), Part 7(l) Environmental Protection (approx. 15 hectares)
Proposed Lot 3	24.14 hectares	1(b1) Agricultural Protection

The issues of most significance to the application relate to the following matters:-

- Presence of four (4) dwellings on subject land – none of which have Council approval;
- SEPP No.1 Objection to the 40 hectare minimum allotment size required under Clause 20(2)(a) of the LEP; and
- Impacts of Draft Local Environmental Plan No.21 – Vegetation Management.

Each of these matters is discussed within the body of the report.

RECOMMENDATION:

That Development Application DA05/1013 for a three (3) lot subdivision at Lot 8 DP 618883, No. 782-786 Upper Burringbar Road, Upper Burringbar 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 2385PR/3B prepared by N.C. White and Associates and dated 04/08/2005, except where varied by the conditions of this consent.**

[GEN0005]

2. **The subdivision is to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual and Councils adopted Development Design and Construction Specifications.**
[GEN0125]
3. **Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**
[GEN0135]
4. **The western dwelling on proposed Lot 3 is to be demolished or removed from the site, under separate development consent, prior to Council linen plan release and registration of subdivision.**
[GENNS01]
5. **A Building Certificate application for each dwelling, accompanied by a certificate of structural adequacy from a Structural Engineer, is to be submitted to Council within one month of the registration of subdivision.**
[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. **Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).**

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

7. **In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.**
[PCC0285]
8. **Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, DCP47 and Councils adopted Design and Construction Specifications. Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.**

Please note timber retaining walls are not permitted.

[PCC0475]

- 9. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.**

[PCC0865]

- 10. The proponent shall submit plans and specifications with an application for construction certificate for the following roadworks with associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils adopted Design and Construction specifications.**

- (a) Upper Burringbar Road is to be upgraded and sealed to a 'Class A' rural road. A four (4) metre seal on an 8.6 metre formation width is to be provided along the entire frontage of Lot 8 DP 618883 in accordance with Tweed Shire Council's DCP No.16 - Subdivision Manual. The road is to be located within a minimum road reserve width of 20 metres to accommodate formation, earthworks, fencing, catch drains and any other longitudinal and transverse drainage.**
- (b) A turning circle with an 18 metre diameter is to be provided at the end of Upper Burringbar Road.**
- (c) All driveways are to be sealed with a two (2) coat bitumen seal from the sealed road to the property boundary.**
- (d) Construction of the right of carriageway serving Lot 2 to the following standard; two coat bitumen seal to a width of 3.6 metres. The easement for the right of carriageway shall be 1 metres wider than the pavement and any associated batters, catch drains or service corridors in accordance with the provisions of DCP No.16 - Subdivision Manual and Council's Development Design and Construction Specification.**

[PCC0875]

- 11. Prior to the issue of a Construction Certificate the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.**

- (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**
 - roadworks/pavement design/furnishings**

- stormwater drainage
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, Country Energy and Telstra)

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

12. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.**
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.**
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.**

[PCC1105]

13. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.**
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".**

[PCC1155]

PRIOR TO COMMENCEMENT OF WORK

14. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing. [PCW0225]
15. Subdivision work in accordance with a development consent must not be commenced until:-
- (a) a construction certificate for the subdivision work has been issued in accordance with Councils adopted Development Design and Construction Specification C101 by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority,
 - (ii) has appointed a Subdivision Works Accredited Certifier in accordance with Development Control Plan No. 16, Appendix C, and
 - (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
 - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work. [PCW0815]
16. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period. [PCW0835]

DURING CONSTRUCTION

17. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications. [DUR0005]
18. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet, including the following specific work
- (a) Bitumen sealing of accesses from the road carriageway to the property boundary of each proposed lot.

- (b) Provision of 375mm minimum diameter pipe culvert crossings, including precast headwalls, to each lot in accordance with Councils adopted Development Design and Construction Specifications. [DUR0045]
19. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -
- Monday to Saturday from 7.00am to 7.00pm
- No work to be carried out on Sundays or Public Holidays
- The proponent is responsible to instruct and control subcontractors regarding hours of work. [DUR0205]
20. 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. [DUR0215]
21. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority. [DUR0645]
22. 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. [DUR0655]

23. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". [DUR0785]
24. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0815]
25. All retaining walls proposed are to be constructed in accordance with the construction Certificate approval issued by the Principal Certifying Authority. [DUR0845]
26. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council. [DUR0985]
27. 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/Occupation Certificate. [DUR0995]
28. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind
- [DUR1005]
29. 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. [DUR1795]
30. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
- (a) That the pavement has been designed and constructed in accordance with Tweed Shire Councils adopted Construction and Design Specification, D2.

- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils adopted Design and Construction Specifications, C242-C245, C247, C248 and C255.
 - (c) That site fill areas have been compacted to the specified standard.
 - (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996. [DUR1805]
31. All proposed road/streets, drainage and associated works within the development shall be designed and constructed in accordance with the development consent plans AND the relevant provision of DCP No. 16 - Subdivisions Manual and Development Design and Construction Specifications, except where varied by the conditions of this consent. [DUR1815]
32. 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 in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1875]
33. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-
- Roadworks
- (a) Pre-construction commencement erosion and sedimentation control measures
 - (b) Completion of earthworks
 - (c) Excavation of subgrade
 - (d) Pavement - sub-base
 - (e) Pavement - pre kerb
 - (f) Pavement - pre seal
 - (g) Final inspections - on maintenance
 - (h) Off Maintenance inspection
- Water Reticulation, Sewer Reticulation, Drainage
- (a) Backfilling
 - (b) Permanent erosion and sedimentation control measures
 - (c) Drainage channels
 - (d) Final inspection - on maintenance
 - (e) Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

34. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

35. The works are to be completed in accordance with Councils Development Control Plans and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

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

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

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

[DUR2375]

37. Erosion and sediment control measures shall be installed and maintained to the satisfaction of Council's Director of Environment and Community Services throughout the duration of the works.

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

38. Prior to issue of a subdivision certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

39. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision 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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

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

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

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector11_4	\$2,590
(b) Open Space (Structured): S94 Plan No. 5	\$1,560
(c) Open Space (Casual): S94 Plan No. 5	\$334
(d) Shirewide Library Facilities: S94 Plan No. 11	\$1,376
(e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$262
(f) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$400
(g) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$2,537.60
(h) Regional Open Space (Structured) S94 Plan No. 26	\$4,654
(i) Regional Open Space (Casual) S94 Plan No. 26	\$1,710

[PCC0215/PSC0175]

- 40. Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.**

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

- 41. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. 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.**

[PSC0725]

- 42. Submission to the Principle Certifying Authority, Certification for the stability of any retaining structures in excess of 1.2m erected on the site by a suitably qualified structural engineer.**

[PSC0775]

- 43. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.**

[PSC0825]

- 44. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:**

(a) Easements for sewer, water supply and drainage over ALL services on private property.

(b) Right of Carriage Way.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

45. **Submit to Council's property officer an appropriate plan indicating the rural address number to both new and existing lots for approval. Prior to the issue of a Subdivision Certificate, each lot shall have its' rural address number displayed in accordance with Council's "Rural Addressing Policy".**

[PSC0845]

46. **Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.**

[PSC0855]

47. **Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.**

[PSC0865]

48. **Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.**

The following information must accompany an application:

- (a) **original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.**

- (b) **all detail as tabled within DCP16, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.**

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.

[PSC0885]

49. **Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-**

- (a) **Compliance Certificate - Roads**
(b) **Compliance Certificate - Drainage**

Note:

1. **All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and Councils adopted Design and Construction Specifications.**

2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".
[PSC0915]

50. Your attention is invited to conditions of Development Consent DA05/1013. Compliance with the conditions of the development consent and the construction certificate is required prior to the issue of a subdivision certificate.
[PSC0935]

51. Prior to the issue of a Subdivision Certificate, a properly dimensioned plan shall be lodged with Council showing the relative position of existing fences, road formation and boundaries. Any encroaching road boundary fence is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary following submission of the plan shall be dedicated at no cost to Council.
[PSC0945]

52. The production of written evidence from the local telecommunications supply authority certifying that satisfactory arrangements have been made for the provision of underground telephone supply.
[PSC1165]

53. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity (rural subdivisions) has been completed.
[PSC1175]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. A 20m Asset Protection Zone (20m IPA) shall be constructed and maintained around the existing dwellings on proposed Lots 1, 2 & 3 as outlined within Section 4.2.2 in 'Planning for Bushfire Protection 2001'.
2. In recognition of the substantial amount of vegetation in the vicinity of the subject site and the expected ember attack, all of the existing dwellings on proposed Lots 1, 2 & 3 should be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen.
3. Access shall be upgraded to comply with Section 4.3.2 of 'Planning for Bushfire Protection 2001'.
4. A minimum of 10,000 litres of water shall be provided for the exclusive use for fire fighting purposes for each of the existing dwellings. These tanks should have a 65mm storz fitting and ball gate valve installed and should be serviced by a minimum of 3kW (5hp) petrol or diesel powered pump.

In recognition of the extenuating circumstances involved in this development, the Rural Fire Service has assessed this application using the principles of 'infill development'. However, any future developments on the proposed lots will have to fully comply with the requirements of 'Planning for Bushfire Protection 2001'.

REPORT:

Applicant: Mr LE Powell, Mr DJ Powell, Mr LW Powell & Mrs RW Shoobridge
Owner: Mr LE Powell, Mr DJ Powell, Mrs GL Powell, Mr LW Powell & Mrs RW Shoobridge
Location: Lot 8 DP 618883 No. 782-786 Upper Burringbar Road, Upper Burringbar
Zoning: 1(b1) Agricultural Protection
Cost: Nil

BACKGROUND:

Council is in receipt of an application to undertake a three (3) lot rural subdivision.

There are currently four (4) dwellings on the subject property, none of which have formal Council approval.

The proposed subdivision seeks to create three (3) parcels of land, each with a legal dwelling entitlement (pursuant to Clause 11 of the LEP) and each configured to accommodate an existing dwelling. The fourth dwelling is to be removed/demolished.

The proposed subdivision will result in the following configuration:-

Proposed Lot 1: Having an area of approximately 14.1 hectares and a frontage of approximately 155m to Upper Burringbar Road. This lot contains an existing dwelling house and will be retained by Mr Lance Powell. Access to the dwelling is provided via an existing driveway from Upper Burringbar Road.

Proposed Lot 2: Having an area of approximately 44.81 hectares and a frontage of approximately 35m to Upper Burringbar Road. This lot contains an existing dwelling house and will be retained by Mr Laurie Powell. Access to the dwellings is provided by an existing driveway and proposed right of carriageway from Upper Burringbar Road.

Proposed Lot 3: Having an area of approximately 24.14 hectares and a frontage of approximately 800m to Upper Burringbar Road. This lot contains two existing dwelling houses and will be retained by Mr Laurie Powell. Access to the dwelling to be retained is provided via an existing driveway. The western dwelling will be relocated or demolished.

In effect, the application has the effect of formalising a situation on the site that has existed for a number of years. Whilst the subject land is over a single title and despite the absence of any Council approvals, the site effectively functions as three (3) separate properties; each with a separate dwelling and separate associated agricultural activities.

SITE HISTORY

The subject land was created by the registration of DP 618883 in 1982. As indicated in the aerial photo, there are four existing dwelling houses on the subject property – none of which have formal Council approval. The location and status of each of these dwellings is addressed in the following table:-

Dwelling Location	Approximate date of construction and details	Comment
Proposed Lot 1	<p>Approximate date of construction: 20 years old</p> <p>Foundations: Piers and beam timber floor</p> <p>Wall Cladding: Brick and weatherboard</p> <p>Roofing: Colourbond</p> <p>Number of Storeys: 2</p> <p>Number of Bedrooms: 4</p> <p>Effluent Disposal: Septic tank</p> <p>Water Supply: Rainwater tanks 3 x 23,000 litre</p> <p>Power: Yes</p> <p>Telephone: Yes</p>	<p>There is no evidence on Council records of any formal approval being granted for the subject dwelling. As such its current status is considered unlawful.</p> <p>Approval of the subdivision will create a dwelling entitlement on the proposed lot by virtue of Clause 11 of the LEP.</p> <p>Should the subdivision be approved, the applicant would be required to obtain a building certificate for the dwelling prior to the issue of a subdivision certificate.</p>
Proposed Lot 2	<p>Approximate date of construction: 25 years old</p> <p>Foundations: Concrete slab</p> <p>Wall Cladding: Cavity brick</p> <p>Roofing: Colourbond</p> <p>Number of Storeys: 1</p> <p>Number of Bedrooms: 3</p> <p>Effluent Disposal: Septic tank</p> <p>Water Supply: Rainwater tanks 2 x 23,000 litre</p> <p>Power:</p>	<p>As with the dwelling on proposed Lot 1, there is no evidence on Council records of any formal approval being granted for the subject dwelling.</p> <p>Approval of the subdivision will create a dwelling entitlement on the proposed lot by virtue of Clause 11 of the LEP.</p> <p>Should the subdivision be approved, the applicant would be required to obtain a building certificate for the dwelling prior to the issue of a subdivision certificate.</p>

Dwelling Location	Approximate date of construction and details	Comment
	Yes Telephone: Yes	
Proposed Lot 3	Approximate date of construction: Circa 1930's (original house) subsequent alterations and additions Foundations: Piers Wall Cladding: Weatherboard and brick Roofing: Galvanised iron and colourbond Number of Storeys: 1 Number of Bedrooms: 3 Effluent Disposal: Septic tank (estimated 40 years old) Water Supply: Gravity fed spring tank estimated 50 years plus Power: Yes Telephone: Yes	The subject dwelling was constructed prior to Council's planning controls coming into place and may be considered lawful under existing use rights, however no supporting information has been provided in this regard. Approval of the subdivision will create a dwelling entitlement on the proposed lot by virtue of Clause 11 of the LEP. Should the subdivision be approved, the applicant would be required to obtain a building certificate for the dwelling prior to the issue of a subdivision certificate.
Proposed Lot 3	To be removed or demolished.	

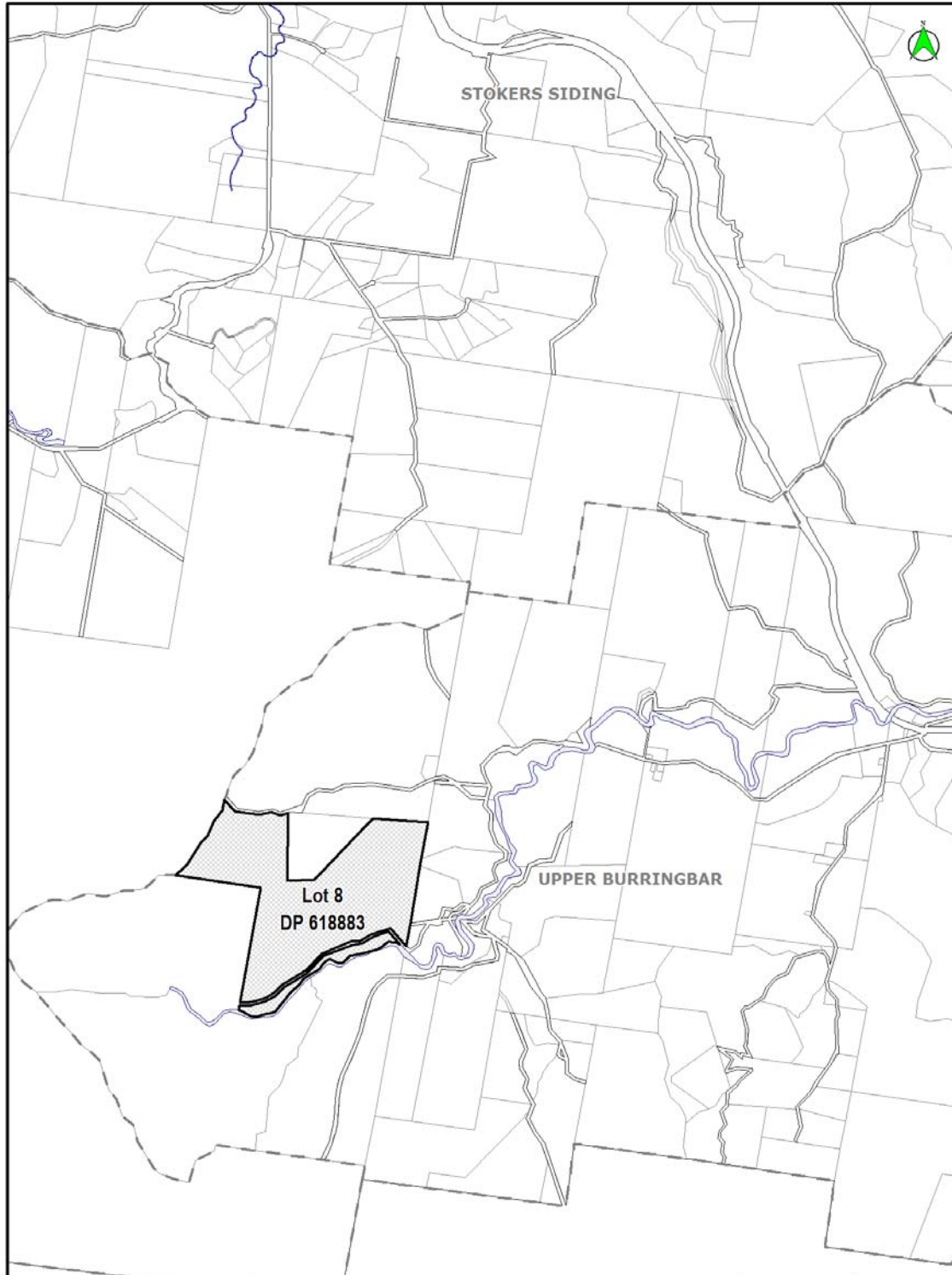
Most of the site was identified as Special Agricultural land by the Department of Agriculture in the late 1980's. This classification was then reflected in the Tweed Local Environmental Plan 1987 and confirmed by the Tweed Local Environmental Plan 2000. Under the provisions of these plans, the minimum lot size applicable is ten (10) hectares.

The beneficiaries of the will of the now deceased previous owner have been negotiating for several years in relation to the division of the land into three (3) parcels which are to be transferred to individual beneficiaries. Resolution of this issue has involved Supreme Court proceedings.

As recently as 7 December 2004, the parties reached agreement to dispose of the courts proceedings subject to approval of a three (3) lot subdivision, consistent with the current 1(b1) zoning.

As indicated on the attached aerial photograph, significant areas of the site have been used historically and remain currently used for intensive agricultural purposes, involving banana plantations and other small crops.

SITE DIAGRAM:



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 P.O. Box 816
 Murwillumbah, NSW, 2484
 Tel: (02) 6670 2409
 Fax: (02) 6670 2483

Tweed Shire Council
 Lot 8 DP 618883
 No. 782-786 Upper Burringbar Road, Upper Burringbar
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 05/June/2006 Scale: 1:30,000



STRATEGIC PLANNING UNIT
Site Plan
 Sheet: 1 of 1

Aerial Photograph

The subject land has a total area of 82.05 hectares and has extensive frontage to upper Burringbar Road which is constructed to a two (2) lane, sealed standard from Burringbar to Jowletts Road, then a two (2) lane, gravel road to Geles Road and then a narrower, nominal two (2) lane gravel road to the site.

In effect, the site has been operated as three (3) separate properties for approximately 25 years. Agricultural activities currently and previously undertaken on each proposed lot include:-

Proposed Lot 1	Bananas, avocados and vegetables.
Proposed Lot 2	Bananas and avocados.
Proposed Lot 3	Bananas, citrus fruit and finger limes (proposed). The activities will be expanded if/when tenure is secured.

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

Under the provisions of the Plan, the subject land is zoned part 7(l) Environmental Protection (Habitat) and part 1(b1) Agricultural Protection.

The proposed subdivision is consistent with the relevant zone objectives as it will allow for the continuation of existing agricultural uses and will not adversely affect the rural character or amenity of the area.

The proposed lots comply with the minimum lot size requirement of 10 hectares for the 1(b1) land as per Clause 20(2)(b).

Proposed lot 2 does not comply with the 40 hectare development standard applicable in the 7(l) zone under Clause 20(2)(a). The applicant has lodged a SEPP No.1 Objection in this regard and is addressed later in this report.

Clause 15 – Availability of Essential Services

Existing dwelling houses are serviced by rainwater tanks and on site effluent treatment systems. Council's Environment and Health unit have indicated that as the proposal does not involve any alterations to the dwellings, no specific investigation as to the adequacy of the systems has been undertaken. Instead, it is understood the on-site systems will be reviewed via Council's on-going on-site program in due course. The dwelling that is to be demolished however must have the associated on-site sewage management system decommissioned with suitable conditions to apply in this regard. Power and telephone services are also available to each existing dwelling.

Clause 28 – Development in 7(l) Zoned Land

The applicant has provided a Plan of Management in accordance with Clause 28(4)(c). The Plan is considered satisfactory in ensuring the any wildlife habitat is protected from the impacts of the proposed development.

North Coast Regional Environmental Plan 1988

The proposed subdivision is consistent with the objectives of the REP, particularly in relation to Clause 12 pertaining to impacts on agricultural activities.

State Environmental Planning Policy No.1 – Development Standards

As established, the proposed subdivision requires a variation to the 40 hectare minimum allotment size stipulated under Clause 20(2)(a) of the LEP.

Clause 20(2)(a) states:-

(2) Consent may only be granted to the subdivision of land:

(a) within Zone 1(a), 1(b2), 7(a), 7(d) or 7(l) if the area of each allotment created is at least 40 hectares

The variation is required in relation to proposed Lot 2 which despite being in excess of 40 hectares in size, incorporates an area of land zoned 7(l) approximately 15 hectares in size.

As such, a variation to the development standard is required.

The underlying objectives of the development standard are to prevent the fragmentation of rural land, ensure the scenic and natural environments are protected and maintain agricultural viability.

In this regard, the applicant has provided the following matters for consideration in support of a variation:-

- There is only approximately 15 hectares of 7(l) land in the property;
- The whole of the 7(l) land will be contained in one lot;
- No change in the use of the 7(l) land is proposed;
- No fragmentation of the 7(l) land will occur;
- It is impossible to comply with the 40 hectare development standard because of the split zoning on the property.

Given the size of the variation sought, the application required concurrence from the Director General of the Department of Planning.

Concurrence was subsequently provided in a letter dated 4 November 2005 for the following reason:-

“Concurrence was granted in this instance as the proposed subdivision is unlikely to result in an adverse impact on protected habitat.”

In light of the findings of the Department and having regard to the matters raised by the applicant, it is considered that strict compliance with the 40 hectare minimum lot size requirements is both unnecessary and unreasonable in the circumstances of the case.

It is therefore concluded that the variation sought under SEPP No.1 warrants support in this instance.

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

Draft Local Environmental Plan No.21 – Vegetation Management

Draft Local Environmental Plan No.21 proposes to rezone virtually all of the site to 1(a1) Rural (Steep Land/Escarpment). This change in zoning would have significant implications to the development potential of the site. Particularly, the draft plan would only allow for the erection of a dwelling house on land that has an area of 40 hectares or more.

The objectives of the proposed 1(a1) zone are:

Primary Objectives

- *to identify and protect soils on steep land in the rural areas of Tweed Shire that are susceptible to land degradation and excessive soil erosion.*
- *to protect significant natural areas and environmentally sensitive ecosystems on steep land from developments that are likely to have a significant adverse impact on ecological, scenic and/or aboriginal cultural values.*
- *to enable rural land to be continued to be used for agricultural, forestry and natural resource utilisation.*
- *to protect rural character and amenity.*

Secondary Objectives

- *to provide opportunities for certain types of development that are compatible with the primary objectives of the zone.*

Council's Strategic Planning Co-ordinator has provided the following comments on the status of the LEP amendment in the context of the proposed subdivision: -

“Timing

The timing for completion of the draft LEP 21 process is uncertain. Due to a lack of resources (officers) this project has stalled and hasn't progressed too far since the public exhibition of the document. If Council is able to employ more resources or reshuffle current work programs to accommodate draft LEP Amendment 21 it may be possible to have the Plan finalised with 6+ months.

Alternatively, Council is looking to undertake a major review of its LEP in the near future to align with a standard LEP Template provided by the Department of Planning. Depending on timing, draft LEP 21 may be encapsulated within this major LEP Review.

Draft Plan

Draft LEP 21 is still considered a draft document. It has been publicly exhibited and Council has received numerous submissions to the draft Plan. Council has to review the draft Plan whilst considering the submissions received. This will entail in house review as well as possibly engaging Ecograph to ground truth certain sites. The draft Plan recommended to the Council and the Minister may, or may not, be different to the current Plan.

LEP Template

The zones and some of the provisions proposed by draft LEP 21 are inconsistent with the standard LEP Template exhibited by the Department late last year. It is understood that the Departments final LEP Template is to be released soon and this may have some bearing on the recommended draft LEP 21 provisions.”

The comments go on to say that the application should be assessed on its merits adding that ‘on the face of it, the proposed subdivision simply has the effect of formalising what already exists on site.’

With regard to the zone objectives, the followings observations are made:-

- The subject land does not appear excessively steep nor subject to significant erosion or landslip;
- The scenic amenity, ecological values and cultural heritage of the area are not detrimentally impacted upon through the existing dwelling sites and access tracks. These values can be preserved;
- Farming activity is evident on the flatter areas of the surrounding land. The proposed subdivision is not envisaged to impact on these farming practices.

In conclusion, whilst the current Tweed LEP 2000 provides for the proposed subdivision application, the provisions of draft LEP 21 would prohibit the erection of a dwelling house on an allotment less than 40 hectares – thereby removing the opportunity for the applicant to retain three (3) of the four (4) existing dwellings on the subject land, each on a separate title. However, given the uncertainty surrounding draft LEP Amendment No 21, concerning timing, resourcing and what the final provisions of the Plan are actually going to be, the draft LEP is not considered sufficient grounds to warrant refusal.

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

Development Control Plan No.16 – Subdivision Manual

Council's Development Engineer has reviewed the application with respect to the provisions of DCP No.16. The application is considered satisfactory,

provided certain road upgrading works are undertaken along Upper Burringbar Road. Suitable conditions of consent are proposed in this regard.

(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

There are no detrimental impacts envisaged as a result of the proposed subdivision. The dwellings, whilst unlawful, are pre-existing, therefore removing any associated impacts that would otherwise arise from constructing necessary access roads/driveways or establishing a suitable building envelope.

The subdivision represents an opportunity to formalise the existing uses on the subject land, with each proposed allotment to retain an existing dwelling and provide for the continuation of agricultural uses.

(c) Suitability of the site for the development

The subject site is considered suitable in accommodating the proposed subdivision. The parent parcel already provides for four (4) dwellings sites, with the proposal seeking to formalise three (3) of them and remove/demolish the fourth.

The application required an Integrated Referral to the NSW Rural Fire Service due to the bushfire prone nature of the land. In a response dated 9 November 2005, a Bushfire Safety Authority was granted subject to certain conditions of consent.

Provided the bushfire conditions are met, and the necessary road upgrade works are carried out (as per the requirements of DCP No.16), the proposed subdivision represents a sensible outcome, formalising the presence of the existing dwellings and preserving the agricultural use of the land.

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

The application did not require notification under Council's policy. As such, no submissions were received.

(e) Public interest

The proposed subdivision is considered consistent with the public interest.

OPTIONS:

1. Approve the proposed development in accordance with the recommended conditions.
2. Refuse the development application and commence action against the unlawful dwellings on the subject property.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed subdivision is relatively minor in nature and is not likely to result in any significant adverse environmental impacts. No physical work is proposed as part of the application and no change would occur to the nature or use of the land.

The proposal will enable the beneficiaries of the estate to obtain title to those parts of the land which they have occupied and farmed for many years and on which their dwelling houses and other improvements exist. In view of the above and having regard to the findings of the report, the application is considered suitable for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

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P15 [PD-PC] MP04/0001 & DA05/0308 for a Staged Residential Subdivision (3 Stages) being 89 Single Dwelling Lots, 7 Duplex Blocks, 1 Drainage Reserve, 1 Residue Lot & 2 Public Reserves at Lot 13 DP793985; Lot B DP368706; Lot 1 DP392245 Barnby St Murwillumbah

ORIGIN:

Development Assessment

FILE NO: MP04/0001 Pt2 & DA05/0308 Pt3

SUMMARY OF REPORT:

At the Council Meeting of 14 December 2005 it was resolved as follows: -

“that Council’s Solicitors be instructed to take action to defend Appeal Number 11048 of 2005 in the Land Environment Court (DA05/0308 for a staged residential subdivision).”

At that time the application was still being assessed specifically having regard to the extent of land forming, the traffic implications, the permissibility of ancillary structures on the adjoining agricultural land, and the potential loss of amenity for adjoining residences as a result of the development.

Since then Council has determined the outcome of the Murwillumbah Traffic Study, and Council staff have met with the applicant to negotiate amendments to the original plan to ensure a quality design outcome for the site. Based on the lodgement of amended plans (which reduce the number of duplex and battle axe sites), and the imposition of the recommended conditions of consent (specifically in relation to road works and contributions for maintaining parks and asset protection zones) the application is now recommended for conditional approval.

Council can consider this application on its merits and avoid the need for the Land & Environment Court to make the final determination of the Development Application if the applicant agrees to discontinue with the Appeal that has been lodged.

RECOMMENDATION:

That: -

- 1. Council generally supports MP04/0001 subject to the amendments as detailed within DA05/0308.**
- 2. Council delegates authority to the Director of Planning & Development to approve Development Application DA05/0308 subject to the applicant withdrawing Appeal Number 11048 in the NSW Land & Environment**

Court and subject to the following conditions of consent being imposed on any consent: -

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within six months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.

- A. The applicant must obtain adjoining owner's consent over Lot 2 DP 534521 (Council's Treatment Works) for;
- B. Creation of a drainage easement over the existing "cane drain", to provide a legal point of discharge for the development.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following Plan Nos: -
 - Drawing Number 7214/6/1 DA Figure 3D Revision E prepared by Cardno MBK and dated May 2006;
 - Drawing Number 7214/6/1 DA Figure 4 Revision E prepared by Cardno MBK and dated May 2006;
 - Drawing Number 7214/06/1 DA Figure 10 Revision B prepared by Cardno MBK and dated August 2004;
 - Drawing Number 7214/06 DA Figure 13 Revision B prepared by Cardno MBK and dated January 2005;
 - Drawing Number 7214/06 DA Figure 14 Revision A prepared by Cardno MBK and dated November 2003;
 - Drawing Number 7214/06/01 DA Figure 17 Revision B prepared by Cardno MBK and dated January 2005;
 - Drawing Number 7214/06 DA Figure 18 Revision B prepared by Cardno MBK and dated August 2004;

except where varied by the conditions of this consent.

[GEN0005]

2. The development shall be completed in accordance with the: -

- Acoustic Report prepared by Savery & Assoc P/L, No. S514, dated 24 February 2005. Compliance shall be in accordance with the Section 6.0 Conclusions & recommendations to the satisfaction of the Director of Environment and Community Services.
- Acid Sulfate Soil Management Plan prepared by Gilbert & Sutherland dated October 2004;
- Flora and Fauna Assessment Plan prepared by James Warren & Associates dated March 2005.

[GEN0005]

3. 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.

[GEN0045]

4. The subdivision is to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual and Councils adopted Development Design and Construction Specifications, except as may be varied by the conditions of this consent or plans approved by this consent.

[GEN0125]

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

[GEN0135]

6. Prior to commencement of work on any stage of this development pursuant to this consent, a Construction Certificate shall be obtained for all civil works within the site, as required by the relevant stage of the development.

[GENNS01]

7. Prior to commencement of any site work the applicant is to obtain a permit under Part 3A of the Rivers & Foreshores Improvement Act 1948.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. **Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000). The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.**

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

9. **In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.**

[PCC0285]

10. **Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application. Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:**

- (a) Contours and terraces where the height exceeds 1m.**
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.**
- (c) Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.**
- (d) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.**

[PCC0455]

11. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.

[PCC0465]

12. Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, DCP47 and Councils adopted Design and Construction Specifications. Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.

Please note timber retaining walls are not permitted.

[PCC0475]

13. 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 maintained wholly within the subject land. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

14. Notwithstanding any other condition of this consent separate construction certificates for bulk earthworks and civil works may be issued and the carrying out of bulk earthworks may be commenced prior to the issue of a Construction Certificate for civil works where it can be demonstrated all works are compatible.

[PCC0495]

15. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

16. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -

- (a) All water main infrastructure works within existing road reserves.
- (b) The section of William Street between Barnby Street and Dorothy Street is to be resurfaced with a skid/slip resistant asphaltic concrete surface. Details of the surface treatment is to be submitted to and approved by Council's Director Engineering and Operations prior to construction.
- (c) The intersection of Byangum Road and William Street is to be upgraded to provide a westbound right turn lane into William Street. The proposed works shall be provided, in accordance with Austroads Part 5: Intersections but will only require alterations to linemarking & new linemarking to create the right turn lane. Alternatively, Council will accept a cash payment covering the value of the works & Council will undertake such linemarking works.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- (a) Road works/furnishings
- (b) Stormwater drainage
- (c) Water and sewerage works
- (d) Sediment and erosion control plans
- (e) Location of all services/conduits
- (f) Traffic control plan

[PCC0895]

17. Prior to the issue of a Construction Certificate the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- copies of compliance certificates relied upon
- four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks/pavement design/furnishings
 - 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)

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

18. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
- (d) Specific Requirements to be detailed within the Construction certificate application include:
 - (i) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

19. 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.

[PCC1145]

20. Erosion and Sediment Control shall be provided in accordance with the following:

(a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.

(b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

21. Where water is to be drawn from Council's reticulated system, the proponent shall: -

(a) Make application for the hire of a Tweed Shire Council metered standpipe including Council's nomination of point of extraction.

(b) Where a current standpipe approval has been issued application must be made for Council's nomination of a point of extraction specific to the development.

(c) Payment of relevant fees in accordance with Council's adopted fees and charges.

[PCC1205]

22. Construction of the connection road linking Joshua Street to Road 2, as part of the Stage 1 works. The proposal to construct this link to a rural road standard in accordance with the requirements of DCP16, and to have this section of road covered by a Right of Way, is acceptable as a temporary measure (until further development and/or a rezoning occurs over the residual portion of the site), however this is a permanent link and is required for immediate and permanent use by the public. This section of road must be designed to cater for use as a bus route, make provision for a cycleway, and must also provide traffic control devices to ensure traffic speeds reflect the 50 kph speed limit.

[PCCNS01]

23. The Construction Certificate for Stage 3 (Phase 2) will not be issued until satisfactory arrangements have been made with Council regarding construction of the new road connection between Francis Street and Road 2, generally as shown on Plan 7214/6/1-DA FIG 3.

This condition will be deemed to be satisfied upon payment by the applicant to Council of 50% of the construction cost of the above-mentioned road connection. Construction costs shall be fully itemised and based on engineering design plans for a two lane rural road standard of construction. The road shall be designed for use as a bus route, with provisions for a cycleway and traffic control devices to ensure traffic speeds reflect the 50 kph speed limit

[PCCNS01]

24. The road connection to Joshua Street is to be relocated to avoid any encroachment on adjoining Lot 22 DP 1080322.

[PCCNS01]

25. A bus route through the site shall be established as part of the Stage 1 works. To facilitate this, the following matters must be satisfactorily addressed:

- (a) Road 1 is to have the carriageway widened to 9.0m, from Road 2 to Road 4.
- (b) Road 4 is to have the carriageway widened to 9.0m.
- (c) The intersection of Road 4 with the northern section of Road 1 is to be prioritised, by the provision of an arced alignment. The southern section of Road 1 shall be arced around to intersect perpendicularly with the mid-point of the prioritised arc. Road 4 and Road 1 (chainage 00 to 270) are to be merged to form one continuous longitudinal section. Some pavement widening may be required around this bend.
- (d) In conjunction with the preceding requirement, an access driveway location for Lot 103, compliant with AS2890, will need to be demonstrated.
- (e) The engineering plans will need to demonstrate that buses can negotiate all relevant intersections within the estate.

[PCCNS01]

26. Prior to the issue of a Construction Certificate for each stage of the development, it is to be demonstrated that all lots have compliant driveway locations in accordance with AS2890.

[PCCNS01]

27. The carriageway for Road 4 is to be centrally located within the road reserve unless an alternative alignment is accepted by the General Manager or his delegate prior to the issue of a construction certificate.

[PCCNS01]

28. Road 2 shall be fully constructed to urban road standards, and dedicated accordingly, up to and including the intersection with Road 3. [PCCNS01]
29. The road frontages of Lots 146 to 149 (inclusive) shall be fully constructed to urban road standards and dedicated accordingly, in conjunction with the creation of those lots. [PCCNS01]
30. The section of Road 3 shown as Right-of-Way shall be fully constructed to urban road standards and dedicated accordingly, up to the intersection with Road 2, as part of the Stage 2 works. [PCCNS01]
31. The Stage 3 construction of Road 5 will require the provision of a temporary sealed turning bulb area, covered by a Right-of-Carriageway. [PCCNS01]
32. All roads and lots are to be filled to a minimum of RL 5.1m AHD [PCCNS01]
33. Lot 148 (public reserve) shall be filled to a minimum of RL 4.1m AHD. [PCCNS01]
34. The removal and subsequent reconstruction of access driveways to house numbers 45 and 49 Barnby Street as follows: -
- (a) Provision of a new concrete driveway to Number 45 generally as per Plan 7214/06.
 - (b) Provision of a new concrete driveway to Number 49 to come off Road 4, in the vicinity of chainage 40.
 - (c) Access to both above-mentioned dwellings shall be maintained at all times, even during the construction phase. [PCCNS01]
35. The geotechnical report by Morrison Geotechnical P/L raises concerns regarding the construction method and stability of deep filling on the site. Three of the four options nominated, utilise pre-loading - which has inherent time lags (6 to 18 months). Filling without pre-loading is acceptable, but with settlement predicted. This requires over-filling. Suitable fill levels for flood marginal lots, as well as allowances in road and stormwater construction and provision of services, must be specifically addressed in any Construction Certificate application. [PCCNS01]

36. All run-off from adjoining properties is to be captured and diverted into the proposed internal stormwater network. This will require investigation of what is contained within and discharged to the existing 3.05m wide drainage easement along the eastern boundary of the site.
[PCCNS01]
37. Any temporary sediment ponds required during the construction phase of the development shall be located clear of the proposed Drainage Reserve.
[PCCNS01]
38. Prior to the issue of a Construction Certificate for Stage 1, the Bushfire Management Plan prepared by Bushfiresafe Services dated 2 June 2005 shall be revised to comply with the General Terms of Approval imposed by Rural Fire Services. The design and construction of all civil, landscaping and embellishment works shall be completed to comply with the revised plan.
[PCCNS01]
39. The fence proposed for relocation to the property boundary in Frangella Park is to be a timber paling fence consistent with Council's Building Services requirements. An alternative proposal may be submitted for consideration by the Manager, Recreation Services.
[PCCNS01]
40. The pathway providing access to Frangella Park from Road No.1 is to be a minimum of 4.0m wide, and shall include a concrete footpath with turf either side of the path. The slope for the turfed areas must be less than 20%. Design plans for this pathway must be approved by the Manager, Recreation Services.
[PCCNS01]
41. A detailed landscape plan for the public reserve (park) proposed for northwest of Road 2 must be prepared to the satisfaction of the Manager, Recreation Services. This landscape plan will consider integration of the park with the drainage reserve and riparian buffer immediately west of the reserve. The landscape plan should provide for embellishment consistent with DCP 16 (Subdivision Manual) table 4.33b1.
[PCCNS01]
42. The developer shall embellish the public reserve (park) and drainage reserve according to the approved landscape plan. The reserve shall be filled and levelled with a suitably established grass cover. Further embellishment shall not occur until 30% of the allotments have been occupied. Alternatively, the developer may pay the appropriate financial contribution and Council will undertake the further embellishment works at the appropriate time.
[PCCNS01]

- 43. Public reserve (riverbank)**
- (a) Prior to issue of a Construction Certificate for Stage 1, a vegetation regeneration plan for the public reserve (riverbank is to be prepared and submitted to Council for approval by the Manager, Recreation Services. The plan shall incorporate the amelioration measures of the Flora & Fauna Assessment Plan prepared by James Warren and Associates dated March 2005, and must allow for up to three years maintenance. The plan shall be implemented as part of Stage 1 works.**
 - (b) Access to the public reserve (riverbank) must be provided for maintenance and potential recreation use.**
- [PCCNS01]
- 44. The Public Reserve and Drainage Reserve shall be dedicated as part of the Stage 1 works.**
- [PCCNS01]
- 45. The Drainage Reserve/Water Quality Pond shall be constructed generally in accordance with Plan DA Figure 13 and the Stormwater Management Plan by Gilbert and Sutherland dated October 2004, and must comply with Council's Development Design Specification D7. Full design details shall be submitted with the construction certificate submission, and are to include;**
- (a) A structure at the base of the pond to allow manipulation of water levels to enable control of macrophytic and insect populations, and to facilitate dredging.**
 - (b) The provision of "protection buffers" to stop the mobilisation of sediments within the pond, when inundated during a Q100 year flood event.**
 - (c) A 3m wide, all weather access and maintenance track is to be provided.**
- [PCCNS01]
- 46. Existing ground levels at all boundaries of the subject site are to be preserved.**
- [PCCNS01]
- 47. Prior to issue of a Construction Certificate for Stage 1 an Acid Sulfate Soils Management Plan shall be submitted and approved where any excavation works are to be undertaken within areas identified within Gilbert & Sutherland's Acid Sulfate Soil Assessment (Section 4 Gilbert & Sutherlands report dated October 2004. The Plan shall specify the construction work detail and appropriate treatment methodology including any dewatering requirements**
- [PCCNS02]

49. Prior to issue of a Construction Certificate the applicant is to provide evidence to Council that Lot 117 can achieve a 20m Inner Protection Area while still accommodating a dual occupancy. Failure to satisfy this condition will result in Lot 117 not being a nominated dual occupancy allotment.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

48. Prior to the commencement of work, the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-

- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
- (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- (c) WorkCover Regulations 2000

[PCWNS01]

49. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

[PCW0005]

50. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

51. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.

[PCW0125]

52. 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.

[PCW0225]

53. Subdivision work in accordance with a development consent must not be commenced until:-

- (a) a construction certificate for the subdivision work has been issued in accordance with Councils adopted Development Design and Construction Specification C101 by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
- (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority,
 - (ii) has appointed a Subdivision Works Accredited Certifier in accordance with Development Control Plan No. 16, Appendix C, and
 - (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

[PCW0815]

54. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier shall be erected and maintained in a prominent position entry to the site in accordance with Councils adopted Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0825]

55. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

56. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act 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.

[PCW0985]

57. The proponent shall notify Councils Engineering & Operations Division of intention to commence drawing water in accordance with the requirements of the approval to draw water.

[PCW1045]

58. Where necessary, the applicant shall provide documentary evidence that a permit has been issued by the Department of Natural Resources under Part 3A of the Rivers and Foreshores Improvement Act 1948, for works within 40m of a natural watercourse

[PCWNS02]

DURING CONSTRUCTION

59. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DUR0005]

60. Construction of rights of carriageway and/or individual battle-axe driveways as necessary, to a concrete/bitumen sealed standard in accordance with the provision of DCP16 - Subdivision Manual and Councils Development Design and Construction Specification.

[DUR0055]

61. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

- 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.
- [DUR0215]
- 63. Any pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring residential areas. Such location is to be to the satisfaction of the General Manager or his delegate.**
- [DUR0225]
- 64. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the General Manager of his delegate.**
- Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works.
- [DUR0725]
- 65. All lots must be graded to prevent the ponding of surface water and be adequately vegetated to prevent erosion from wind and/or water to the satisfaction of the General Manager or his delegate.**
- [DUR0745]
- 66. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.**
- [DUR0755]
- 67. No filling to is be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.**

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

[DUR0765]

- 68. The proposed earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.**

[DUR0795]

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

[DUR0805]

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

[DUR0815]

- 71. All fill and cut batters shall be contained wholly within the subject land.**

[DUR0825]

- 72. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council.**

[DUR0985]

- 73. 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/Occupation Certificate.**

[DUR0995]

- 74. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -**

- (a) Noise, water or air pollution**
- (b) Minimise impact from dust during filling operations and also from construction vehicles**
- (c) No material is removed from the site by wind**

[DUR1005]

75. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.
[DUR1015]
76. 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.
[DUR1025]
77. 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.
[DUR1795]
78. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
- (a) That the pavement has been designed and constructed in accordance with Tweed Shire Councils adopted Construction and Design Specification, D2.
 - (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils adopted Design and Construction Specifications, C242-C245, C247, C248 and C255.
 - (c) That site fill areas have been compacted to the specified standard.
 - (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.
[DUR1805]
79. All proposed road/streets, drainage and associated works within the development shall be designed and constructed in accordance with the development consent plans AND the relevant provision of DCP No. 16 - Subdivisions Manual and Development Design and Construction Specifications, except where varied by the conditions of this consent.
[DUR1815]

80. During the relevant stages of road construction, reports shall be submitted to the PCA by a Registered NATA Geotechnical firm demonstrating.
- (a) That the pavement layers have been compacted in accordance with Councils adopted Design and Construction Specifications.
 - (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.
- [DUR1825]
81. Provision of temporary turning areas and associated signage for refuse vehicles at the end of roads which will be extended in subsequent stages. The temporary turning areas shall be constructed with a minimum 150mm pavement (CBR 45) and shall have a right of carriageway registered over the turning area until such time as the road is extended.
- [DUR1835]
82. The proponent 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.
- [DUR1845]
83. Pram ramps are to be constructed at road intersections in accordance with Council's Standard Drawing No. SD 014 within all kerb types including roll top kerb.
- [DUR1855]
84. 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 in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]
85. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.
- [DUR1885]
86. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, bikeways - formwork/reinforcement
- (h) Final inspections - on maintenance
- (i) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

Sewer Pump Station

- (a) Excavation
- (b) Formwork/reinforcement
- (c) Hydraulics
- (d) Mechanical/electrical
- (e) Commissioning - on maintenance
- (f) Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

87. 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.

[DUR1955]

88. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

89. The works are to be completed in accordance with Councils Development Control Plans and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

90. The applicant shall obtain the written approval of Council to the proposed road/street names. Approved names are to be in accordance with Council's Road Naming Policy adopted on 7 August 1996 and are to be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

To avoid confusion resulting from duplication of private driveway/accessway name and public road/street names, the applicant shall submit to Council for approval the proposed name(s) of any private driveway/accessways.

[DUR2035]

91. Inter allotment drainage shall be provided to all lots where roof water for dwellings cannot be conveyed to the street gutter by gravitational means.

[DUR2285]

92. **Drainage Reserve**

- (a) Dedication of the proposed drainage reserve at no cost to Council.
- (b) An accurate plan of the proposed drainage reserve shall be submitted to Council 60 days prior to lodgement of Application for Subdivision Certificate (form 13) to allow the land to be classified.

Failure to comply with this condition may result in delays in the issue of the Subdivision Certificate.

[DUR2295]

93. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or

similar wording in accordance with Councils adopted Design and Construction Specification.

[DUR2355]

94. All stormwater discharged from the site including dewatering discharge is to be directed to a sediment pond prior to final discharge into any waterway in accordance with Council adopted Design and Construction Specifications.

[DUR2365]

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

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

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

[DUR2375]

96. The water quality control pond shall be fully fenced in accordance with the requirements of AS1926 for children less than five (5) years of age.

[DUR2385]

97. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.

[DUR2405]

98. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.

[DUR2415]

99. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the General Manager or his delegate.

[DUR2425]

100. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality

control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

101. All water drawn from Councils reticulated system shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[DUR2575]

102. An accurate plan of the sewage pumping station site shall be submitted to Council 60 days prior to lodgement of the Application for Subdivision Certificate to allow the land to be classified.

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.

[DUR2635]

103. Implementation of the Stormwater Management Plan by Gilbert and Sutherland dated October 2004.

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

104. Prior to issue of a subdivision certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

105. 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 Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision 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:

Stage 1

Water DSP2:	41.4 ET @ \$4230	\$175,122
Sewer Murwillumbah:	42 ET @ \$2634	\$110,628

Stage 2

Water DSP2:	23 ET @ \$4230	\$97,290
Sewer Murwillumbah:	23 ET @ \$2634	\$60,582

Stage 3

Water DSP2:	28 ET @ \$4230	\$118,440
Sewer Murwillumbah:	28 ET @ \$2634	\$73,752

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED 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.

[PCC0265/PSC0165]

106. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision 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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

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.

Stage 1

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0)	\$81,313
Sector9_4	
(b) Open Space (Structured): S94 Plan No. 5	\$32,760
(c) Street Trees: S94 Plan No. 6	\$12,474.00
(d) Shirewide Library Facilities: S94 Plan No. 11	\$28,896
(e) Bus Shelters: S94 Plan No. 12	\$1,092
(f) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$5,502
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$8,400
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$53,289.60
(i) Cycleways S94 Plan No. 22	\$14,784
(j) Regional Open Space (Structured) S94 Plan No. 26	\$97,734
(k) Regional Open Space (Casual) S94 Plan No. 26	\$35,910

Stage 2

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0)	\$44,529
Sector9_4	
(b) Open Space (Structured): S94 Plan No. 5	\$17,940
(c) Street Trees: S94 Plan No. 6	\$6,831.00
(d) Shirewide Library Facilities: S94 Plan No. 11	\$15,824

(e) Bus Shelters: S94 Plan No. 12	\$598
(f) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$3,013
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$4,600
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$29,182.40
(i) Cycleways S94 Plan No. 22	\$8,096
(j) Regional Open Space (Structured) S94 Plan No. 26	\$53,521
(k) Regional Open Space (Casual) S94 Plan No. 26	\$19,665
Stage 3	
(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector9_4	\$54,209
(b) Open Space (Structured): S94 Plan No. 5	\$21,840
(c) Street Trees: S94 Plan No. 6	\$8,316.00
(d) Shirewide Library Facilities: S94 Plan No. 11	\$19,264
(e) Bus Shelters: S94 Plan No. 12	\$728
(f) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$3,668
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$5,600
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$35,526.40
(i) Cycleways S94 Plan No. 22	\$9,856

(j) Regional Open Space (Structured) S94 Plan No. 26	\$65,156
(k) Regional Open Space (Casual) S94 Plan No. 26	\$23,940

[PCC0215/PSC0175]

107. Section 94 Contributions

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.

Heavy Haulage Component

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

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

where:

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

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads
(trip one way)

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

Admin. Administration component - 5% - see Section 6.5

[PSC0185]

- 108. Pursuant to the provisions of S94 Plan No.5 proposed lot 148 shall be dedicated as passive open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan.**

Where a developer pays Council to complete the embellishment, Council will NOT install the equipment until a minimum of 30% of all lots in the development are occupied. Suitable embellishment shall be completed prior to the issue of a Subdivision Certificate.

[PSC0195]

- 109. Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.**

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

- 110. A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 12 months from the date of issue of a Subdivision Certificate, or until all plantings are fully established. The amount of the bond shall be 10% of the estimated cost of the landscaping or \$3000 whichever is the greater.**

[PSC0235]

- 111. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. 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.**

[PSC0725]

112. Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual and Councils adopted Design and Construction Specification.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;**

- (b) the plans accurately reflect the Work as Executed.**

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

[PSC0735]

113. All retaining walls are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.**

- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.**

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[PSC0785]

114. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[PSC0825]

115. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:

- (a) Easements for sewer, water supply and drainage over ALL services on private property.**
- (b) The creation of Easements for Sewage over all existing sewer lines currently traversing the site, which are not covered by easements**

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

116. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

[PSC0855]

117. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.

[PSC0865]

118. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.**
- (b) all detail as tabled within DCP16, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.**

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.

[PSC0885]

119. Prior to the application for a Subdivision Certificate, certification shall be obtained from Council OR an accredited certifier to verify satisfactory completion of the following:-

- (a) Roads**
- (b) Water Reticulation**
- (c) Sewerage Reticulation**
- (d) Sewerage Pump Station**
- (e) Drainage**

Note:

- 1. All applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and Councils adopted Design and Construction Specifications.**
- 2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".**

[PSC0915]

120. The six (6) months Defects Liability Period commences upon the registration of the Subdivision Certificate.

[PSC0925]

121. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of the stormwater pipes and sewerage system including joints and junctions will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils adopted Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

122. Prior to the release of the subdivision certificate the proponent shall:

- (a) Ensure the proposed Drainage Reserve is dedicated to Council at no cost, as part of the plan of subdivision.
- (b) Submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.

[PSC1075]

123. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with DCP16 - Subdivisions Manual, Councils adopted Development Design and Construction Specifications and the Construction Certificate approval.

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.

[PSC1115]

124. The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.

[PSC1125]

125. The production of written evidence from the local telecommunications supply authority certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC1165]

126. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation of underground electricity (residential and rural residential) has been completed; and
- (b) The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

[PSC1185]

127. Item 7.0 of the Morrison Geotechnical report addresses development constraints and nominates numerous areas of unstable ground. These constraints must be re-evaluated subsequent to bulk earthworks being completed and prior to the issue of any Subdivision Certificate. Any relevant nominated development constraints will be imposed as Restrictions on title.

[PSCNS01]

128. The applicant is to advise Council how it is intended to satisfy the post-construction stormwater monitoring requirements as nominated in the Stormwater Management Plan by Gilbert and Sutherland dated October 2004.

[PSCNS01]

129. Prior to the issue of any Subdivision Certificate pursuant to this consent, the applicant must demonstrate that all requirements of the revised Bushfire Management Plan, relevant to the corresponding stage of the subdivision release, have been satisfactorily addressed..

[PSCNS01]

130. A contribution of \$32,000, irrespective of any other Section 94 contribution, is payable by the applicant to Council for increased and ongoing maintenance to part of the adjoining Frangella Park, in accordance with Asset Protection Zone requirements.

This contribution is to be paid prior to issue of the Subdivision Certificate for Stage 1.

This contribution will remain fixed for a period of 12 months from the date of this consent, and thereafter may be varied in accordance with revised rates as deemed applicable by Council, at the time of lodgement of the Subdivision Certificate application.

[PSCNS02]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. The proposed roads shall comply with Section 4.3.1 of Planning for Bushfire Protection 2001, except for the requirement for a 20 metre road reserve.
2. The location of fire hydrants shall comply with the distances detailed in Section 6.4.3 of Planning for Bushfire Protection 2001. Locations of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.
3. Where achievable there shall be a minimum of 20 metres from future dwellings on Lots 115-122 to the reserve to the south west which shall be maintained as an Inner Protection Area (IPA) as outlined within Section 4.2.2(b) in Planning for Bushfire Protection 2001. If it is demonstrated that 20 metres is not achievable within

the property boundaries, the RFS will consider the provision of a 15 metre IPA and a 1.8 metre high radiant heat shield. These lots shall not be duplex blocks unless the minimum 20 metres IPA can be provided. This is in recognition of the current management of the reserve and the limited extent of vegetation within the reserve.

4. A Bush Fire Management Plan shall be prepared for the proposed public and drainage reserves that are to be established as part of the proposal. This Plan shall address the following requirements;
- Contact person / department and details of responsibilities for maintenance.
 - Schedule & description of works for the construction of Asset Protection Zones and their continued maintenance.
 - Management strategies, proposed schedule and description of works of any remnant bushland within the property boundary.

Note to Council: This assessment is based on the area identified as cultivated land and grazing paddocks being maintained. If these areas are left unmanaged, then a 20 metre IPA will be required for future dwellings on lots adjoining these areas.

REPORT:

Applicant: Metricon Qld Pty Ltd
Owner: Barnby Developments Pty Ltd
Location: Lot 13 DP 793985; Lot B DP 368706; and Lot 1 DP 392245, Barnby Street Murwillumbah
Zoning: 2(c) Urban Expansion
Cost: \$6,000,000

BACKGROUND:

On 23 February 2004 Council received a Master Plan for the proposed subdivision in accordance with the requirements of Council's DCP 16 – Subdivision Manual. The Master Plan was considered at the Council Meeting of 1 December 2004 where it was resolved as follows: -

“that Council defers this matter until after the 8 December 2004 Community Access session to allow residents of West Murwillumbah to put forward information for Council's consideration before final decisions are made about revisions to the Barnby Street Master Plan and before the public is notified of these revisions.”

The matter was then considered at the Council Meeting of 15 December where it was resolved as follows: -

“that:-

- 1. Before Council makes a final decision about the revised Master plan for the Barnby Street subdivision it conducts a traffic modelling study to review network options for mitigating impact on the existing and proposed Barnby Street precinct, including but not limited to a northern ring road.*
- 2. The model incorporate current traffic flows which result from these options.”*

Since this time the traffic modelling has been completed and subsequently in February 2006 Council resolved: -

“That the following road construction projects be incorporated into a draft amendment of the Tweed Road Contribution Plan:

- 1. Option 2 - West End Street connection to Barnby Street.*
- 2. Option 3 - Cane Road Extension from Queensland Road to the proposed Barnby Street Subdivision.”*

The results of the traffic modelling show that the proposed subdivision traffic can be absorbed into the local road network subject to Option 2 & 3 being added to the Tweed Road Contribution Plan.

Council's Traffic & Transport Engineer, and Development Engineer have now provided that the proposed subdivision can be supported on traffic grounds subject to the incorporation of suitable conditions of consent as detailed within the recommendation.

The remaining merits of this application have never been reported to Council and therefore this report details the complete assessment of the application having regard to the applicable planning instruments and the issues raised within the 20 individual submissions and the petition containing 27 signatures.

The revised application now seeks consent for a staged residential subdivision (3 stages) comprising 89 single dwelling lots (previously 86), 7 duplex blocks (previously 12), 1 drainage reserve, 1 residue lot & 2 public reserves.

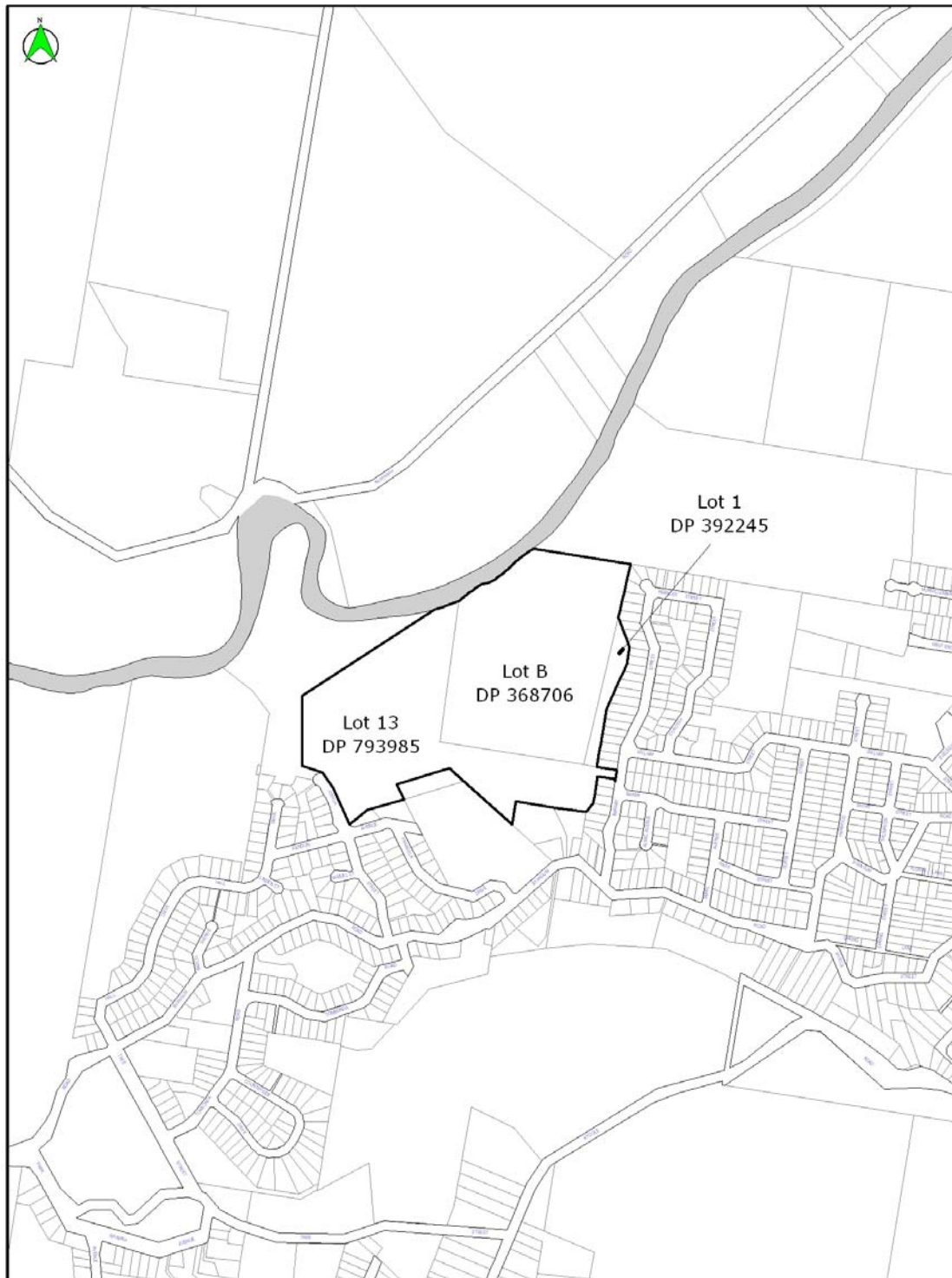
The application proposes site earthworks to fill the low lying flood prone areas of the site. The central ridge will in part provide the material for fill, however, the ridge will remain as a feature of the estate. This will allow a balanced cut and fill approach so that no importation of fill is required.

The application has been referred to various Government Departments including the Department of Planning & Natural Resources (now the Department of Planning and the Department of Natural Resources) for concurrence, Department of Primary Industries, Department of Environment & Conservation, and the NSW Rural Fire Service. The comments from various Departments are detailed in the following report.

The primary issues associated with this application are the extent of land forming, the acceptability of the proposal based on traffic grounds, the permissibility of ancillary structures on the adjoining agricultural land, and the potential loss of amenity for adjoining residences as a result of the development.

Based on the assessment of all of these issues the proposed subdivision is recommended for conditional approval.

SITE DIAGRAM:



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Tweed Shire Council
 Lot 1 DP 392245, Lot B DP 368706, Lot 13 DP 793985
 Barnby Street, Murwillumbah
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: C.Davis Date: 6/Dec/2005



STRATEGIC
 PLANNING UNIT
**Site
 Plan**
 Scale: 1:10,000 Sheet: 1 of 1

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

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

Tweed Local Environmental Plan 2000

The proposed subdivision relates to land that is zoned part 2(a) Low Density Residential, part 2(c) Urban Expansion and part 1(b2) Agricultural Protection.

The applicant is seeking support for the allotments within the subdivision over the land zoned 2(c) Urban Expansion but also proposes an external road connection, drainage reserves (water quality pond), and public open space over the 1(b2) Agricultural Protection Zone.

This issue was assessed as part of the Master Plan considerations where it was concluded that: -

The proposed residential subdivision requires the provision of a water quality pond and open space. The applicant has proposed that these be provided on land in the 1(b2) Agricultural Protection zone. As the use is ancillary to and a requirement for the subdivision of the residential zoned land and may be considered with the use of the variable zone boundary for development near zone boundaries this is considered to be an acceptable solution.

Urban stormwater water quality management facilities technically are permissible with consent in the 1(b2) zone providing the facility is considered to be consistent with the zone objectives. The zone primary objective aims at protecting prime agricultural land from fragmentation and the economic pressure of competing land uses.

There is an argument that the 1(b2) Agricultural Protection zone land is already fragmented and highly impacted on by the urban development in the area. With Rous River limiting the extent of the agricultural protection land there is minimal opportunity for the area to be fully utilised as part of a larger agricultural holding. It may be argued that an urban stormwater quality management facility is permissible with consent in the 1(b2) agricultural protection zone.

The provision of the drainage reserve and open space in the proposed location is considered to have merit when associated with other riparian open space and drainage reserve proposed over the entire future development. The potential to provide a significant buffer to Rous River and enhancement of this space is considered to be appropriate.

The above arguments are still considered applicable and therefore the proposed development including all ancillary roads, drainage reserves (water quality pond), and public open space areas are considered permissible.

Clause 17 addresses the need for a Social Impact Statement in respect of certain development. Tweed Development Control Plan 45 – Socio-Economic Impact Assessment (DCP 45) sets out Council's policy in this regard. It identifies subdivision, where more than 50 Lots are to be created, as requiring a Socio-Economic Impact Statement.

The applicant has undertaken a Socio Economic Impact Statement that shows there will be an increased demand on facilities and services resulting from the additional housing stock.

Council's Social Planner has reviewed the Statement and provided comments on all the social aspects of the development. Adequate bus and pedestrian links are considered essential and therefore Council's Development Engineer has provided appropriate conditions in this regard. Council's Social Planner also indicated that there would be justification in seeking a higher proportion of multi dwelling allotments, however, given the traffic issues and the nature of the surrounding area the proposed 7 duplex sites are considered sufficient to provide a mix of housing types. Therefore Clause 17 is considered to be satisfied.

Clause 20 specifies that the minimum size of each allotment created in the 1(b2) is to be 40 hectares. It is proposed to create a residual allotment with an area of 11.2 hectares, which is less than the minimum 40-hectare requirement. Accordingly, an objection under State Environmental Planning Policy No: 1 – Development Standards accompanies the Development Application accompanies the application.

The application was subsequently forwarded to the Department of Planning & Natural Resources for concurrence. On review of the submitted application and the material submitted as additional information the Department provided the following:

“Following consideration of the application, concurrence has been granted to vary the subdivision development standard contained in Clause 20(2) of tweed LEP 2000 to permit the creation of the residue lot in the 1(b2) zone.

Concurrence was granted in his instance as the excision of the 1(b2) land from the parent holding will allow the creation of residential lots in the 2(c) zone in accordance with its zoning.”

The Department has however expressed concern with use of the 1(b2) land for ancillary facilities including fill prior to the ultimate land use being determined. However, as detailed above these uses are considered permissible.

Clause 31 aims to protect and enhance scenic quality, water quality, aquatic ecosystems, biodiversity and wildlife habitat and corridors.

The application incorporates a 50m riparian buffer to the Rous River with water quality ponds further from the Rous River. Appropriate conditions are recommended to ensure the scenic and water quality of the Rous River are not negatively impacted as a result of this development.

Clause 34 aims to ensure that only compatible development occurs on flood liable land. The proposed residential subdivision is entirely consistent with the sites zoning for residential purposes.

Clause 34 also stipulates that development shall not be approved unless consideration has been given to the provisions contained within Development Control Plan No: 5 – Flood Liable Land (DCP 5). A revised Q100 year flood level of RL 5.1m AHD for this site has been adopted. Subsequently, a condition of consent is recommended to ensure all roads and lots are filled to a minimum RL of 5.1m AHD to achieve compliance with DCP No. 5. This fill will be obtained by undertaking a balanced cut and fill onsite negating the need for the importation of fill.

Clause 35 provides for the management of acid sulfate soils. The applicant's plans indicate that no excavation works within the lower areas of the development for the proposed water quality pond. A generic management plan was lodged with the application however a specific management plan will need to be prepared prior to issue of a Construction Certificate that reflects actual construction work detail and appropriate treatment methodology. The recommendation details appropriate conditions in this regard.

Clause 38 provides for the alignment of future roads. The proposed in fill residential subdivision is considered to generate the need for an additional access road. Council has previously resolved that West End Street connection to Barnby Street should be incorporated into a draft amendment of the Tweed Road Contribution Plan. The application has therefore been conditioned to ensure that any Construction Certificate for Stage 3 (Phase 2) will not be issued until satisfactory arrangements have been made with Council regarding construction of a new road connection between Francis Street and Road 2, generally as shown on Plan 7214/6/1-DA FIG 3.

Clause 39 aims to ensure that contaminated land is adequately remediated prior to development occurring. The applicant submitted a site contamination assessment that concluded that the site is suitable for the intended use.

Clause 39A aims to minimise bushfire risk to people and assets. The proposed subdivision is Integrated Development and requires a Bushfire Safety Permit under the Rural NSW Fire Act 1997. The RFS have granted approval and the recommended General terms of Approval have been incorporated into the development consent.

North Coast Regional Environmental Plan 1988

Clause 12 aims to ensure development on rural land does not occur unless consideration has been given to the impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

The topography of the land and the nature of the soils indicate that the subject site would be assigned agricultural land classes 4 and 5, which would best suit grazing.

The 1(b2) Agricultural Protection zone land is already fragmented and highly impacted on by the urban development in the area. With the Rous River limiting the extent of the agricultural protection land there is minimal opportunity for the area to be fully utilised as part of a larger agricultural holding. Furthermore, the need for a 50m riparian buffer further reduces the fragmentation of 1(b2) land in this location. For these reasons the use of agricultural land for drainage and open space is considered acceptable.

Clause 15 requires certain matters to be considered when carrying out development adjoining a river or stream. The proposed subdivision adjoins the Rous River, and therefore a 50m riparian buffer has been established to ensure the aesthetics of the river and water quality of the river are either maintained or improved.

Clause 43 sets out matters to be considered prior to granting consent for residential development purposes. The proposed layout achieves a density that utilises the available 2(c) zoning. In addition the proposed roads link in well with the existing road network and enable future public transport opportunities that would not otherwise been possible.

Clause 66 requires consideration of the adequacy of community and welfare services prior to granting consent to the subdivision of land for residential purposes. The proposed development is within close proximity to all the community facilities available to Murwillumbah. Whilst there will be capacity for a bus route it is envisaged that most people occupying this area would be car dependant, however, this is accounted for as the applicant will be charged a contribution towards the Tweed Road Contribution Plan for each lot based on each lot undertaking 6.5 daily vehicle trips.

Clause 81 aims to ensure that certain matters are considered prior to consent being granted for development adjacent to a waterway. Having regard to these matters the proposed development is considered suitable subject to the treatment of the 50m riparian buffer as required by the recommended conditions of consent.

State Environmental Planning Policies

State Environmental Planning Policy No: 1 – Development Standards

The proposed subdivision necessitates the use of SEPP 1 because of the creation of a residue allotment which is under the minimum size for land zoned 1(b2). As detailed above the Department of Infrastructure Planning & Natural Resources have granted concurrence in this regard.

State Environmental Planning Policy No: 11 – Traffic Generating Developments (SEPP 11)

The proposed development requires referral to Council's Traffic Committee in accordance with Schedule 2 of the Policy.

The application was subsequently referred to the Local Traffic Committee meeting of 21 April 2005.

The Committee noted that increased traffic movements on William Street due to its steepness is not desirable. There are concerns with the intersection of William Street and Byangum Road intersection and concerns were raised with Barnby Street and Byangum Road intersection. The Committee considers that an alternative access to the development should be part of any approval to alleviate the above traffic issues.

Council's Traffic and Transport Engineer and Development Engineer have reviewed these comments and ensured that all issues raised have been addressed by way of conditions of consent.

State Environmental Planning Policy No: 44 –Koala Habitat (SEPP 44)

This policy aims to encourage conservation and management of areas of natural vegetation, which provide habitat for koalas. There is no evidence of koala use of the site and no core koala habitat present and therefore there is no requirement to prepare a koala management plan.

State Environmental Planning Policy No: 55 –Remediation of Land (SEPP 55)

SEPP 55 requires consideration of the potential risks of land contamination for development and where necessary remediation.

The applicant submitted a site contamination assessment that concluded that the site is presently suitable for the intended use, being residential development.

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

There are no applicable Draft Environmental Planning Instruments

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

Development Control Plan No: 5 – Development of Flood Liable Land (DCP 5)

DCP.5 provides the flood mitigation strategy and standards for development to minimize the adverse effect of flooding on the community. A revised Q100 year flood level of RL 5.1m AHD for this site has been adopted. Subsequently, a condition of consent is recommended to ensure all roads and lots are filled to a minimum RL of 5.1m AHD to achieve compliance with DCP No. 5.

Development Control Plan No: 16 –Subdivision Manual (DCP 16)

This DCP contains Council's guidelines for the preparation of applications for subdivision and aims to facilitate Council's assessment and consideration of such applications.

Section 4.2.1 deals with environmental constraints such as contamination, bushfire, slip, visual character, and vegetation. All of these potential constraints have been assessed as part of this application. Specifically the applicant requests that Council maintain part of Frangella Park as an Asset Protection Zone (APZ) for this development. In negotiations with the applicant Council staff indicated that managing Frangella Park to an APZ standard would require additional work in ensuring this standard is maintained at all times. In this regard it is recommended the following condition of consent be imposed to compensate Council for the additional maintenance load: -

A contribution of \$32,000, irrespective of any other Section 94 contribution, is payable by the applicant to Council for increased and ongoing maintenance to part of the adjoining Frangella Park, in accordance with Asset Protection Zone requirements.

This contribution is to be paid prior to issue of the Subdivision Certificate for Stage 1.

This contribution will remain fixed for a period of 12 months from the date of this consent, and thereafter may be varied in accordance with revised rates as deemed applicable by Council, at the time of lodgement of the Subdivision Certificate application.

The Rural Fire Service is aware that Council is prepared to accept this responsibility and subsequently imposed the following condition of consent: -

Where achievable there shall be a minimum of 20 metres from future dwellings on Lots 115-122 to the reserve to the south west which shall be maintained as an Inner Protection Area (IPA) as outlined within Section 4.2.2(b) in Planning for Bushfire Protection 2001. If it is demonstrated that 20 metres is not achievable within the property boundaries, the RFS will consider the provision of a 15 metre IPA and a 1.8 metre high radiant heat shield. These lots shall not be duplex blocks

unless the minimum 20 metres IPA can be provided. This is in recognition of the current management of the reserve and the limited extent of vegetation within the reserve.

In regards to the vegetation assessment, the applicant has submitted a Flora & Fauna Assessment produced by James Warren & Associates. This report concludes that there will be a loss of vegetation (approximately 15ha) and habitat. Of which, 1.26 ha consists of native vegetation, including the loss of 0.3ha of the Endangered Ecological Community (EEC) Swamp Sclerophyll forest on coastal floodplain.

The loss of this vegetation must be assessed against the sites potential for development in accordance with the 2(c) Urban Expansion Zone. The subject site could only be developed at a density consistent with the zone objectives if this vegetation was removed. Therefore despite this vegetation loss the application on balance is considered suitable. However, the James Warren & Associates report recommends amelioration measures which ensure the proposed subdivision is created having regard to the natural landscape and therefore the following conditions of consent are recommended:

The development shall be completed in accordance with the: -

- *Acoustic Report prepared by Savery & Assoc P/L, No. S514, dated 24 February 2005. Compliance shall be in accordance with the Section 6.0 Conclusions & recommendations to the satisfaction of the Director of Environment and Community Services.*
- *Acid Sulfate Soil Management Plan prepared by Gilbert & Sutherland dated October 2004;*
- *Flora and Fauna Assessment Plan prepared by James Warren & Associates dated March 2005.*

Section 4.2.2 deals with land forming whereby proposals to alter natural landform must:

- Not adversely impact other land, persons or public infrastructure;
- Preserve levels at site boundaries;
- Preserve significant natural watercourses, riparian vegetation, environmental and topographical features;
- Preserve the visual character of the landform as viewed from within and outside the land site;
- Preserve cross boundary drainage conditions; ensure runoff from upstream or upslope land is not adversely impeded;
- Ensure there are no adverse geotechnical consequences to the site or the other land;
- Ensure there are no adverse consequences to public infrastructure; and
- Minimise earthworks.

Appendix A of the DCP refers to a number of design specifications of which D6 – Site Regrading, is relevant in this matter. Specifically D6.05 contains land forming geometric criteria dealing with flat earth platforms, the provision of retaining walls or cut/fill batters on allotment boundaries. The following overall cut/fill provision states:

3. *The proportion of subdivision or development site (plan area) that contains cut or fill areas with finished surface levels that depart from natural surface levels by more than 5m shall not exceed 10%.*

On 26 April 2006 DCP 16 and D6 were amended to allow variations up to 15% of site area if such variations have an environmental benefit for example the avoidance of importing borrowed fill off site.

The proposed development shows on Drawing Number 7214/06 – DA FIG 10C dated 17 May 2006 that 17.5% of the site has earthworks with a depth greater than 8m.

As the Policy refers to a variation of 5m the actual % of the site that contains earthworks of greater than 5m is approximately 21%.

This is a departure from the numerical requirements of DCP 16 and D6.

Clause 1.8 of DCP 16 provides that

“Where development does not comply strictly with the provisions of the DCP, Council may still consider approving the development where the applicant demonstrates that the proposal is consistent with the objectives of the DCP and the intention of the particular guideline, and the proposed development will result in an environmentally more satisfactory development.”

The applicant justifies this departure on the following basis:

- *“The proposed earthworks achieve a cut/fill balance for the site thereby minimising the impact of construction traffic on residential amenity and on the surrounding traffic network*
- *The earthworks are necessary in order to achieve road gradients which comply with TSC Design Specification D1.*
- *Filling is required on the low-lying part of the site to ensure compliance with the 1:100 year flood level. The required filling alone would greatly exceed the land forming limitation of 10,000m³.*
- *Grading of the proposed lots is significantly improved thus minimising earthworks for future home building purposes. Dwelling construction costs would be lower and individual site viability improved. The impact of the proposed land forming on the landscape visual character and amenity is addressed in detail in the Visual Impact Assessment (Appendix I). It is concluded in that*

assessment that reducing cut depths to less than five(5) metres would make little difference in terms of the visual impact of the development.

- *Alternatives to the proposed cut/fill balance were considered and were found to have greater constraints and greater environmental impact than the current proposal. Additionally, the alternative options were found not to comply with the land forming provisions of DCP16.*
- *Visual impacts would be reduced as a consequence of reducing future roofline levels. Views to the distant mountain ranges would become more accessible.”*

Having regard for the guidelines for assessment detailed in Clause 4.2.2 the following comments are provided;

- The visual implications of this non-compliance will not be significant. A complying cut and fill situation would have little difference to the visual merits of the proposed subdivision, as the removal of the hill from the topography will open up the views of the whole valley and mountain ranges;
- A certain amount of earthworks are needed to fill low-lying parts of the site to equal to or above the 1:100 year flood level. If such fill was not permitted development of this 2(c) Urban Expansion zoned land would not be possible; and
- A balanced cut and fill has been achieved on the site, which negates the need for the importation of additional fill material. This is considered to be more sustainable and overall more environmentally sensitive.

For these reasons the proposed level of earthworks is considered acceptable and result in this application being recommended for conditional approval.

Section 4.2.3 addresses storm water runoff, drainage, waterways and flooding. In this regard Council's Infrastructure Engineer and Development Engineer have assessed the application and the applicants storm water management plan and recommended conditions of consent to ensure the site is drained in accordance with all relevant guidelines.

Section 4.2.4 addresses setbacks and the need for a buffers. The proposed development has a 50m riparian buffer to Rous River and buffers to the sediment ponds, however, no agricultural buffer is considered necessary as the likely agricultural pursuits of sugar cane and grazing on the adjoining land are low impact and should not affect the amenity of the adjoining residents.

The Murwillumbah Sewerage Treatment Plant (STP) is located to the north of the Development and Council infrastructure is approximately 230 metres from the nearest residential allotment. Existing dwellings in Frances Street are located approximately 170 metres from the STP. The North Coast Regional

Environmental Plan 1988 references the need for a 400 metre buffer between residential development and STP's when preparing Local Environmental Plans unless Council has assessed the extent of the hazard and included provisions in the plan to minimise adverse impacts from odour.

Council has undertaken augmentation work on the STP which resulted in the odour sources from the inlet works and extended aeration treatment units being covered and relocating the treatment units further to the north. These works were deemed to be satisfactory by the Public Works for the existing residents. As such it is considered the buffer of 230 metres to the nearest residential allotment as provided in the Master Plan and Development Application is satisfactory.

Section 4.3 of the plan addresses urban structure in regards to lot layout, open space provisions, movement network and structure.

In regards to road network, Council resolved at its meeting on 5 October 2005 to place the Murwillumbah distributor Road Network, Traffic Study (MDRS) prepared by Veitch Lister consulting on public exhibition.

Based on consideration of all available options and consideration of the public submissions Council resolved as follows: -

"the following road construction projects be incorporated into a draft amendment of the Tweed Road Contribution Plan:

1. *Option 2 - West End Street connection to Barnby Street.*
2. *Option 3 - Cane Road Extension from Queensland Road to the proposed Barnby Street Subdivision."*

Council's Traffic and Transport Engineer has provided the following comments in relation to the study and its impact on the proposed subdivision: -

The key reason Council commissioned the MDRS Study was to consider the impacts of the proposed Barnby Street subdivision on the Murwillumbah Road Network. Council's resolution dated 15 December 2004 was as follows:

1. *Before Council makes a final decision about the revised Master plan for the Barnby Street subdivision it conducts a traffic modelling study to review network options for mitigating impact on the existing and proposed Barnby Street precinct, including but not limited to a northern ring road.*
2. *The model incorporate current traffic flows which result from these options.*

The results of the traffic modelling show that the subdivision traffic can be absorbed into the local road network subject to Option 2 & 3 being added to the TRCP. The benefits of these Options is that they actually decrease traffic on Byangum Road, William Street, Tumbulgum Road and the CBD. The negative impacts are the increases on Joshua Street and to a lesser extent West End Street.

The ultimate traffic levels on all these roads are manageable.

From the MDRS it is concluded that subject to any approval for the Barnby Street Subdivision incorporating the following road links, the Murwillumbah Road network can accommodate traffic from the development:

- a) *Construct a connecting road from West End Street through the Council Sewer Treatment Plant into the subdivision.*
- b) *Construct a connection road from the subdivision to Joshua Street*
- c) *Construct a road connection to Barnby Street (between William Street and Byangum Road)*

In conjunction with Options 2 and 3, these works will provide the connectivity to and from the proposed subdivision as required by Development Control Plan 16 and will prevent the subdivision having any substantial adverse impact on the substandard section of William Street and the intersection of William Street and Byangum Road."

Based on these comments Council's Traffic & Transport Engineer and Council's Development Engineer have formulated conditions of consent to ensure the adjoining road network is suitable to accommodate the additional traffic from this proposed subdivision.

In regards to the adequacy of open space Council's Open Space Officer has reviewed the plan of subdivision specifically in regard to the acceptability of the proposed open spaces areas. As a result the following condition of consent has been recommended:

A detailed landscape plan for the public reserve (park) proposed for northwest of Road 2 must be prepared to the satisfaction of the Manager, Recreation Services. This landscape plan will consider integration of the park with the drainage reserve and riparian buffer immediately west of the reserve. The landscape plan should provide for embellishment consistent with DCP 16 (Subdivision Manual) table 4.33b1.

Having regard to all other criteria the proposed subdivision application is considered to satisfy the performance criteria contained within DCP 16.

Development Control Plan No: 39 –Energy Smart Homes Policy (DCP 39)

DCP 39 aims to promote and create energy efficient homes and improve the quality and energy efficiency of residential subdivisions and buildings.

It is considered that all proposed lots will be capable of accommodating a dwelling that is energy efficient. There is a variety of allotment orientations and sizes that will enable flexibility when designing a suitable dwelling for each site.

Development Control Plan No: 44 –Dual Occupancy Controls (DCP 44)

This DCP requires that where a proposed subdivision creates more than 10 Lots, the dual occupancy lots are to be nominated in the subdivision development application.

The amended application incorporates 7 dual occupancy allotments on the following sites;

- Proposed lot 106, which has an area of 1147m²;
- Proposed lot 117, which has an area of 920 m²;
- Proposed lot 127, which has an area of 990.9 m²;
- Proposed lot 134, which has an area of 1000 m²;
- Proposed lot 136, which has an area of 901.9 m²;
- Proposed lot 139, which has an area of 902.6 m²;
- Proposed lot 328, which has an area of 930.3 m²;

DCP 44 requires nominated dual occupancy sites to be of sufficient size to provide flexible building envelope. This will usually mean:

- an area of not less than 900m²;
- is not a battleaxe allotment;
- regular square or rectangular shape with no large circular arc frontages to public roads;
- building orientation;
- orientation of private open space;
- provision of adequate vehicular access and parking; and
- satisfactory visual and aural privacy to adjoining lots.

The location of the lot should have

- access to existing and likely public transport routes;
- access to parks and other public open space facilities; and
- access to other services and facilities (eg, shopping facilities, clubs and the like).

The proposed dual occupancy allotments will generally allow for a design to satisfy these requirements.

Lot 117 may have difficulty in complying with the Rural Fire Service requirement (specifically Condition 3) which specifies that:

Where achievable there shall be a minimum of 20 metres from future dwellings on Lots 115-122 to the reserve to the south west which shall be maintained as an Inner Protection Area (IPA) as outlined within Section 4.2.2(b) in Planning for Bushfire Protection 2001. If it is demonstrated that 20 metres is not achievable within the property boundaries, the RFS will consider the provision of a 15 metre IPA and a 1.8 metre high radiant heat shield. These lots shall not be duplex blocks unless the minimum 20 metres IPA can be provided. This is in recognition of the current management of the reserve and the limited extent of vegetation within the reserve.

Therefore, prior to ultimate nomination of this allotment as a Dual Occupancy site the applicant is to demonstrate to Council that this condition can be complied with should a dual occupancy be built on this allotment. The following condition of consent is recommended:

Prior to issue of a Construction Certificate the applicant is to provide evidence to Council that Lot 117 can achieve a 20m Inner Protection Area while still accommodating a dual occupancy. Failure to satisfy this condition will result in Lot 117 not being a nominated dual occupancy allotment.

However any future buildings will obviously be subject to the lodgement of a further Development Application that will need to be assessed on its merits and against the applicable planning instruments at that time.

Development Control Plan No: 45 –Socio-Economic Impact Assessment (DCP 45)

DCP 45 details the type and size of development for which a Socio-Economic Impact Statement (SEIS) is required. The scale of the development in this case triggers the need for an SEIS.

As detailed above Council's social planner has reviewed the Statement and provided that it comments on all the essential social aspects of the development. Adequate bus and pedestrian links are considered essential and therefore Council's Development Engineer has provided appropriate conditions in this regard. Council's Social Planner also indicated that there would be justification in seeking a higher proportion of multi dwelling allotments, however, given the traffic issues and the nature of the surrounding area the proposed 7 duplex sites are considered sufficient to provide a mix of housing types.

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

The proposed development has been assessed against all relevant matters as prescribed by the regulations and is considered to warrant conditional consent.

(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 above report has addressed all issues pertaining to the potential impacts of the development. Subject to the recommended conditions of consent the application is considered to warrant Council's support.

(c) Suitability of the site for the development

The proposed site has been zoned for urban expansion purposes for many years. It is partially flood prone land that is physically constrained by existing development, an existing road network and the Rous River. The proposed subdivision pattern tries to address all of these constraints while utilising the 2(c) and 2(a) land.

The environmental benefits of this development include a balanced cut and fill, regrading to create lots with building areas that minimise the need for extensive retaining walls and batters and connections to the existing road network.

The existing topography of the subject land requires significant regrading in order to create smaller residential allotments, which have acceptable residential amenity. The existing use of the land for agricultural pursuits certainly provides the adjoining residents with a picturesque outlook. The proposed subdivision will alter that outlook, however, the proposed development will generally be sited below the surrounding residential properties and as a result of the earthworks to the ridge in the site, will allow adjoining residents to view a wider rural vegetative backdrop outside the release area. Therefore the visual character of the subdivision will be acceptable, within the context of a new release area.

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

The Development Application was advertised for a period of 14 days from 13 April 2005 to 27 April 2005. During this period Council received a total of 20 individual objections and a further petition with 27 signatures opposing the development. The grounds for objection are summarised in the following table:

TOPIC	ISSUE	ASSESSMENT
<p><u>Traffic</u></p>	<p>The extra 150 cars using Joshua Street and Byangum Road will cause congestion</p>	<p>As detailed in the above report, the proposed development has been through a thorough assessment in regards to traffic.</p>
	<p>We do not want large earthmoving equipment thundering down Frangella Dr to Joshua Street</p>	<p>The Murwillumbah traffic study concluded that:</p>
	<p>With only one access from Barnby Street this will create a safety issue with too many people utilising William Street.</p>	<p><i>The results of the traffic modelling show that the subdivision traffic can be absorbed into the local road network subject to Option 2 & 3 being added to the TRCP.</i></p>
	<p>There should be another road as an alternative to Byangum Road to ease traffic, as Byangum road is unsuitable for additional traffic.</p>	<p><i>The benefits of these Options is that they actually decrease traffic on Byangum Road, William Street, Tumbulgum Road and the CBD.</i></p>
	<p>The re-sealing of William Street is necessary but that won't affect the visibility problems with William Street.</p>	<p><i>The negative impacts are the increases on Joshua Street and to a lesser extent West End Street.</i></p>
	<p>The applicants Traffic Impact Assessment is unsatisfactory and has not fully addressed the local road network linkages.</p>	<p><i>The ultimate traffic levels on all these roads are manageable.</i></p>
	<p>Council should not consider this DA until traffic modelling is complete.</p>	<p>Therefore, subject to the recommended conditions of consent the proposed development is considered acceptable on traffic grounds.</p>
	<p>Barnby Street is inappropriate for access to a subdivision of this size</p>	<p>These issues are not considered to warrant refusal of the application.</p>
	<p>Use of Joshua Street for heavy machinery would be a significant hazard for young children in the vicinity of the childcare facility.</p>	
	<p>A ring road is needed in Murwillumbah.</p>	
	<p>The road network can not accommodate this development.</p>	
	<p>There is insufficient turning areas for larger vehicles.</p>	
<p>West end Street is too narrow.</p>		

<u>TOPIC</u>	<u>ISSUE</u>	<u>ASSESSMENT</u>
	My property could potentially be bound on three sides by roads.	
	The risk to pedestrian safety due to the proposed pressures on the road network.	
	The applicants traffic report is based on poor data collection and reporting, poor research methodology, and poor assessment and omissions.	
	The use of West End Street would decrease our business due to increased traffic noise	
<u>Water Supply</u>	The proposed development has not demonstrated that the towns water supply is sufficient to cater for this development	Council's Infrastructure Engineer has assessed the application and recommended conditions of consent to ensure the services for this development are satisfactory.
	Will this development affect our water pressure?	These issues are not considered to warrant refusal of the application.
<u>Flooding</u>	The raising of the subject land will cause flooding of other areas.	Council's Infrastructure Engineer has assessed the application and recommended conditions of consent to ensure the changing levels of the site do not impact on adjoining land. This issue is not considered to warrant refusal of the application.
<u>Noise</u>	Noisy trucks during construction will affect my amenity, as will the additional people within the approved subdivision.	Some impact on amenity is inevitable during construction. The recommended conditions of consent have imposed standards for construction that should protect residential amenity during construction. This issue is not considered to warrant refusal of the application.

<u>TOPIC</u>	<u>ISSUE</u>	<u>ASSESSMENT</u>
<u>Pollution</u>	Caused by exhaust fumes, dust from trucks and silt due to land clearing.	As detailed above some impact on amenity is inevitable during construction. The recommended conditions of consent have imposed standards for construction that should protect residential amenity during construction. This issue is not considered to warrant refusal of the application.
	Increased health risk from the creation of water quality and stormwater retention ponds.	The proposed water quality control devices will ensure all site runoff and overland flow is treated and water quality is improved. This issue is not considered to warrant refusal of the application.
<u>Lack of Open Space</u>	With additional people will come additional pets that need exercising. The existing park in Frangella drive can not cater for more people	The proposed development incorporates a 50m riparian zone and a new public park that is to be provided at Stage 1. Council's Open Space Officer is satisfied that these facilities will cater for the proposed development.
	No public reserve will come into line until stage 3 this is unsatisfactory.	Council has recommended a condition of consent as follows: <i>The Public Reserve and Drainage Reserve shall be dedicated as part of the Stage 1 works.</i> This condition addresses this concern.
	There will be a loss of playing fields at Brothers Leagues Club.	The proposed development will not result in any loss to the Brothers Leagues Club.
<u>Loss of Sugar Growing Lands and Agricultural Protection Lands</u>	Soils in the agricultural protection zone comprise alluvial flood plain soils that are particularly suited to cultivation and intense food production.	The proposed development does rely on adjacent agricultural lands for ancillary facilities. These uses are considered permissible and suitable given the already fragmented agricultural land.
<u>Land Use Conflicts and Buffer Requirements</u>	Production of sugar can severely impact the urban lifestyle and therefore sufficient buffers are needed	No agricultural buffer is considered necessary as the likely agricultural pursuits of sugar cane and grazing on

<u>TOPIC</u>	<u>ISSUE</u>	<u>ASSESSMENT</u>
	to protect urban allotments	the adjoining land are low impact and should not affect the amenity of the adjoining residents.
	The adjoining agricultural land should be rezoned before this application is approved to ensure alternative access points can be addressed.	The application has been thoroughly assessed in regards to the capacity of the local road network. Based on this assessment the application is considered to warrant conditional approval.
<u>Conflicts with the applicable statutory documents</u>	The proposal conflicts with the sustainability principals of the EP&A Act 1979, NCREP, Tweed Strategic Plan 2000+, and the Tweed LEP 2000.	The above report has undertaken an assessment of the application against Section 79C of the Environmental Planning & Assessment Act 1979. On balance of all the issues the application is considered satisfactory to warrant recommendation for conditional consent.
<u>Public Interest</u>	The application is not in the public interest as is conflicts with the applicable planning instruments.	The application has attracted interest from the broader community, however, to utilise the 2(c) Urban Expansion Zone the proposed development is considered to balance all requirements and come up with a development that has had regard for the area and the applicable controls. Therefore this development is considered to be in the broader community interest.
<u>Vegetation Loss</u>	The site contains significant vegetation that should not be removed.	The site does contain native vegetation and an Endangered Ecological Community. On balance of all issues and the extent of damage to this vegetation the application warrants conditional. However, environmental considerations is only one assessment criteria. On balance of all issues the application warrants conditional consent.
	Removal of native habitat is not supported.	
<u>Earthworks</u>	The significant changes to the natural landform and large scale earthworks are to be avoided to reserve the natural visual quality.	The reasonableness of the numerical non-compliance with the land forming criteria can only be assessed from a visual character perspective. This criterion provides that where it is proposed to later natural landform the proposal
	Earthworks are outside the permissible guidelines.	

<u>TOPIC</u>	<u>ISSUE</u>	<u>ASSESSMENT</u>
	The application contravenes DCP 16.	“must preserve the visual character of the landform as viewed from within and outside the land site”.
	The developer proposes to cut up to 13m from the central hill over 7% of the site which exceeds the requirements of DCP 16.	The existing topography of the subject land requires significant regrading in order to create smaller residential allotments, which have acceptable residential amenity. The existing use of the land for agricultural pursuits certainly provides the adjoining residents with a picturesque outlook. The proposed subdivision will alter that outlook, however, the proposed development will generally be sited below the surrounding residential properties and as a result of the earthworks to the ridge in the site will allow adjoining residents to view a wider rural vegetative backdrop outside the release area. Therefore the visual character of the subdivision will be acceptable, within the context of a new release area.
	The change in topography will increase winds for some residents.	
	It an environmentally damaging practice.	
<u>Density</u>	The maximising of yield regardless of environmental outcomes is unacceptable.	The proposed development meets the intended density for 2(c) land in accordance with the Tweed LEP 2000.
	The density should be lower.	
<u>Road Name</u>	“Riva Vue” would be confusing for local emergency services given the amount of similar street names in the vicinity.	The ultimate street name will be determined prior to subdivision certificates being issued, this issue will be considered at that time.
<u>Future House Designs</u>	The application does not propose any covenants for future building design to ensure good environmental design.	The developer has not chosen a theme or development requirements at this stage. Council will ultimately determine whether individual houses are appropriate as part of future Development Applications.
<u>Loss in Amenity</u>	The proposed development should be of lower density.	The proposed development meets the intended density for 2(c) land in accordance with the Tweed LEP 2000.
	There would be a loss of panoramic views looking	The proposed subdivision will alter that outlook, however, the proposed development

<u>TOPIC</u>	<u>ISSUE</u>	<u>ASSESSMENT</u>
	westward	will generally be sited below the surrounding residential properties and as a result of the earthworks to the ridge in the site will allow adjoining residents to view a wider rural vegetative backdrop outside the release area. Therefore the visual character of the subdivision will be acceptable, within the context of a new release area.
	There has been insufficient socio economic assessments	As detailed in the above report Council is satisfied from a Socio-economic perspective.
<u>False Statements from the applicant</u>	The applicant makes numerous claims in its Statement of Environmental Effects that appear to be manipulative or false.	Council has independently assessed the application and not relied solely upon the SEE, based on this assessment the application is recommended for conditional consent.
<u>Master Plan</u>	Nothing has changed from the originally submitted Master Plan which was inadequate.	The adequacy of the Master Plan was never determined due to the need for the completion of the Murwillumbah Traffic Study. Based on this information the concept of the Master Plan can now be determined.
<u>Strategic Planning</u>	There has been lack of consideration to strategic planning and vision for Murwillumbah's future.	The strategic planning for this site occurred at the time the site was zoned for urban expansion purposes. The proposed subdivision is in direct response to that strategic vision.

(e) Public interest

The application has generated interest from many residents concerned about traffic, the extent of earthworks and the general appropriateness of the development for the site. These objections must be considered having regard to the planning context of the site. The application has been zoned for residential purposes for many years and to facilitate development in this zone it is necessary to fill all residential allotments to above the design flood level. The proposed balanced cut and fill is considered to be the better solution to that of fill importation and therefore the proposed development is considered to be an appropriate balance.

OPTIONS:

1. Indicate support for the Master Plan and Development Application subject to the appeal being withdrawn from the Court and the recommended conditions of consent being imposed; or
2. Refuse the Development Application and defend the Appeal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council will incur legal costs in relation to the subject Appeal.

POLICY IMPLICATIONS:

The proposed development has addressed all planning policies applicable to this development. The application is considered to have satisfied the Policies based on the performance criteria of each relevant plan and therefore warrants conditional approval.

CONCLUSION:

The proposed application warrants conditional approval. The principal issues of land forming, traffic congestion, use of agricultural land and general amenity have all been assessed. Individually and combined these issues do not warrant refusal.

The concerns regarding the change to the visual character arising out of the amount of land forming do not warrant refusal. The proposed development will generally be sited below the surrounding residential properties and as a result of the earthworks to the ridge in the site will allow adjoining residents to view a wider rural vegetative backdrop outside the release area. Therefore the visual character of the subdivision will be acceptable, within the context of a new release area.

Based on the relevant performance criteria all applicable planning instruments have been satisfied and therefore the proposed development warrants conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Council Report on MP04/0001 dated 15/12/2004 (DW 1132549)
 2. Development Plans x 3 (DW 1404692)
-

P16 [PD-PC] Review of Determination of Development Application DA05/1109 for Additions to Unit 2 of Dual Occupancy at Lot 2 SP 56218, No. 2/2 Channel Place, Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA05/1109 Pt1

SUMMARY OF REPORT:

A request for a review of determination under Section 82A of the Environmental Planning and Assessment Act, 1979 has been received for the above application. As such, Council is in receipt of amended plans detailing compliance with Council's *Road-Engineering and Operations for Minimum Sight Lines for Pedestrian Safety Policy*.

The application was previously refused on the basis the proposal did not comply with Council's *Road-Engineering and Operations for Minimum Sight Lines for Pedestrian Safety Policy*.

RECOMMENDATION:

That the Review of Determination of Development Application DA05/1109 for additions to Unit 2 of dual occupancy at Lot 2 SP 56218, No. 2/2 Channel Place 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 12205C sheet 1, 2 and 3, prepared by Peter Barnes and dated 15 March 2006 and Plan Nos 4 prepared by Peter Barnes and dated 15 March 2006 (as amended in Red), except where varied by the conditions of this consent.**
[GEN0005]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**
[GEN0115]
- 3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**
[GEN0135]

PRIOR TO COMMENCEMENT OF WORK

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
 - (c) 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
 - (d) 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.
- [PCW0215]
5. 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.
- [PCW0225]
6. Residential building work:
- (a) 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:

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

- * in the name and licence number of the principal contractor, and
- * the name of the insurer by which the work is insured under Part 6 of that Act,

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

- * the name of the owner-builder, and
- * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

(b) 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.

[PCW0235]

7. 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.

[PCW0255]

8. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act 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.

[PCW0985]

9. 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.

[PCW1055]

10. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

DURING CONSTRUCTION

11. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

12. 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 was made).

[DUR0375]

13. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

14. 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.

[DUR0405]

15. 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 in accordance with Councils adopted

Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

- 16. 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.**
- [DUR2485]
- 17. Plumbing**
- (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.**
- [DUR2495]
- 18. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.**

[DUR2645]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

- 19. A person must not commence occupation or use of the whole or any part of a new building or structure (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).**

[POC0205]

- 20. 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.**

[POC1045]

- 21. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.**

[POC1055]

REPORT:

Applicant: Mr P Barnes
Owner: Ms K Simpson
Location: Lot 2 SP 56218 No. 2/2 Channel Place, Kingscliff
Zoning: 2(c) Urban Expansion
Cost: \$24,990

BACKGROUND:

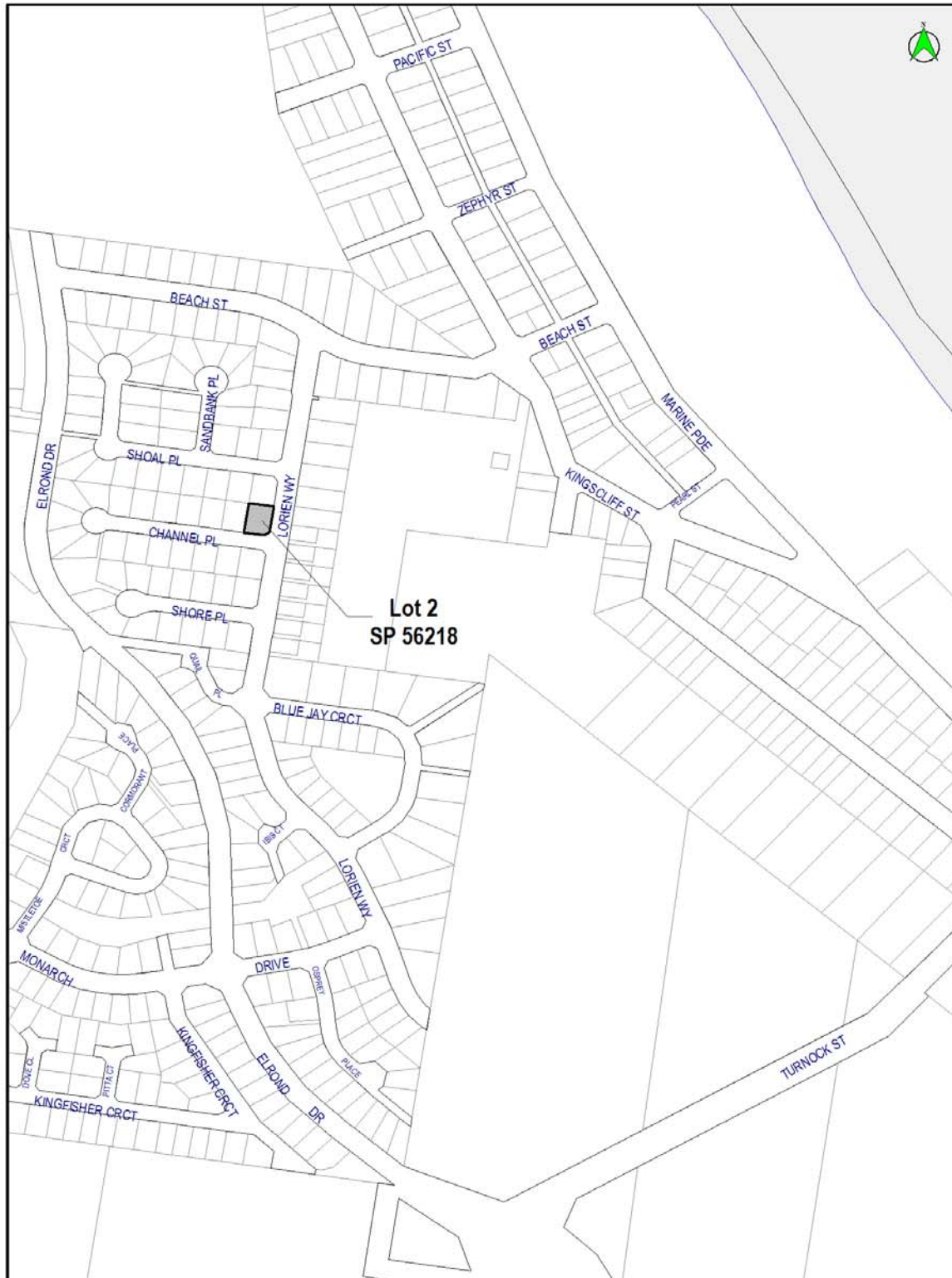
On the 29th September 2005 Council received an application requesting approval for the construction of a carport and the use of the garage as a multi purpose room. The application was refused, as the proposed carport did not comply with Council's *Road-Engineering and Operations for Minimum Sight Lines for Pedestrian Safety Policy*. The applicant was advised that amended plans were required showing compliance with the before mentioned policy, however the applicant failed to provide the amended plans as requested. Subsequently, the application was assessed on the submitted plans and refused by the Development Assessment Panel on Friday 24 February 2006.

Key Issue

Council's *Road-Engineering and Operations for Minimum Sight Lines for Pedestrian Safety Policy*.

Amended plans have been provided detailing the proposed brick columns located at the front of the carport have been removed from the sight lines to comply with the abovementioned policy.

SITE DIAGRAM:



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 Tel: (02) 6670 2409
 Fax: (02) 6670 2483

Tweed Shire Council
 Lot 2 SP 56218
 No. 2/2 Channel Place, Kingscliff



STRATEGIC PLANNING UNIT
Site Plan

File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 29/May/2006 Scale: 1:5,000 Sheet: 1 of 1

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 with the proposal being permissible within the zone.

Clause 8 – Zone objectives

The proposed carport and the use of the garage as a multi purpose room is consistent with the zone objectives, other aims and objectives of this plan relevant to the development and considered not to have an unacceptable cumulative impact on the community.

Clause 15 – Essential Services

All essential services are provided, as the proposal is additions to an existing dual occupancy in an established area.

Clause 16 – Building Heights

N/A, as the proposal does not increase the height of the existing dual occupancy.

Clause 17 – Social Impact Assessment

Having regard to the provisions of DCP No. 45 clause 5.1, a detailed social impact assessment is not required.

Clause 35 – Acid Sulphate Soils

The subject land is affected by class 2 Acid Sulphate Soils on Council's GIS mapping system. The proposed works are likely to be below the ground level as such, the works shall comply with Council's Acid Sulphate Management Plan for Minor Works.

Other Clauses

There are no other clauses applicable to the proposed development.

North Coast Regional Environmental Plan 1988

Clause 32B Development control—coastal lands

The proposed development is considered not to contravene the objectives of Clause 32B though not generating any significant adverse effects to the public access to the foreshore, create overshadowing to beaches, waterfront open space before 3pm midwinter (standard time) or 7pm midsummer (daylight saving time).

State Environmental Planning Policies

State Environmental Planning Policy No. 71 – Coastal Protection

The site is located within the area to which the policy applies. The proposed development is not within 100m below the mean high water mark of the sea, a bay or an estuary. The proposal is considered not to adversely affect the access to and along the coastal foreshore, limit overshadowing of foreshore areas and that the type, bulk, scale and size of the development is appropriate within the SEPP 71 zone.

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

There are no Draft Environmental Plan applicable to this application.

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

DCP No.2 – Site Access and Parking Code

The proposed alterations and additions increase the floor area to Unit 2 by approximately 42m², with the proposed gross floor area being approximately 145m². DCP No.2 requires 2 car spaces per dwelling/unit greater than 125m². The subject Unit No.2 provides two (2) car spaces in the form of a double carport as such; the proposal does not require any additional car spaces and is considered to comply with the plan.

DCP 6 – Multi Dwelling Housing

Site density

The proposed carport is considered compatible with the existing and desired future character of the locality whilst not reducing the landscaped area of the site, as the proposed carport covers the existing driveway. The proposal is therefore consistent with the objectives in terms of site density.

Streetscape, Building Appearance and Front Setbacks

The proposed double carport is located within the 6metre front setback, the proposal is considered to comply with Council's Building Line Policy, with the structure being predominantly open, of attractive design with compatible materials and considered not to dominate the frontage of the development creating positive contribution to the streetscape and building appearance.

The proposal is considered to comply with the objectives of DCP No.6 Multi Dwelling Housing.

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

The NSW Coastal Policy 1997 affects the subject land. The Policy is essentially a strategic management document, which sets out directions to be taken by Local and State government in the planning and management of the coast and estuaries. The proposed works are consistent with the intent of the 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 and Setting and Environmental Impacts

The proposed double carport and use of the existing double garage as a multi-purpose room is considered suitable to the subject site and is unlikely to result in any significant adverse impacts to the surrounding natural and built environment or result in adverse social or economic impacts.

Access, Transport & Traffic

Access to the site is from Channel Place via the existing driveway, with transport to the site being predominately by the private motor vehicle. The proposal is considered not to increase the number of vehicles entering and exiting the site.

(c) Suitability of the site for the development

Surrounding Land Uses/Development

The surrounding land uses include mostly single storey residential housing. The proposed development is considered unlikely to have a significant negative impact on the surrounding land uses and development.

Availability of Utilities & Services

The proposal is located within a well-established area of Kingscliff and as such all-essential services are currently provided to the site, which are adequate for the proposed use.

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

The proposal was notified for a period of 14 days. During the notification period Council received no submissions.

(e) Public interest

The proposal is located within the 2(c) urban expansion zone. The proposed works are considered in keeping with the current and future context of the area. The proposal is generally in accordance with Council's requirements and is not considered to contradict the public's interest.

OPTIONS:

Nil.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposal has been thoroughly assessed and is considered suitable for the site and is not likely to create any significant adverse impacts on either the built or natural environments in the locality. The proposed double carport and use of the existing double garage for a multi-purpose room is therefore considered to warrant approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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P17 [PD-PC] Development Application DA06/0423 - Dwelling, Swimming Pool & Hut at Lot 17 DP 1043036, Terranora Road, Terranora

ORIGIN:

Building Services

FILE NO: DA06/0423 Pt1

SUMMARY OF REPORT:

A development application has been received for the construction of a single storey dwelling, swimming pool and bali hut on the subject allotment.

The land is zoned 1(c) Rural Living and is located on the southern side of Terranora Road on the western corner of Shamara Road.

The allotment is cleared and has a moderate slope downhill towards Terranora Road.

Notwithstanding that the allotment will have vehicular access via a right of way at the rear of the lot off Shamara Road it has frontage to Terranora Road which under the provisions of Tweed Local Environmental Plan 2000 is a designated road.

The allotment has minimum depth (clear of the right of way) of 39.215 metres and encompasses an area of 864.6 square metres.

Under the provisions of part 5, clause 24 of the LEP the proposed dwelling is required to observe a minimum setback to Terranora Road of thirty (30) metres.

As the allotment is located on the corner of two streets it is also subject to a secondary setback of three (3) metres to Shamara Road which further reduces the available building platform.

An objection to this requirement has been lodged under the provisions of State Environmental Planning Policy No. 1 (SEPP 1) requesting that consideration be given to a reduced building line to Terranora Road of ten (10) metres to the northern wall of the dwelling with a bali hut being located adjacent to a proposed swimming pool and 3.271 metres from the Terranora Road frontage to the site.

RECOMMENDATION:

That: -

- 1. Council assumes the concurrence of the Director General for the approval of the SEPP 1 objection to vary the thirty metre setback requirement.**

2. **Development Application DA06/0423 for a dwelling, swimming pool & bali hut at Lot 17 DP 1043036, Terranora Road, Terranora be approved, subject to the following conditions: -**

GENERAL

1. **The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.**
[GEN0015]
2. **The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**
[GEN0115]
3. **Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**
[GEN0135]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. **The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.**
[PCC0945]
5. **Prior to the issue of a construction certificate the Principal Certifying Authority shall be provided with and approve engineers details for the construction of the swimming pool. These details shall confirm that the swimming pool has been designed so that it will have no adverse impact on the stability of the battered bank at the front of the property.**
[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

6. **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
- (c) 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
- (d) 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.

[PCW0215]

7. 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.

[PCW0225]

8. Residential building work:
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:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:
- * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
- (b) 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.

[PCW0235]

9. 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

[PCW0245]

10. 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.

[PCW0255]

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

- (a) 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
- (b) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
- (c) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) 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.

[PCW0775]

12. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act 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.

[PCW0985]

13. 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 Principal Certifying Authority prior to commencement of building works.

[PCW1005]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

14. A person must not commence occupation or use of the whole or any part of a new building or structure (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).

[POC0205]

15. Prior to the issue of an occupation certificate,

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

[POC0235]

16. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

17. 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.

[POC1045]

DURING CONSTRUCTION

18. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DUR0005]

19. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

20. **Any metal roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.**

[DUR0245]

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

[DUR0375]

22. **Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.**

[DUR0395]

23. **The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.**

[DUR0405]

24. **The finished floor level of the building should finish not less than 225mm above finished ground level.**

[DUR0445]

25. **All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Councils adopted Design and Construction Specifications, DCP16 and DCP47 to the satisfaction of the Principal Certifying Authority.**

Please note timber retaining walls are not permitted.

[DUR0835]

26. **The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.**

[DUR0905]

27. **All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -**

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

28. Swimming Pools (Building)

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Council's "Code for the Installation of New Swimming Pools" and Australian Standard AS 1926-1986 (Copy of code enclosed).
- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.

[DUR2075]

29. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.

[DUR2085]

30. Area below the spa is to be graded, drained and ventilated.

[DUR2145]

31. 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.

[DUR2185]

32. 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.

[DUR2485]

33. Plumbing

- (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.

[DUR2495]

34. **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.**

[DUR2545]

35. **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:-**

- * **45⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and**
- * **50⁰C in all other classes of buildings.**

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

[DUR2555]

REPORT:

Applicant: Mr M Woodward & Mrs L Woodward
Owner: Mr MA Woodward & Mrs LI Woodward
Location: Lot 17 DP 1043036 Terranora Road, Terranora
Zoning: 1(c) Rural Living
Cost: \$275,000

BACKGROUND:

A development application has been lodged for the construction of a single storey dwelling, swimming pool and bali hut on the subject allotment.

A SEPP 1 objection has been lodged against the requirement under clause 24 of the Tweed LEP in relation to a thirty (30) metre building line to Terranora Road, which is a designated road.

The Applicant's reasons for requesting a SEPP 1 objection to the thirty (30) building setback are as follows :-

- *The thirty metre setback requirement for dwelling house is an anomaly as it was not intended to apply to small lots fronting roads with low travel speeds,*
- *Compliance with the standard is not appropriate given the minimum area requirements applicable to this zone,*
- *Vehicular access to the lot is via an existing right of carriage way from Shamara Road and no additional access from the designated road is proposed,*
- *Existing dwellings in this locality do not comply with the development standard,*
- *The proposed development setback from the alignment of Terranora Road is considered to be only minor development without any significant impact on the adjoining properties or traffic generated along Terranora Road.*
- *The dwelling does not encroach any closer to the road than other dwellings located within close proximity to the subject site. The dwelling will not create an adverse impact to the traffic generated along Terranora Road. The dwelling would be consistent with the objectives of the standard and would not result in any adverse impacts.*

The site has a depth (clear of the right of way) of 39.215 metres and must also observe a three metre setback to Shamara Road which is the secondary road frontage.

Enforcing compliance with a thirty (30) metre setback to Terranora Road would result in an unusable building envelope.

Access to the site is via a right of way at the rear of the allotment which is accessed off Shamara Road.

Other dwellings in this subdivision which also face Terranora Road have previously been granted SEPP 1 objections for similar setbacks.

The Bali hut complies with Council's building line policy in relation to height and floor area.

It should be noted that a SEPP 1 objection has already been considered on the parent parcel of land from which this subdivision was created and that consent was granted to reduce the setback.

The level of the allotment adjacent to Terranora Road is approximately 1.5 metres above the road and therefore it is considered that traffic using Terranora Road will not be impacted on by the proposed development in relation to sight lines or other distractions. The proposed bali hut satisfies Council's building line policy for open structures in the proposed location.

As part of the approval process adjoining property owners were notified of the proposal and after the expiration of the fourteen day notification period no objections had been received.

The objectives of part 5 (Roads) clauses 22, 23 and 24 of the Tweed LEP and a response to each objective is as follows –

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

Response - there will be no vehicular access to the subject site off Terranora Road and therefore the capacity, efficiency and safety of this road will not be compromised.

- **To prevent development on designated roads that would detract from the scenic attractiveness of the area of the Tweed.**

Response - the proposed development will comprise a residential dwelling, bali hut and swimming pool which will be consistent with the rural residential nature of the area.

This subdivision was approved to permit the construction of single dwellings and due to the physical limitations of the allotments it is impractical to enforce a thirty metre building alignment to Terranora Road.

The proposal will therefore not have an adverse impact on the scenic attractiveness of the area.

- **To prevent or reduce the potential impact of traffic noise on development adjacent to designated roads.**

Response - the dwelling will be set back ten (10) metres from Terranora Road with a rumpus room being the closest room to the roadway. The bali hut will observe a setback to Terranora Road of 3.271 metres however as this structure is not habitable it has not been considered in relation to traffic noise issues.

Due to the slope of the allotment and the level of the allotment above Terranora Road the dwelling will be at a level considerably above Terranora Road which will lessen the impact of traffic noise on the proposed dwelling.

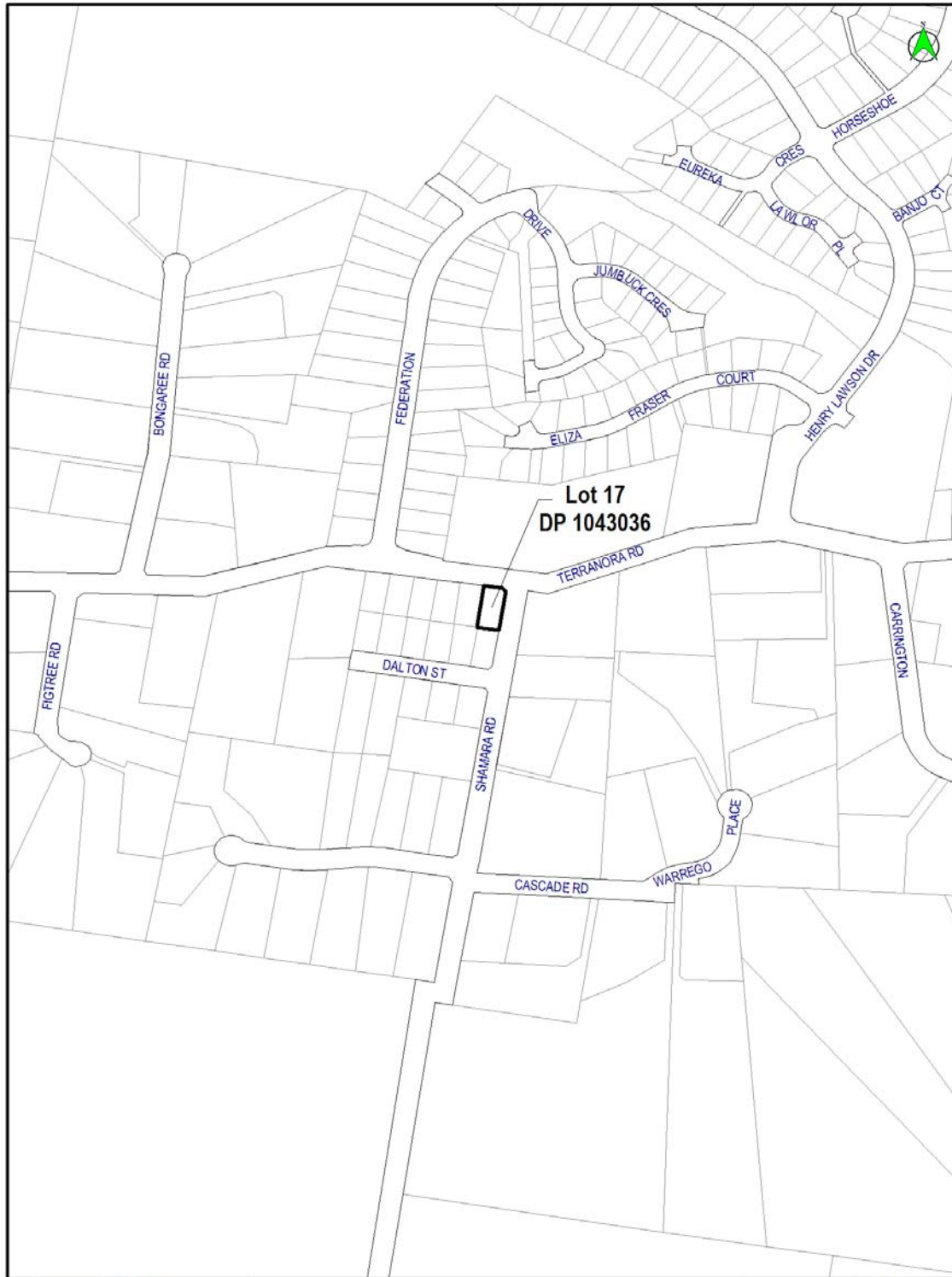
- **To control access to designated roads.**

Response – no vehicular access is proposed off Terranora Road .

- **To control development along designated roads.**

Response - the allotment exists in an area which is zoned for rural residential use and in a subdivision which was specifically created for residential dwellings therefore the proposal is considered to be consistent with the objectives of the zoning of the area.

SITE DIAGRAM:



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 P.O. Box 816
 Murwillumbah NSW 2484
 Tel: (02) 6670 2409
 Fax: (02) 6670 2483

Tweed Shire Council
 Lot 17 DP 1043036
 Terranora Road, Terranora



STRATEGIC PLANNING UNIT
Site Plan

File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 01/June/2006 Scale: 1:5,000 Sheet: 1 of 1

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

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

The environmental planning instrument in force is the Tweed Local Environmental Plan 2000 and the proposal generally satisfies this instrument.

State Environmental Planning Policies (SEPP)

As advised above, the Applicant seeks to vary the requirement under clause 24 of LEP 2000 that the dwelling observe a thirty metre setback to Terranora Road on the grounds that there is inadequate area on the site to locate the dwelling if all statutory setbacks to Terranora Road and Shamara Road are observed. The bali hut is proposed to be located adjacent to the swimming pool which will be located in the front yard.

The Bali hut satisfies Council's building line policy in relation to height and floor area.

There is no other suitable location on the site with a northerly aspect for the location of these structures.

It is considered that enforcing strict compliance with the thirty metre setback to Terranora Road is unreasonable and unnecessary and would not achieve any positive planning objective.

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

N/A

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

The proposal satisfies all relevant development control plans

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

There are no matters prescribed by the Regulations.

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

There will be no adverse environmental impact on either the natural or built environment or the social and economic impacts in the locality.

(c) Suitability of the site for the development

The site is considered to be suitable for the proposal.

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

The proposal is considered to have no adverse impact on the amenity of adjoining properties. Adjoining property owners were notified of the proposal due to the proposed location of the bali hut and any objection which may be received will be considered on the relative merits of the objection.

(e) Public interest

There is considered to be no adverse public interest issues involved with this proposal.

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Under the circumstances it is considered that the proposal to construct the dwelling with a minimum building line of ten (10) metres and the bali hut with a building line of 3.27 metres to Terranora Road is reasonable for conditional approval

The SEPP 1 objection to reduce the statutory building line has been considered and under the circumstances it is considered that the variation is justified and should be supported.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

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P18 [PD-PC] DA05/0774 for the Demolition of Existing Service Station Incorporating an Ancillary Shop & Workshop & Erection of a New Service Station Incorporating an Associated Shop at Lot 1-3 DP28438, Nos. 107, 109 Ducat St & No. 109 Kennedy Dr, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA05/0774 Pt2

SUMMARY OF REPORT:

Council has received a Development Application for the demolition of an existing service station incorporating an ancillary shop and workshop for the erection a new service station incorporating an associated shop at Lots 1, 2 and 3 DP 28438, No. 107-109 Ducat Street & No. 109 Kennedy Drive.

Council previously approved a similar proposal under Development Consent K99/585 on the 15 December 1999 however this approval lapsed on 17 December 2004. As a consequence this application has been submitted to Council for approval.

The main issues relating to the proposal include land contamination, the noise likely to be generated onto adjoining properties and the potential for light spillage onto these properties. The Environment and Health Unit have indicated that these measures can be overcome with appropriate conditions of consent. These measures include an acoustic fence, careful positioning of air conditioning and motorised units, and the direction of light spillage away from adjoining residential properties.

The assessment of the proposal against the relevant planning instruments has not identified any areas of non-compliance that would warrant refusal of the proposal. The application is recommended for approval.

RECOMMENDATION:

That Development Application DA05/0774 for the demolition of existing service station incorporating an ancillary shop and workshop and erection a new service station incorporating an associated shop at Lot 1, 2 & 3 DP 28438, No. 107-109 Ducat Street & No. 109 Kennedy Drive, Tweed Heads be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Drawing No R71034AP005 prepared by Cadway Design and dated 5 June 2006, Drawing Nos R71034AP008,**

R71034AP009, R71034AP010 prepared by Cadway Design and all dated 29 April 2005, Drawing No R71034AP011 prepared by Cadway Design and dated 5 May 2005 and Drawing No R71034N001 prepared by Cadway Design and dated 27 June 2001, except where varied by the conditions of this consent.

[GEN0005]

- 2. All works shall be undertaken in accordance with the Remediation Action Plan for the BP Service Station, corner Kennedy Drive and Ducat Street, Tweed Heads prepared by OTEK Australia Pty Ltd dated 13 April 2006 (Ref No: 5116040).**

[GENNS01]
- 3. Prior to the removal of concrete slab foundations, soil testing to the satisfaction of Council's Director of Environment & Community Services shall be undertaken. Such soil testing shall be in accordance with Council's Pre-demolition Testing Guidelines, the Preliminary Site Remediation Action Plan (Organochlorine Pesticides) for BP Service Station Cnr Kennedy Drive & Ducat Street, Tweed Heads prepared by OTEK Australia Pty Ltd dated 10 January 2006 (Ref: 5115124), and section 5.3 of the Remediation Action Plan for the BP Service Station, corner Kennedy Drive and Ducat Street, Tweed Heads prepared by OTEK Australia Pty Ltd dated 13 April 2006 (Ref No: 5116040).**

[GENNS02]
- 4. Prior to the excavation pits being backfilled, validation sampling as per NSW Environmental Protection Authority contaminated sites guidelines is to be carried out within all excavation pits, and a Validation Report prepared by a qualified consultant shall be submitted and approved by Council's Director Environment & Community Services.**

[GENNS03]
- 5. 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.**

[GEN0045]
- 6. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**

[GEN0135]
- 7. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**

[GEN0115]
- 8. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill,**

documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.

[PCC0465]

9. Prior to the Construction Certificate being issued, plans of the proposed food outlet (cafe and convenience shop) internal fit-out drawn to a scale of 1:50 must be submitted for assessment, detailing the following:

- (a) Floor plan
- (b) Layout of kitchen showing all equipment
- (c) All internal finish details including floors, wall, ceiling and lighting
- (d) Hydraulic design in particular method of disposal of trade waste
- (e) Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required
- (f) Served areas including counters etc.

[PCCNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. Section 94 Contributions

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

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: **\$8,459**
S94 Plan No. 4 (Version 4.0)
Sector1_4

[PCC0215]

11. Section 94 Contributions

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.

Heavy Haulage Component

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

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

where:

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

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads
(trip one way)

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

Admin. Administration component - 5% - see Section 6.5

[PCC0225]

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 DSP4: 0.212 ET @ \$4230 \$897
Sewer Tweed Heads: 0.318 ET @ \$6152 \$1,956

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED 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.

[PCC0265]

13. 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 maintained wholly within the subject land. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

14. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
- (a) All building materials used below Council's design flood level must not be susceptible to water damage.

- (b) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water.
 - (c) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage. [PCC0705]
15. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
 - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
 - (d) Specific Requirements to be detailed within the Construction certificate application include:
 - (i) Filling of the shop building pad must not result in stormwater ponding on the adjoining residential allotment to the north. Perimeter drainage must be provided to convey all stormwater to a legal point of discharge.
 - (ii) Driveway and hardstand areas along the western boundary of the site must be graded to contain all runoff within the subject allotment. Perimeter drainage shall be installed, if required, to prevent overland stormwater flows from discharging on to the adjoining car wash site to the west, for events up to ARI 100 year storm event.
 - (e) All driveway and hardstand runoff must be treated in accordance with the requirements of Council's *Development Design Specification D7 - Stormwater Quality*. Roof and landscaping runoff does not require treatment and should be discharged downstream of any treatment devices.
-

- (f) Refuelling areas must be covered and bunded to prevent stormwater contamination. All captured runoff must be treated to remove oil and sediment pollution, prior to discharge to sewer as trade waste, requiring a TSC trade waste application. [PCC1105]
16. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works
- will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.
- Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee. [PCC1145]
17. Erosion and Sediment Control shall be provided in accordance with the following:
- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". [PCC1155]
18. Pursuant to Section 68 of the Local Government Act, 1993 an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed in accordance with Tweed Shire Councils Trade Waste Policy. Submission of detailed hydraulic plans and specifications indicating size, type, location and drainage installations in accordance with AS 3500 shall be submitted to Council for approval. [PCC1265]
19. Three copies of detailed hydraulic plans shall be submitted with all trade waste applications which indicate size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS3500. [PCC1275]

20. Prior to the issue of a Construction Certificate, the existing sewer main and manhole within the site is to be accurately located and clearly depicted on the plans, as Council records differ to the information as shown on the original submission. All structures are to be located clear of any sewer mains or manholes.

[PCNS02]

PRIOR TO COMMENCEMENT OF WORK

21. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

[PCW0005]

22. Sewer main, stormwater line or other underground infrastructure within or adjacent to the site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.

[PCW0965]

23. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act 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.

[PCW0985]

24. 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.

[PCW1065]

25. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[PCW1075]

- 26. 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**
 - (c) 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**
 - (d) 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.**
- [PCW0215]*
- 27. 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.**
- [PCW0225]*
- 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**
- [PCW0245]*

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.

[PCW0255]

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

[PCW0665]

31. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]

32. Any on-site remediation of contaminated soil or groundwater is to be carried out so as not to cause the emission of harmful levels of contaminant vapours at the boundaries of any adjacent premises.

[DURNS01]

33. No external mechanical plant or motor units of any kind are to be mounted to the external face of the northern wall of the convenience shop.

[DURNS02]

34. The burning off of trees, associated vegetation felled by clearing operations, and builder's waste is prohibited.

[DURNS04]

DURING CONSTRUCTION

35. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

36. 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.

[DUR0215]

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

[DUR0815]

38. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution**
- Minimise impact from dust during filling operations and also from construction vehicles**
- No material is removed from the site by wind**

[DUR1005]

39. Provision to be made for a flood free storage area for stock and equipment susceptible to water damage.

[DUR1395]

40. All internal fitout is to comply with Australian Standard AS4674 - Design, Construction and Fitout of Food Premises.

[DUR1535]

41. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers

- and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate. [DUR1545]
42. A floor waste connected to the drainage system shall be provided within 1.5 metres of the opening of the cool room. [DUR1565]
43. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned. [DUR1605]
44. The walls and floors of the premises must be lined, sealed or sheeted with an approved smooth impervious material capable of being easily cleaned. [DUR1615]
45. The walls immediately behind any basin shall be provided with an impervious splashback to a height of 450mm and at least 150mm either side of the basin. [DUR1625]
46. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste". [DUR2195]
47. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads. [DUR2415]
48. All waters that are to be discharged from the site shall a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/kg. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request. [DUR2435]
49. Prior to the removal of excess spoil from the site, a deposition area shall be nominated, with written confirmation from the receiving property owner/manager that the material will be accepted. A copy of the confirmation shall be provided to Council.
50. In the event of fuel odours being detected during earthworks and associated operations, all works shall cease and the responsible environmental consultant notified immediately for appropriate action. [DURNS05]
51. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff

in accordance with the application lodged and upon excavation of the service by the developer shall undertake Works.

[DUR0675]

52. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the General Manager of his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works.

[DUR0725]

53. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".

[DUR0785]

54. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council.

[DUR0985]

55. 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/Occupation Certificate.

[DUR0995]

56. Building materials used below Council's adopted design flood level of RL 2.65m AHD shall be flood compatible.

[DUR1405]

57. Subject to the requirements of the local electricity authority, all electrical wiring, power outlets, switches, etc, should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level shall be provided with earth leakage devices.

[DUR1415]

58. 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 in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

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

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

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

[DUR2375]

60. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.

[DUR2405]

61. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

62. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water.

[DUR2595]

63. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.

[DUR2645]

64. A Sewer manhole is present on this site. This manhole is not to be covered with soil or other material.

Should additional fill be proposed in the area of the sewer manhole application shall be made to Council's Engineering & Operations Division for the raising of the manhole.

[DUR2655]

65. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention.

[DUR2675]

66. A trade waste agreement will be issued and a permit number allocated once the device has been installed, inspected and Council has received a copy of the Waste Contractor's Service Agreement [DUR2685]
67. 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 Tweed Shire Council prior to installation [DUR2735]
68. 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 was made). [DUR0375]
69. 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. [DUR0395]
70. 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. [DUR0405]
71. 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 in accordance with WorkCover 2000 Regulations. [DUR0415]
72. 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 in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.
- Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.
- Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.
-

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

73. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.

[DUR0645]

74. Any premises used for the storage, preparation or sale of food are to comply with the relevant provisions of the Food Act, 1989 and Council's adopted Code for the construction of Food Premises. Details of fittings and equipment are to be submitted to the Principal Certifying Authority prior to installation.

[DUR1485]

75. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

76. 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.

[DUR2185]

77. 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.

[DUR2485]

78. Plumbing

- (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.

[DUR2495]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

79. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer for final approval.

[POC0615]

80. The food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations.

[POC0625]

81. The premise is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POC0635]

82. Prior to the issue of an Occupation Certificate the applicant shall dedicate the splay corner at no cost to Council.

[POCNS02]

83. Prior to the issue of an Occupation Certificate the applicant shall create an easement for the drainage of sewage over all existing Council sewer infrastructure within the site.

Any Section 88B Instrument creating restrictions or easements which benefit Council shall contain a provision enabling such restrictions or easements to be revoked, varied or modified only with the consent of Council.

[POCNS03]

84. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

85. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

86. The existing disused layback at the northern end of the Ducat Street frontage is to be removed and replaced with kerb and gutter to match existing. The disturbed footpath area is to be restored and turfed. All work is to be carried out in accordance with Council's adopted Development Design and Construction Specifications.

[POCNS01]

87. A person must not commence occupation or use of the whole or any part of a new building or structure (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).

[POC0205]

88. 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.

[POC1045]

USE

89. 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.

[USE0125]

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

[USE0135]

91. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light creating a nuisance to neighbouring or adjacent premises.

[USE0225]

92. All air conditioning units, refrigeration compressors, other mechanical plant and associated equipment shall be acoustically treated where necessary or required to the satisfaction of the General Manager or his delegate so as to avoid the creation of intrusive or unreasonable noise to any occupant of neighbouring or adjacent premises.

[USE0235]

93. All plant and equipment installed or used in or on the premises: -

- (a) Must be maintained in a proper and efficient condition, and
- (b) Must be operated in a proper and efficient manner.

[USE0315]

94. All loading/unloading to take place within the boundary of the subject property.

[USE0525]

95. Any premises used for the storage, preparation or sale of food shall comply with the *Food Act* 2003 and the Australia New Zealand Food Standards Code.

[USE0835]

96. All mechanical ventilation shall comply with AS1668.2 Ventilation Requirements.

[USE0845]

97. All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate.

[USE0875]

98. The premises must be provided with facilities that are adequate for the purpose of keeping appliances and utensils clean.

[USE1005]

99. The delivery of goods, including fuel, and the servicing of waste shall primarily be restricted to between the hours of 7.00am to 7.00pm daily to minimise disturbance to neighbouring and adjacent premises.

[USENS01]

100. The development shall be carried out in accordance with the Noise Aspects Report for the site prepared by ASK Consulting Engineers dated 11 November 2005 (Report No: 3596R01V01.doc).

[USENS02]

101. The design of the public address system is to be such that noise levels from the system do not exceed 35 dB(A) when measured at the boundary of the worst affected premises between 7.00pm and 7.00am.

[USENS03]

102. All hazardous and/or dangerous goods shall be stored and handled in accordance with the requirements of NSW WorkCover.

[USENS04]

103. Compliance with the provisions of AS 1940: 2000 "The Storage and Handling of Flammable and Combustible Liquids".

[USENS05]

REPORT:

Applicant: BP Australia Pty Ltd
Owner: BP Australia Pty Ltd
Location: Lot 1, 2 & 3 DP 28438 No. 107-109 Ducat Street & No. 109 Kennedy Drive, Tweed Heads
Zoning: 2(a) Low Density Residential
Cost: \$2,800,000

BACKGROUND:

Council has received a Development Application for the demolition of an existing service station incorporating an ancillary shop and workshop for the erection of a new service station incorporating an associated shop at 107-109 Kennedy Drive, Tweed Heads.

The proposal is to redevelop the existing service station and associated shops with upgraded facilities appropriate to current demands. The existing service station and shop was constructed approximately 21 years ago. This facility contains a service station control building and shop as well as workshop facilities. The buildings have a gross floor area of approximately 194 metres squared. A 2 x 2 covered forecourt accommodates 8 refuelling positions. Currently carparking for 13 cars is provided. The current facility is no longer appropriate to serve market demands.

The proposal is to redevelop the site to provide a service station and associated shop contained in a 300 metre squared building. No workshop facilities are to be provided. The building is a single storey structure with a parapet height of 4.5 metres. It is to be constructed of precast concrete panels with a painted finish. The front elevation of the building incorporates a glass shopfront shaded with an awning. There are limited building openings to the other elevations.

The building is to be setback against the northern property boundary and carparking currently located along this boundary is to be repositioned to the front of the building to provide greater convenience and safety for customers. A total of 16 carparking spaces are proposed. The enlarged forecourt will accommodate a 4-inline canopy accommodating 8 refuelling positions. The proposed redevelopment will provide for 286 metres squared of landscaping principally along the frontages of the site. New underground fuel storage tanks are proposed and the development is proposed to continue to operate 24 hours a day, seven days a week.

Council's Development Assessment Panel approved Development Application K99/585 on the 15 December 1999 on the same site for the Redevelopment of the Service Station and Associated Shop. Council received an application to amend Development Consent K99/585 by amending the approved plan including:

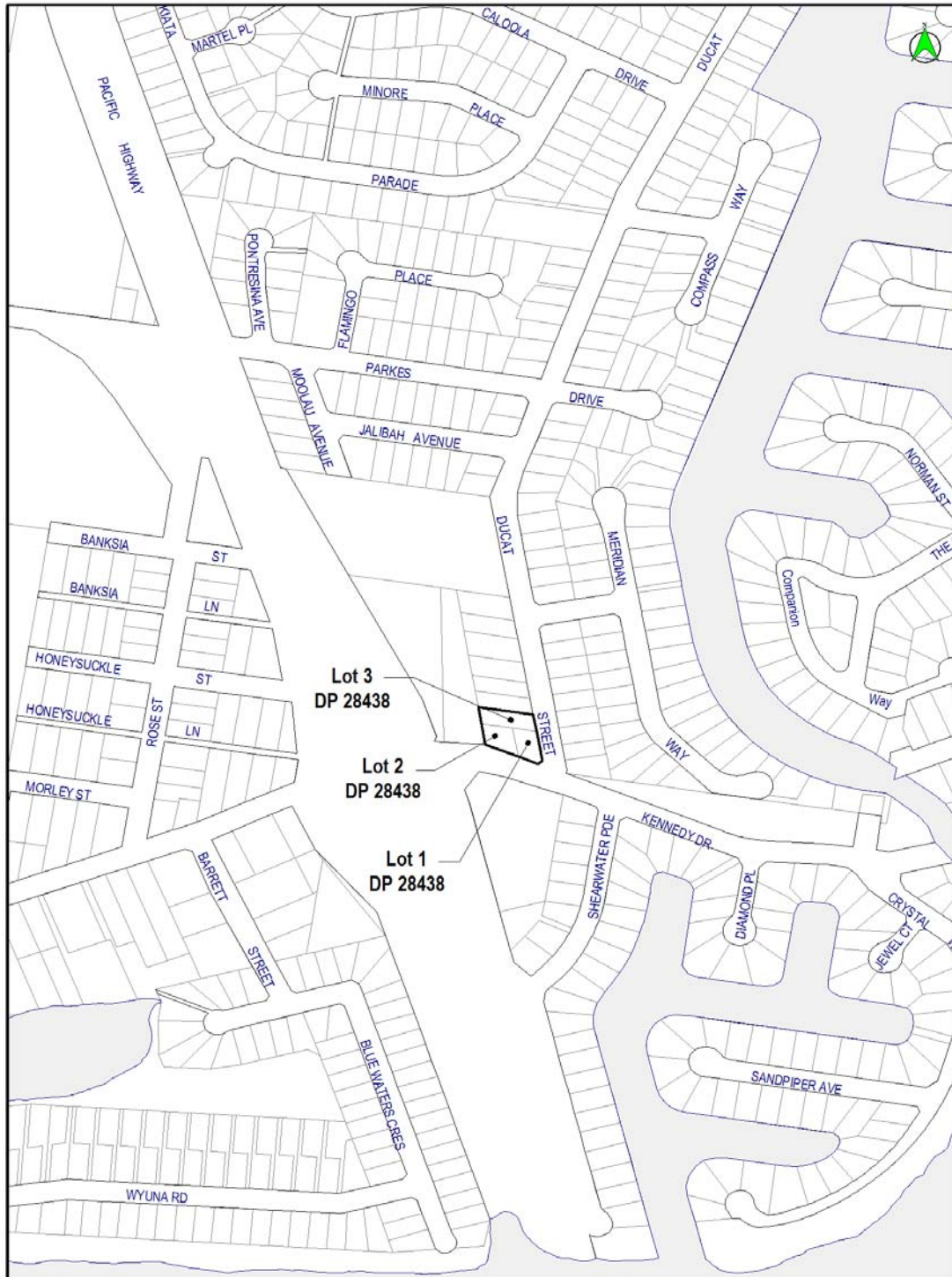
- Reduction in number of starter gates from 5 to 4 thereby allowing refuelling of 8 vehicles,
- Increasing the floor area of the approved building from 240m² to 290m²,
- The provision of three additional on site car parking spaces,

- Minor changes to the layout of the development such as a reduction in the canopy over the refuelling area and the re-orientation of the refuelling area.

The Section 96 Application was approved on 23 March 2001. The consent under K99/585 lapsed on 17 December 2004. This application has subsequently been lodged as it is the company's intention to resume its retail development investment programme in 2006 and it is envisaged that this project will be commenced soon if approved by Council.

The only significant difference between the current proposal contained in this subject application and the proposal approved in the modified development consent is the relocation of the fill points for the underground fuel storage tanks. The repositioning of these fill points is to comply with new statutory requirements. Other variations are of a very minor nature.

SITE DIAGRAM:



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Tweed Shire Council
 Lots 1, 2 & 3 DP 28438
 No. 107-109 Ducat Street & No. 109 Kennedy Drive
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 06/June/2006



STRATEGIC PLANNING UNIT
Site Plan
 Scale: 1:5,000 Sheet: 1 of 1

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

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

Tweed Local Environmental Plan 2000

Clause 11: Under the Tweed Local Environmental Plan 2000 the subject site is zoned 2(a) Low Density Residential. Service Stations are identified as being prohibited within the 2(a) Low Density Residential Zone pursuant to Clause 11 of the Local Environmental Plan 2000. The existing service station has been in existence for many years and approval was granted in December 1986 for the establishment of a convenience store in an existing service station and workshop on the site. The use of the site for the service station is therefore considered lawful and expansion/redevelopment can be allowed under Division 10 of the Environmental Planning and Assessment Act, 1979 and Part 5 of the Regulations. Consent is required from Council for any alterations, addition or expansion of the use, however, the 2(a) Zoning does not represent any prohibition for Council to approve the application.

The secondary objective for the 2(a) Low Density Zone allows for the establishment of non-residential development that serves the local needs of the community providing such development does not detract from the character and amenity of the area. The proposed development is to provide a facility that serves local needs and its design and location is such that this can be achieved without detracting from the character or amenity of the area.

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 34 of the TLEP sets out objectives of the planning instrument with respect to land liable to flooding. The proposed development provides a floor level of 2.70 metres which is above the design flood level of 2.65 metres. The design of the facility therefore minimises the potential impacts of flooding. The area of site to receive additional fill is minimal and is not likely to have any impact on the severity of flooding to other properties.

Clause 35 of the TLEP seeks to manage the effects of disturbance to acids sulphate soils. Investigations have identified the presence of acid sulphate soils and a management plan has been developed to minimise adverse impacts from their disturbance.

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.

State Environmental Planning Policies

State Environmental Planning Policy No 11.

The proposal for a service station is a schedule 2 development requiring assessment by the RTA and as such the proposal was referred to the RTA. Council received advice back from the RTA stating the Kennedy Drive is a Regional Road under the care and control of the Tweed Shire Council. As such Council is the Road Authority for this road as well as the Consent Authority for the development application and consequently the application was not considered integrated development. The RTA advised though, the development triggers referral under State Environmental Planning Policy No. 11 service station developments which are Schedule 2 developments requiring comment by Council's Development Committee. As such the RTA advised for the Development Application to be referred to the Council Development Committee for discussion. At Council's Local Traffic Committee meeting of 15 September 2005 the Development Application was discussed. The Committee noted that the work only involves upgrading of the facility and does not alter current access arrangements and therefore had no concerns with the proposal.

State Environmental Planning Policy No 33.

The proposal does not constitute hazardous or offensive development and as such is compliant with SEPP 33.

State Environmental Planning Policy No 55.

The proposed development is to be undertaken on a site that may have contamination. It is considered that as the use of the site is not altered by the proposed development, the proposed use is one which is suited to the land in its present state and can be approved by Council pursuant to Clause 7 of State Environmental Planning Policy 55.

A Remediation Action Plan for the BP Service Station, corner Kennedy Drive and Ducat Street, Tweed Heads prepared by OTEK Australia Pty Ltd dated 13 April 2006 (Ref No: 5116040) has been provided. It was prepared in conjunction with the ASSMP and Preliminary Site RAP (Organochlorine Pesticides) and in accordance with the NSW EPA Contaminated Sites Guidelines.

The report documents the strategies for the remediation of hydrocarbon-impacted soil. Contaminants of concern include: TPH, BTEX and Lead for soil and groundwater, and heavy metals (arsenic, cadmium, copper, mercury, nickel, zinc), phenols, and PAH for the workshop area and associated waste oil storage areas.

The remediation strategy includes removal of the fuel storage, delivery and workshop structures, the excavation of hydrocarbon impacted soil from adjacent to these structures, and sampling of excavation boundaries, resulting in the removal of current sources of hydrocarbon impact and allowing for characterisation of soil conditions prior to installation of the upgraded facility infrastructure.

The old tank pit excavation will be backfilled and compacted with clean validated fill at the completion of removal works. The new tanks will be installed in a separate location on the site.

O TEK state that the hydrocarbon concentrations expected to be encountered in the soil around the fuel system should meet the solid waste criteria specified for Stott's Creek Landfill Facility based on previous sampling results. Written acceptance of the impacted soil based upon the hydrocarbon concentrations present will be sought prior to off-site disposal.

Due to the nature of the impact on site, remediation works may result in the generation of odours. O TEK's site representative will keep a log of all complaints, and odours will be managed so that they do not result in an environmental nuisance. A Photo-Ionisation Detector (PID) and Lower Explosive Limit (LEL) meter will be used to obtain readings and document VOC concentrations during activities when soil and groundwater are being disturbed.

State Environmental Planning Policy No 64.

The proposed development also includes the following signage:

1. Main Identification Sign: This is a freestanding, internally illuminated, pylon sign. It has a height of 9 metres and a face area of 19.8 metres squared. It is to be sited at the south-eastern corner of the site adjacent to the intersection between Kennedy Drive and Ducat Street.
2. Price Boards: One non-illuminated freestanding pillar sign having a height of 3.0 metres and a face area of 3.5 metres squared located on the Ducat Street frontage.
3. Posterboard: One illuminated freestanding pillar sign having a height of 3.0 metres and a face area of 3.5 metres squared located on the Kennedy Drive frontage.
4. Canopy Fascia Signs: Three illuminated logos mounted on the canopy fascia with each sign having a diameter of 0.914 metres and an area of 0.84 metres squared.
5. Building Wall Sign: 3 internally illuminated logos mounted on the wall of the building with each having an area of 2.4 metres squared.

6. Building Awning Sign: Internally illuminated sign mounted on the building awning. It has a height of 0.625 metres and a width of 5.64 metres giving an area of 3.525 metres squared.

All proposed signage has been assessed under State Environmental Planning Policy No 64 as well as an assessment checklist completed demonstrating general compliance with SEPP 64.

State Environmental Planning Policy No 71.

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

No Draft Environmental Planning Instruments are applicable to the Development Application.

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

The following Development Control Plans are applicable to the Development Application.

Development Control Plan No 2 – Site Access and Parking Code

The Site Access and Parking Code is applicable to the proposed development. The following table depicts the required parking facilities and the proposed parking facilities for the service station:

	Required	Provided
Cycle Parking	0.5/carpark = 6	6 provided
Service Vehicles	Articulated	Articulated vehicle + Small rigid vehicle
Staff carparking	0.5 / staff = 2	4 provided
Customer carparking	3.5/100m2 = 10.5	12 provided

As can be seen the proposal is fully compliant with Council's adopted Development Control Plan No 2.

The site has frontages of approximately 50 metres to both Kennedy Drive and Ducat Street. The site is serviced by three (3) existing footpath crossings, which will be retained. The western most access driveway leads to a Right of Carriageway that allows access across the south-western corner of the site, to

the adjoining property. It is noted that a disused vehicle entry at the northern end of the Ducat Street frontage needs to be removed.

The site is fronted by existing brick paved footpaths along both frontages. A splay corner will be dedicated to rectify an encroachment by the existing path paving onto the site.

Development Control Plan No 5 – Development of Flood Liable Land

DCP5 identifies that the adopted design flood level in the Tweed Heads area is 2.65m AHD. The DCP requires that the site be drained to the street or other approved drainage system and that flood free storage areas be made available for stock and equipment susceptible to water damage. These requirements will be enforced on any consent issued.

Development Control Plan No 15 – Advertising Sign Code

The Development Application also proposes signage as part of its application. The Applicant has submitted an assessment against SEPP 64 with the proposal not raising any concerns against SEPP 64 or DCP No 15.

(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 service station 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

The proposal has potential to impact on adjoining residential properties by way of noise and lighting. In this regard the applicant has proposed on the submitted plans to construct a 2 metre high timber screened acoustic fence between the proposed convenience store and the rear boundary of the property to screen noise and lighting from cars. Additionally, a landscaped buffer will be provided on the site in between the acoustic fence and car parking spaces.

Council's Environment and Health Unit has reviewed the proposal and have advised that the application is considered suitable for approval subject to restrictions regarding the operation of the service station.

(c) Suitability of the site for the development

The site has been used for a number of years as a service station site and it is considered to be suitable for this use. The proposed development will not alter the character of the site. The built form elements are similar to those presently located on site. The re-siting of these elements within the site will not have an impact on the visual amenity of the site or character of the area. The site is of a size and shape that can adequately accommodate the proposed development. It is well located in terms of both the road network and adjacent land uses to provide the facilities envisaged.

Immediately adjoining the service station is a carwash to the west and a residence to the north. Land use in the vicinity of the site is predominantly residential however the site forms part of a commercial centre located on the northern side of Kennedy Drive and stretching from the Pacific Highway to the canal approximately 400 metres to the east. A range of retail outlets, food premises, personal services, medical services and other facilities are located within the commercial centre.

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

The Development Application was advertised in the Tweed Link for a period of fourteen (14) days from Wednesday 20 July 2005 until Wednesday 3 August 2005. During the submission period only one (1) submission was received.

The submission was received from the property owner of Whale Auto Wash Pty Ltd, which is the owner of the land immediately adjoining the western side of the subject service station. The submission raised concerns relating to stormwater drainage from the driveways of the subject site. The property owner of Whale Auto Wash Pty Ltd requested that should the application be approved, it include appropriate conditions, including regrading of existing finished ground levels if necessary, to ensure that all runoff is collected and treated on site and discharged to proper stormwater conveyance infrastructure.

Suitable engineering conditions including driveway regrading and perimeter drainage have been imposed as recommended conditions of consent to address the concerns raised in the submission.

(e) Public interest

The proposal would not contravene the interests of the general public.

OPTIONS:

1. Approve the Development Application and impose the recommended conditions of consent.
2. Refuse the Development Application and provide reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

In conclusion it is considered that the main issues relating to the proposal include land contamination, the noise likely to be generated onto adjoining properties and potential light spillage onto this land. The Environment and Health Unit have indicated that these issues can be overcome with appropriate conditions of consent that have been included in the recommended conditions.

The proposed development while incorporating a larger building of 300 metres squared offers a number of improvements to the existing situation particularly through the elimination of vehicle workshop facilities on the site and by relocating carparking away from the northern boundary of the site. Both actions will improve the acoustic quality available to the adjoining residence.

The proposal is almost identical to a modified development approval issued by Council in 2001, which has since lapsed. Funding for the proposal is now likely to once again be available and the current application is to enable the redevelopment of the site to occur.

The assessment of the proposal against the relevant planning instruments has not identified any areas of non-compliance that would warrant refusal of the proposal. For these reasons the application is supported and its approval is recommended.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

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P19 [PD-PC] Development Application DA06/0069 for the Demolition of 3 Existing Dwellings & the Construction of Nine (9) Three Bedroom and Two (2) Four Bedroom Dwellings at Lots 12-14 DP 25770, Nos. 2-6 Stanley Street, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA06/0069 Pt1

SUMMARY OF REPORT:

Council is in receipt of an application for Integrated Housing at 2 - 6 Stanley Street, Tweed Heads. The development comprises the demolition of the 3 existing buildings and the construction of 11 dwellings, comprising 9 3x bedroom residences and 2 4x bedroom residences in a mixture of 2 and 3 storey forms. Within the proposal, access to dwellings 4 – 8 are serviced through a common driveway, whereas the remaining dwellings utilise individual access points from Stanley Lane.

The land is zoned 2(b) Medium density residential under Tweed Local Environmental Plan 2000 and is not affected by any site specific DCPs.

The application incorporates minor non-compliances with the Acceptable Solutions offered within DCP 6; in addition, the application attracted 5 public submissions. The objectives of DCP 6 are considered to be complied with and the application is recommended for approval having regard to the medium-density land-use controls in this area.

RECOMMENDATION:

That Development Application DA06/0069 for the demolition of 3 existing dwellings and the construction of nine (9) three bedroom and two (2) four bedroom dwellings at Lot 14, 13, 12 DP 25770, No. 2 Stanley Street Tweed Heads No. 4 Stanley Street Tweed Heads No. 6 Stanley Street Tweed Heads be approved subject to the following conditions: -

GENERAL

- 1. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**
- 2. The development shall be completed in accordance with the Statement of Environmental Effects and Plans titled Site Plan - Ground Floor Plan, First Floor Plan, Second Floor Plan & Elevations prepared by Windsay**

[GEN0115]

Properties Pty Ltd and dated 16/1/06, except where varied by the conditions of this consent.

[GEN0005]

3. 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.

[GEN0045]

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

[GEN0135]

5. Prior to the installation of any air conditioning systems, details of the units and locations proposed shall be supplied to Council's Environment and Health Unit for review and approval.

[GENNS01]

6. All windows within the second storey, along the western elevation of Dwelling 8 and all windows within the third storey, along the western elevation of Dwelling 7 are to be frosted to ensure maintenance of privacy to the adjoining residents. Alternate methods of privacy screening may be utilised subject to approval by the General Manager or his delegate.

[GENNS01]

7. The developer is to construct a 1.8m high closed timber paling fence along the western boundary of the site, as depicted within the submitted Elevation plan (Western elevation). The fence is to comply with all sight line requirements. The cost of the fencing is to be burdened by the developer.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. Section 94 Contributions

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

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

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

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector1_4	\$2,061
(b) Open Space (Structured): S94 Plan No. 5	\$2,790
(c) Open Space (Casual): S94 Plan No. 5	\$613
(d) Shirewide Library Facilities: S94 Plan No. 11	\$2,462
(e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$499
(f) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$721
(g) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$4,537.99
(h) Cycleways S94 Plan No. 22	\$1,258
(i) Regional Open Space (Structured) S94 Plan No. 26	\$8,319
(j) Regional Open Space (Casual) S94 Plan No. 26	\$3,058

[PCC0215]

- 9. 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: 4.6 ET @ \$4230 \$19,458

Sewer Tweed Heads: 6 ET @ \$6152 \$36,912

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.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED 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.

[PCC0265]

10. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for **SUBDIVISION WORKS OR BUILDING WORKS** shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

11. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.

[PCC0465]

12. A detailed plan of landscaping is to be submitted and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. The landscaping plan to be submitted is to delete the Ficus Macrocarpa and provide a more appropriate species in such a location.

The detail shall ensure compliance for the provision of adequate turning paths as tabled in plans submitted by R H Frankland & Associates, drawing numbers VTM 01, VTM 02, Rev B dated 16/5/06.

Sight lines to all access points are to comply with AS 2890.

[PCC0585]

13. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -

- (a) provision of vehicular access
- (b) provision of pedestrian pathway
- (c) removal and restoration of existing access

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

14. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximizing permeable / landscaped areas, stormwater retention / detention / reuse, and use of grass swales in preference to hard engineered drainage systems.
- (d) Specific Requirements to be detailed within the Construction certificate application include:

- (i) Designated carwash bays must be of durable, pervious construction, grading towards garden and lawn areas to promote infiltration and filtration of pollutants.
- (ii) roofed area runoff is to be discharged independently of paved areas.

[PCC1105]

15. Disposal of stormwater by means of infiltration devices shall be carried out in accordance with Section D7.9 of Tweed Shire Councils adopted Development Design and Construction Specification - Stormwater Quality.

- (a) Full engineering details of the proposed infiltration system, including sizing calculations and percolation testing results shall be submitted with a s68 stormwater application for Council approval prior to the issue of a construction certificate.
- (b) If volumetric objectives of infiltration devices cannot be achieved, the stormwater system for the development shall be provided with a piped connection to the existing Council stormwater pipe located in the Council reserve at the rear of the subject land. Flows in excess of this piped system shall be directed via overland flow to the surface drainage system within the Council reserve. Overland flows must not be directed into adjoining private land.

[PCC1125]

16. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

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

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

[PCC1145]

17. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.

- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".
- [PCC1155]
18. 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. 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 stormwater must initially be directed to the DCP.
- [PCC1165]
19. Medium density/integrated developments will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.
- 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.
- [PCC1185]
20. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works prior to the issue of a construction certificate.
- In regard to the relocation of the existing sewer this application must be accompanied by full engineering details of the sewer design (three copies of plan, longitudinal sections, and cross section detail of the realigned pipe and branch lines) and all construction measures including shoring, dewatering and bypass pumping to maintain continuous sewerage service for adjoining land and protect adjoining structures from damage.
- [PCC1195]
21. Prior to the issue of a construction certificate, detailed colour elevations of all fencing proposed along Stanley Street, McDonald Street and Stanley Lane depicting height, materials and colours used is to be submitted to Council for approval by the General Manager or his delegate.
- [PCCNS01]

22. Prior to the issue of a construction certificate, a Traffic Management Plan for the construction period of the development is to be submitted to Council for approval by the General Manager or his delegate. The submitted Traffic Management Plan is to ensure that access along Stanley Lane remains efficient and can be easily navigated by vehicles.

[PCCNS01]

PRIOR TO COMMENCEMENT OF WORK

23. 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
- (c) 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
- (d) 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.

[PCW0215]

24. 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.

[PCW0225]

25. Residential building work:

- (a) 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:

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

- * in the name and licence number of the principal contractor, and
- * the name of the insurer by which the work is insured under Part 6 of that Act,

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

- * the name of the owner-builder, and
- * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) 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.

[PCW0235]

26. 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

[PCW0245]

27. 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.

[PCW0255]

28. 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:

- (a) 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
- (b) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
- (c) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) 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.

[PCW0775]

29. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act 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.

[PCW0985]

30. 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 Principal Certifying Authority prior to commencement of building works.

[PCW1005]

31. 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.

[PCW1065]

32. It is the responsibility of the contractor to identify and locate all underground utility services prior to commencing works.

[PCW1165]

33. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

[PCW0005]

34. Written approval for any application under Section 138 of the Roads Act 1993 is required prior to commencing works within the road reserve.

[PCW0705]

DURING CONSTRUCTION

35. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DUR0005]

36. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

37. 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.

[DUR0245]

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 was made).

[DUR0375]

39. 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.

[DUR0395]

40. 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.

[DUR0405]

41. 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 in accordance with WorkCover 2000 Regulations.

[DUR0415]

42. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Councils adopted Design and Construction Specifications, DCP16 and DCP47 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

43. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.

[DUR0905]

44. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

45. 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 and demolition. [DUR2185]
46. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed. [DUR2245]
47. 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. [DUR2485]
48. Plumbing
- (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. [DUR2495]
49. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]
50. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR2515]
51. 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. [DUR2545]
52. Where two (2) or more premises are connected by means of a single water service pipe, individual water meters shall be installed to each premise beyond the single Council water meter (*unless all the premises are occupied by a single household or firm*). [DUR2615]
53. Excavation
- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.

- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property. [DUR0425]
54. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority. [DUR0645]
55. 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. [DUR0655]
56. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake Works. [DUR0675]
57. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot. [DUR1015]
58. 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 in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1875]
59. 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 General Manager or his delegate.

Such to specifically include the following:

- (a) 150 millimetres thick reinforced with F72 Mesh for residential development or F82 mesh for Commercial/Industrial Development

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 works and its reconstruction.

Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DUR0065]

60. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

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

[DUR0215]

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

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

[DUR0765]

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

[DUR0805]

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

[DUR0815]

64. Provision of an adequate turfed area, or other suitable media, is incorporated and maintained into the proposed landscape of the property for use as a car wash-down area.

[DUR0965]

65. Landscaping of the site shall be carried out in accordance with the submitted/approved landscaping plans.

[DUR1045]

66. 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 Stanley Street in accordance with Councils adopted Development Design and Construction Specification.

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 works and its reconstruction.

[DUR1735]

67. 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.

[DUR1795]

68. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.

[DUR1885]

69. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

70. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials.

[DUR2205]

71. Prior to any works commencing, Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.

[DUR2405]

72. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

73. The burning off of trees, associated vegetation felled by clearing operations, and building waste is prohibited.

[DURNS01]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

74. A person must not commence occupation or use of the whole or any part of a new building or structure (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).

[POC0205]

75. Prior to the issue of an occupation certificate,

(a) Certification of termite protection methods performed by the person carrying out the works is to be submitted to the PCA; and

(b) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-

(i) the method of protection; and

(ii) the date of installation of the system; and

(iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and

(iv) the need to maintain and inspect the system on a regular basis.

[POC0235]

76. A satisfactory final inspection of the building is to be carried out by Council prior to occupation or use commencing.

[POC0255]

77. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with.

[POC0435]

78. 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.

[POC1045]

79. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

80. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

81. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[POC0475]

82. Redundant road pavement, kerb and gutter or foot paving including and existing disused vehicular laybacks/driveways or other special

provisions shall be reinstated in accordance with Councils adopted Development Design and Construction Specifications.

[POC0755]

83. Work as executed plans are to be provided to Council in accordance with Councils adopted Development Design and Construction Specification.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

[POC0765]

84. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

85. A 3m wide easement to drain sewage benefiting Tweed Shire Council shall be created over the relocated sewer main. All costs associated with the creation and registration of the easement shall be borne by the proponent.

[POCNS01]

USE

86. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light creating a nuisance to neighbouring or adjacent premises.

[USE0225]

87. All mechanical ventilation, other plant and associated equipment shall be acoustically treated where necessary or required to the satisfaction of the General Manager or his delegate so as to avoid the creation of intrusive or unreasonable noise to any occupant of neighbouring or adjacent premises.

[USE0235]

88. 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.

[USE0435]

89. All stormwater management devices shall be located in either common property external to private open space areas or within appropriate easements. Piped drainage lines are to be located within appropriate easements and located within easily accessible areas.

[USENS01]

REPORT:

Applicant: Tweed Restorations
Owner: Mr PF Whitaker, Mr RH Green, Mr BH Kurtz, Mr CA Green, BH Kurtz & Mrs MA Whitaker
Location: Lots 12-14 DP 25570 Nos. 2-6 Stanley Street, Tweed Heads
Zoning: 2(b) Medium Density Residential
Cost: \$2,200,000

BACKGROUND:

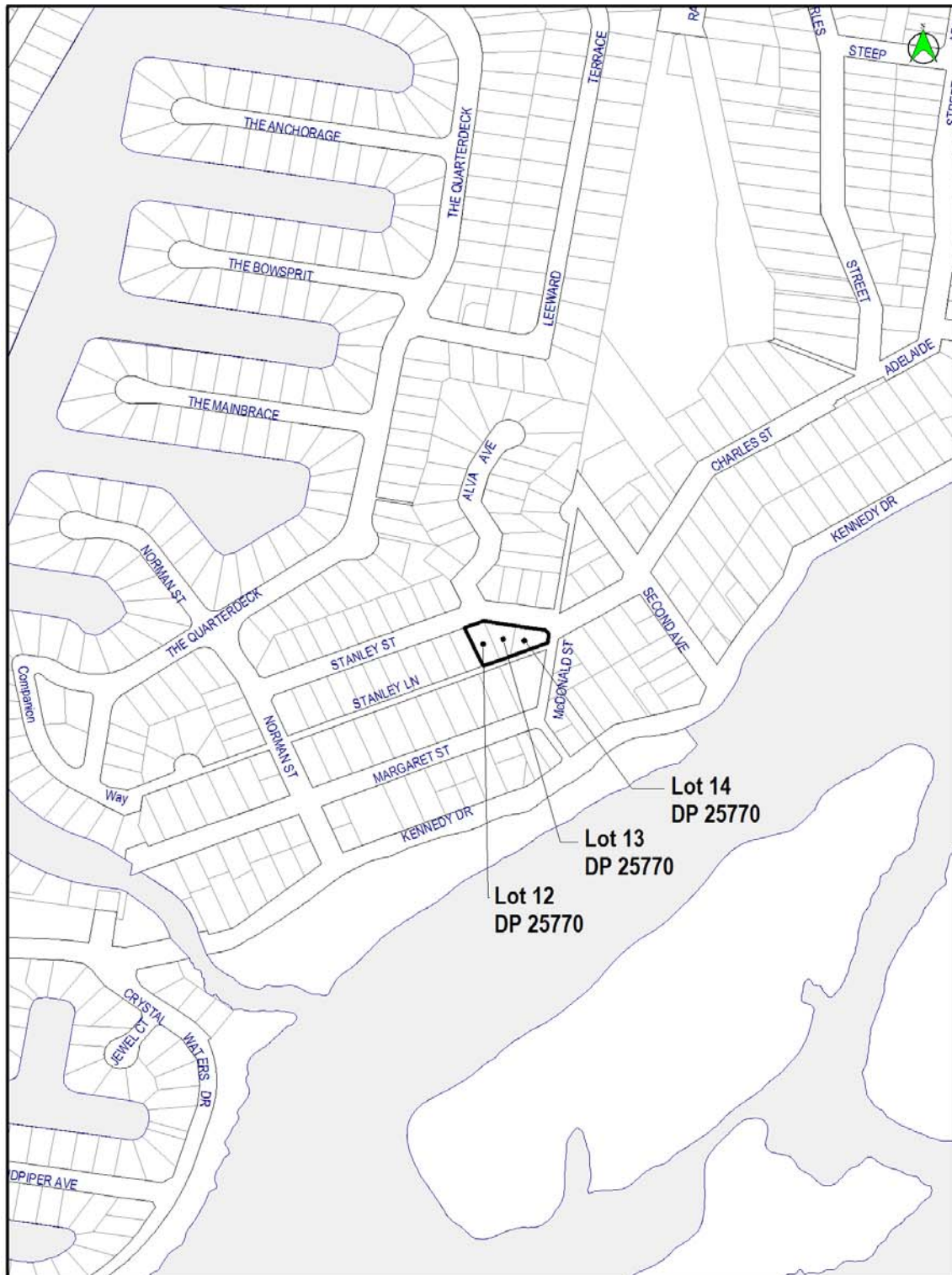
Council is in receipt of an application for Integrated Housing at 2 - 6 Stanley Street, Tweed Heads. The development comprises the demolition of the 3 existing buildings and the construction of 11 dwellings, comprising 9 3x bedroom residences and 2 4x bedroom residences in a mixture of 2 and 3 storey forms.

The subject site has a land area of 2,061m², is of an irregular shape and has frontages to Stanley Street, Stanley Lane and McDonald Street. The topography of the land slopes gently from northeast (high) to southwest (low). Access to dwellings 4 – 8 are serviced through a common driveway, whereas the remaining dwellings utilise individual access points from Stanley Lane.

The land is zoned 2(b) Medium density residential under Tweed Local Environmental Plan 2000 and is not affected by any site specific DCPs. Surrounding land contains split zonings, 2(b) Medium Density to the south and west and 2(a) Low Density Residential to the immediate north and east, lot sizes are also varied between 600m² to 1000m².

The application incorporates minor non-compliances with the Acceptable Solutions offered within DCP 6; in addition, the application attracted 5 public submissions and the issues raised are addressed in this report. The objectives of DCP 6 are considered to be complied with and the application is recommended for approval, having regard to the medium-density land-use controls in this area.

SITE DIAGRAM:



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Tweed Shire Council
 Lot 12, 13 & 14 DP 25770
 Nos. 2, 4 & 6 Stanley Street, Tweed Heads

File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 05/June/2006 Scale: 1:5,000 Sheet: 1 of 1

 TWEED <small>TWEED SHIRE COUNCIL</small>	STRATEGIC PLANNING UNIT
	Site Plan

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

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

Tweed Local Environmental Plan 2000

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

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

Primary objective

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

The proposed development is permissible with development consent within the zone. The proposed density of the development is considered an appropriate response to the site characteristics, its context, and is considered to result in the orderly and economic use of the land.

The proposed development is considered to be consistent with the 2(b) Residential zone objectives and satisfy the provisions of Clause 11.

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

Clause 16 of the TLEP requires Council to ensure that the height and scale of development is appropriate to the site and the surrounding built and natural environment. The subject land has a height limitation of 3 stories with the proposal comprising of 3 stories as defined within the Tweed LEP 2000. The proposal therefore 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 seen to have a significant negative social or economic impact, or conflict with the objectives of Clause 17.

North Coast Regional Environmental Plan 1988

The proposed development is not in contravention of any of the NCREP provisions and is considered satisfactory.

State Environmental Planning Policies

State Environmental Planning Policy (SEPP) 71 – Coastal Protection

The proposal has been assessed having regard to clause 8 of the Policy. In this regard the proposal is considered satisfactory with respect to attaining the clause 8 matters.

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

The proposal is not to be adversely affected by any draft EPIs.

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

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

The provisions of DCP 2 require car parking for 'Integrated Housing' developments to be provided at a rate of 1 space per dwelling plus provision of driveway parking for another vehicle. The proposal far exceeds this requirement by providing 2 garaged car spaces per dwelling (either in a stacked or double garage arrangement) and additional visitor parking is available within the driveways of Units 1, 2, 3, 9, 10, 11. The proposal is therefore seen to satisfy the objectives and requirements of DCP 2.

Development Control Plan No. 6 – Multi Dwelling Housing

The following table assesses the proposed development in relation to the acceptable solutions of this DCP:

Standard	Acceptable Solution	Proposal	Complies
Floor Space Ratio	0.5:1 (1030.5m ²)	1.09:1 (2246.49m ²)	NO*
Minimum Landscaped Area	Large Dwelling - 80m ² per dwelling 880m ²	Approximately 680m ²	NO*
Setbacks	Primary frontage 6m Secondary frontage 3m Side and Rear Setbacks – 900mm	McDonald Street – 6m Stanley Street – 1.5m Stanley Lane – 3m Western Boundary – 920mm	YES NO* YES YES
Streetscape	The maximum width of the garages should be 50% of the frontage width.	Frontage to Stanley Lane - 61 metres Garage Widths – 24.3m in total	YES
Streetscape	Garages should be setback behind the front façade of the building.	See Comment Below	NO*
Building Envelope	45° from 3.5m high at the side and rear boundary (excluding eaves and the like)	See Comment Below	NO*
Minimum Private Open Space	20% of site area (412.2m ²) with minimum dimension of 3m	453.85m ²	YES
	One part min 25m ² with min dimension of 4m	>25m ² & min. dimension of 4m	YES

NO* - See Assessment Below

Floor Space Ratio

It is generally accepted that the prescribed 0.5:1 ratio is not suited to the orderly and economic use of 2(b) Medium Density zoned land. The proposal involves a floor space ratio of 1.09:1, which is in keeping with the average 1:1 - 1.35:1 generally associated with other multi dwelling housing developments in the 2(b) zone. In addition, the applicant provides the following justification displaying compliance with the objectives of the site density provisions:

- The development achieves a multi-dwelling house density while retaining a detached dwelling appearance to the street.
- The internal layout of the site and dwellings provides a mixture of useable open spaces and living areas, open space areas are varied in size and placement, and include both ground level courtyards and first floor balconies.
- Communal open space and driveway areas blend to create increased open space area.
- All dwellings have been designed to have ground level courtyards balconies, with living areas orientated to maximise solar access.
- The site is to be extensively landscaped, and is designed to improve privacy.
- Privacy between proposed dwellings is also maintained through building orientation, location of living areas, placement of upper floor windows, location of bedrooms and appropriate screening.
- The design provisions, including landscape design and planting also maintain the privacy of adjoining residences.
- Water Sensitive Urban Design methods have been incorporated to manage the stormwater and have been developed in conjunction with the architectural design.

The above points are noted, and as concluded elsewhere in this report, the proposal is seen to have had appropriate regard for the subject site and it's surrounds. Accordingly, the objectives of the site density provisions of DCP 6 are considered to have been met.

Landscaping

According to the acceptable solutions contained within DCP 6, the proposed development is required to provide for 80m² of landscaped area per unit or 30% of the site, whichever is the greater. The proposed 11 dwelling townhouse development incorporates a total landscaped area of approximately 680m² and therefore possesses a shortfall of approximately 200m².

The landscaped area proposed incorporates functional areas within the front, side and rear setback to each of the dwellings, as well as around the perimeter of the site. The selection of landscaping is considered to appropriately maintain internal privacy levels and offers general visual softening of the development when viewed from adjoining lands.

Whilst the amount of landscaping proposed is numerically deficient in relation to the relevant acceptable solution, the landscaping proposed is considered to be compatible with the bulk and scale of the proposal, existing development and the desired future character of the area. It is considered that the landscaped areas provided are of a suitable size and standard to warrant a variation to the numerical requirement.

Streetscape & Setbacks

The subject application is considered generally consistent with the streetscape provisions detailed within DCP 6, excluding Section 3.2.1, acceptable solution A2 and A5. Acceptable solution A2 requires a 6 metre setback to the primary boundary, and A5 states that carports and garages should be set back behind the front façade of the building. The proposal involves the provision of garaged car spaces, positioned in-line with the front façade of Dwellings 1, 2, 3, 9, 10, 11, all of which front Stanley Lane and whilst access is gained from Stanley Lane, Stanley Street is acknowledged as the sites primary frontage.

The overall objective of Section 3.2.1 Streetscape is to ensure that new development enhances and makes a positive contribution to the character of existing streetscapes or desired future character of the area. The subject lot includes a generous frontage to both Stanley Street and Stanley Lane and includes appropriate use of building articulation, variety in building materials, colours and roof profiles, provision of fencing and a variety of landscaping forms to provide diversity and visual interest from all streetscapes. The subject land also provides for a lower ground level than Stanley Street, resulting in the natural masking of building bulk and the presentation of the development as predominately single and two storeys as viewed from Stanley Street. Accordingly, the proposal is not considered to be overbearing in terms of appearance or result in any significant impacts as a result of it's siting to Stanley Street.

Similarly, appropriate use of architectural features, fencing and landscaping along Stanley Lane has offered visual interest. The proposed garages are not considered to dominate the frontage of the site. The proposal therefore is considered to satisfy the overall streetscape objectives within DCP 6 and warrant approval in its current form.

Building Envelope

The proposals 920mm setback to the western boundary and 3 storey built form has resulted in an encroachment into the building height envelope on the western elevation.

The encroachment is related to the lack of vertical articulation in the buildings design. The upper floor of dwellings 7 & 8 fail to 'step in' from the ground floor at any point. It is noted that the areas of encroachment comprise bedroom and bathroom areas. As these rooms are regarded as 'low traffic' areas, the

potential for overlooking to the adjoining eastern property is minimised. The windows on the eastern elevation of the proposed bedrooms are to be frosted or include an alternate method of screening, limiting the opportunity for loss of privacy for both existing residents to the west, and future residents of dwellings 7 & 8. This requirement has been enforced by a condition of development consent.

The development as a whole exhibits high levels of articulation when viewed from Stanley Street and Stanley Lane, masking the bulk and scale of the proposal. The siting and length of the proposal is not considered to lead to a significant loss of amenity to adjacent dwellings or land, complemented by the internal design of the proposal minimising potential overlooking to dwellings to the west. Accordingly, the proposal is considered satisfactory.

Private Open Space

The subject application is considered generally consistent with the open space provisions detailed within DCP 6, excluding Section 3.3.3, acceptable solution A1. Whilst the proposal provides the required percentage of private open space across the site, the majority of open space areas are provided in split locations and as such not all dwellings meet the requirement of one area of 25m². Each dwelling proposes a private open space in the form of both a courtyard and decking areas, both of which average 18 – 20m² in size and are accessed from an internal living area.

Given the sites attributes, the provision of open space in split forms is considered appropriate as it allows the use of courtyards for private gardening, entertaining and recreation, whilst the provision of large decking allows future residents to take advantage of the sites benefits by utilising living and entertaining areas that maximise the sites natural outlook. This is emphasised by the size and siting of the proposed lounge and dining areas, combining with the proposed balcony area to create an expansive indoor-outdoor open space/entertaining area that exploit the outlook and features of the site.

The proposed private open space complemented by the internal configuration of the dwellings, adequately caters for the requirements of the dwelling occupants. The proposed areas of private open space are considered functional and meet the performance criteria and private open space objectives contained within DCP 6.

Summary

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

Development Control Plan No. 42 – Public Notification

The development application was notified to surrounding properties for a period of two weeks. During this period 5 written submissions were received. A full investigation into the issues raised is contained within section (d) of this report.

(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 administration, training and playgroup facility contradicts the objectives of the Government Coastal Policy.

Demolition

The proposal requires the demolition of three existing dwellings (two attached dual occupancies and one dwelling). The applicant has submitted a demolition plan, which has been assessed as adequate, and appropriate conditions of consent have been recommended to control demolition activities.

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

Context & Setting

The subject land is bordered by (on average) 600 - 700m² lots, predominantly developed for the purpose of 1 and 2 storey detached dwelling houses to the north, east and west. Lots located to the south of the site primarily include larger lots (on average) of 1000m² in size, developed predominately for multi dwelling housing. This mixture of development reflects the land use zoning, comprising 2(a) Low Density Residential to the north and east and 2(b) Medium Density Residential to the south and west.

The subject area possesses numerous physical advantages including aspect, views of the Tweed River/Terranora Inlet and Mt. Warning and accessibility to the Tweed town centre. Accordingly, whilst most current dwelling houses are established, the Stanley Street and adjoining Razorback precinct is being progressively re-developed into various forms of multi-dwelling housing, to take advantage of the areas features and the planning incentives of the area. This is emphasised by the multi-dwelling housing development occurring to the south of the site, and is expected to continue to the west of the subject site as this area is also zoned for medium density use.

The development as proposed is considered to have had appropriate regard for both the current and future desired context and setting of the area. In this regard, the proposal incorporates reasonable 'stepping' down the slope of the site, appropriate levels of landscaping and open space to provide high amenity levels for it's future occupants and to soften the appearance of the development, particularly from the Stanley Street streetscape. Variation in building design has been utilised to create visual interest and an urban character as opposed to a homogeneous streetscape.

A number of recent approvals in the vicinity has initiated the start of a progressive change to the streetscape, context and setting of the area. The proposed development is considered to enhance this progressive change and make a positive contribution to the context and setting of the site and its surrounds.

(c) Suitability of the site for the development

Suitability of the Lot for Medium Density Development

The subject site has a land area of 2,061m² and is of an irregular shape. The topography of the slopes from northeast (high) to southwest (low) allowing additional opportunities for view sharing to the Tweed River (as viewed to the southeast, panning around to the southwest) amongst residents both within the development and those to the north. The site enjoys a 74-metre (approximately) frontage to Stanley Street, 10-metre frontage to McDonald Street and approximately 61-metres along Stanley Lane. Neighbouring land comprises primarily of single dwellings, with variant building heights between 1 and 2 storeys and architectural styles within the immediate vicinity. However within a wider context a wider variety of dwelling forms are present, predominantly of a higher density, marking an incremental change present within the area as a result of the lands 2(b) Medium Density zoning.

Council's GIS system indicates that the lot is not significantly affected by ASS, is not considered bushfire prone or possess any other significant environmental constraints.

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

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

The proposed development was notified to surrounding properties and advertised within the Tweed Link for a period of two weeks. During this period 5 written submissions were received with issues of concern. The main issues raised are discussed within the table below:

Issue	Detail	Response
Stormwater	Concern was raised regarding the run-off of both surface and subterranean water.	Council's assessing Infrastructure and Planning Engineer and Development Engineer have reviewed the proposal and the submitted Stormwater Management Plan, raising no objection to the proposal subject to appropriate conditions of consent.
Overdevelopment of the site	Concern was raised that proposal was an overdevelopment of the site.	As discussed earlier within this report, the proposal is permissible within the 2(b) Medium Density zone and is considered to satisfy the zone objectives. Additionally, the floor space ratio of the proposal is consistent with other medium density development within the shire. Refusal of the application on this issue is not considered warranted.
Views	Concern was raised that the proposal would erode views currently afforded to several adjoining properties	<p>The subject site and a number of adjoining properties currently enjoy vistas of the Tweed River (Terranora inlet) to the south and Mount Warning to the west.</p> <p>Whilst it is acknowledged that some view loss is likely to be experienced, this development does allow for view sharing opportunities. The properties likely to experience loss of views as a result of the proposal are elevated in comparison to the subject property, offering the ability for view maintenance and the reclamation of the views lost should the lots be re-developed or an additional storey constructed.</p> <p>In assessing the reasonableness of the</p>

Issue	Detail	Response
		<p>proposed application it has been determined that the building satisfies the intent for the character of the area, while complying with the height restrictions and satisfying Council that the application has had adequate regard for the amenity of adjoining property in terms of shadow, privacy and general amenity. Therefore it is considered the issue of loss of views does not warrant refusal of the application.</p>
<p>Character of the area</p>	<p>Concern was raised that the proposal would destroy the character of the streetscape</p>	<p>As discussed earlier in this report, as a result of the characteristics of the precinct and zoning incentives, a progressive change currently filtering through the Stanley Street/ Razorback Precinct.</p> <p>The subject application is considered to incorporate positive elements of urban residential design, through use of appropriate building form, design and distribution of building bulk, enhancing the progression of the Stanley Street streetscape and maintaining due regard to the level of amenity enjoyed by existing dwellings.</p> <p>In light of the evolving nature of the existing streetscape and character of the area and the positive design characteristics of the proposal, the application is not considered to warrant refusal on this issue.</p>
<p>Landscaping</p>	<p>Concerns was raised that the proposed Ficus Macrocarpa &</p>	<p>This matter was discussed with Council's Manager of Recreation Services, whom</p>

Issue	Detail	Response
	Lephostomen Confertus were inappropriate for the site.	agreed that the Ficus Macrocarpa was inappropriately located and as such as been deleted from the landscaping plan. No concerns were raised in relation to use of the Lephostomen Confertus.
Traffic/On-Street Parking	Concern was raised that the existing road network was dangerous and required upgrading prior to the development taking place. In addition, a number of submissions requested No Parking signs be erected along Stanley Lane and construction traffic managed to ensure vehicular access is maintained along the laneway during construction.	Council's Traffic and Transport Engineer has reviewed the proposal with no objections raised regarding the safety of the road network. The request for permanent 'No Parking' signs has been forwarded to Council's Traffic and Transport Engineer and in addition, a condition of development consent has been included requiring an Access, Traffic and Parking Management Plan be submitted to Council's satisfaction prior to the issue of a construction certificate to ensure the access of adjoining landowners is not significantly affected.
Amenity Issues	Issues were raised requesting fencing to be provided along the western boundary of No. 6 Stanley Street in an attempt to maintain amenity between No 6 and 8 Stanley Street.	This concern has been noted and the request considered appropriate. A condition of development consent has been included to ensure fencing between No. 6 and 8 Stanley Street is provided.

(e) Public interest

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

OPTIONS:

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposal has been 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 LEP and relevant DCPs. The application has been assessed by Council's technical officers with no objections being raised subject to the attached conditions of development consent. The proposed integrated housing development is therefore considered to warrant approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

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P20 [PD-PC] Development Application DA05/1381 for a Childcare Facility including Amendment to Development Control Plan No. 3 at Lot 1326 DP 1005077 No. 38 Woodlands Drive, Banora Point

ORIGIN:

Development Assessment

FILE NO: DA05/1381 Pt1

SUMMARY OF REPORT:

By way of background, Council is advised that a Class 1 Appeal has been lodged with the NSW Land and Environment Court. The first call-over has been set for 10 July 2006.

Council is in receipt of an application for the erection of a childcare facility at No. 38 Woodlands Drive, Banora Point. The proposed childcare facility has been designed in a part two-storey form with 13 car spaces for 75 children and 9 staff.

The proposal is compliant with Development Control Plan No. 2 (DCP 2), however previous experience has revealed that the car parking for childcare centres in DCP2 is deficient. Car parking concerns were raised with the applicant, however no additional spaces have been provided and Council's concerns are still outstanding. Council is currently amending DCP2 to require additional car parking for childcare centres.

The proposed development was notified to surrounding properties and advertised within the Tweed Link for a period of two weeks. During this period 5 written submissions were received with issues of concern, several of the issues raised are considered to have merit.

Based on the outstanding concerns and issues raised, it is considered that the information presently before Council does not permit a favourable determination of the application and as such the application is recommended for refusal.

RECOMMENDATION:

That Development Application DA05/1381 for a childcare facility including amendment to Development Control Plan No. 3 at Lot 1326 DP 1005077 No. 38 Woodlands Drive, Banora Point be refused for the reasons set out below and Council's Solicitors be instructed to defend the appeal: -

- 1. Pursuant to Section 79C(1)(b) the proposed development is considered to adversely impact upon the built environment, in particular by not providing sufficient car parking.**

2. Pursuant to Section 79C(1)(b) the proposed development is considered to adversely impact upon the built environment, in particular by not maintaining or enhancing the amenity of adjoining land.
3. Pursuant to Section 79C(1)(c) the suitability of the site for the proposed development can only be determined as unsuitable as it generates traffic and amenity impacts upon external properties.
4. Pursuant to Section 79C(1)(d) the application has attracted a number of public submissions in the negative. The issues are considered to have merit.
5. Pursuant to Section 79C(1)(e) the proposed development is considered to have the potential to adversely impact upon external properties and as such cannot be considered in the public interest.
6. Pursuant to Section 5 - Objects, of the Environmental Planning and Assessment Act, 1979 the proposed development cannot be determined to satisfy subsection (a)(ii), the orderly and economic use and development of the land.

REPORT:

Applicant: Wenland Pty Ltd
Owner: Metricon Qld Pty Ltd and Lanlex Pty Ltd
Location: Lot 1326 DP 1005077 No. 38 Woodlands Drive, Banora Point
Zoning: 2(c) Urban Expansion
Cost: \$600,000

BACKGROUND:

Council is in receipt of an application for the erection of a childcare facility at No. 38 Woodlands Drive, Banora Point. The proposed childcare facility has been designed in a part two-storey form and includes an entry/reception and administration area, kitchenette, staff facilities, rooms for nursery, toddler, pre-kindy and kindy, facilitating 75 enrolments and employing 9 staff. The application seeks approval to operate between the hours of 7am to 7pm, Monday to Saturday and details 2 supporting business identification signs.

The subject land measures 1531m² and enjoys a 39.5m frontage to Woodlands Drive and a 29m frontage to Leisure Drive. The site is generally flat with site levels varying from 3.43m AHD to 2.78m AHD. Under the provisions of Development Control Plan (DCP) No. 3 – South Tweed Heads/Banora Point the site is designated for the purpose of a local shop, Council's Strategic Planning Unit have raised no objections to the proposed land use in this context. Surrounding land uses include low density residential and community facilities such as the Wallum Childcare facility, Salvation Army Indoor Sports Centre and the Banora Point Community Centre.

The proposed development was notified to surrounding properties and advertised within the Tweed Link for a period of two weeks. During this period 5 written submissions were received with issues of concern, which are addressed later in this report.

On 20 January 2006 the applicant was notified, amongst other things, that the proposal, whilst complying with Council's Development Control Plan No. 2 – Access and Parking Code, raised concerns in relation to the functionality of the proposed car parking arrangements and the ability of the design to provide suitable on-site parking and access.

On 6 February 2006 a response was received by Council in reply to the outstanding concerns. The response received did not incorporate any real design changes that were considered to mitigate the concerns previously raised, nor was any notable justification received to assist in identifying the rationale behind the design.

Based on this, it is considered that the information presently before Council does not permit a favourable determination of the application and as such the application is recommended for refusal.

SITE DIAGRAM:



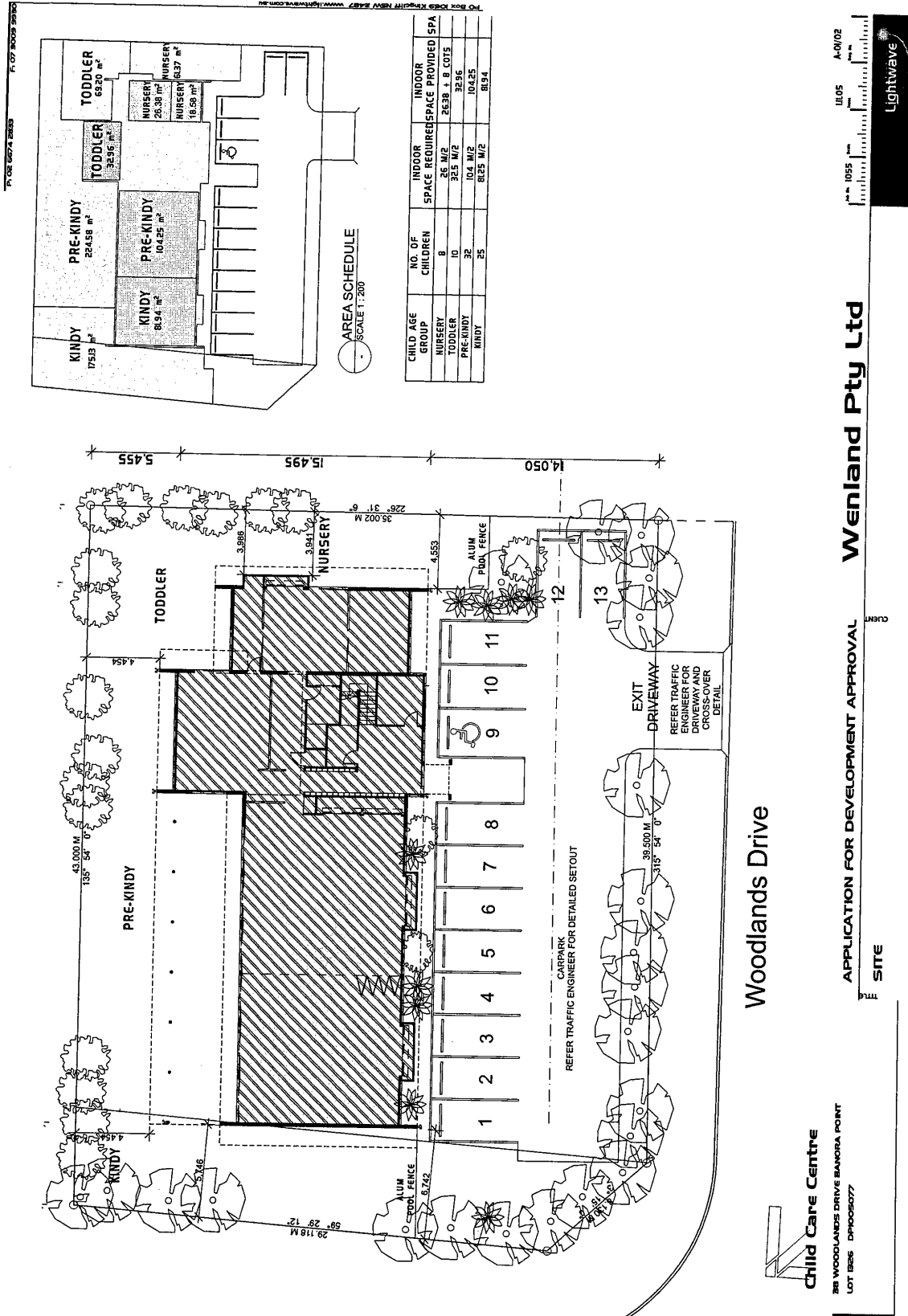
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Tweed Shire Council
 Lot 1326 DP 1005077
 No. 38 Woodlands Drive, Banora Point



STRATEGIC PLANNING UNIT
Site Plan
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 05/June/2006 Scale: 1:5,000 Sheet: 1 of 1

SITE & ELEVATION PLANS



A-02/08
11/05
11/05

Lightwave

APPLICATION FOR DEVELOPMENT APPROVAL
ELEVATIONS

Child Care Centre
85 WOODLANDS DRIVE BANORA POINT
LOT 1536 DP9006077

Wenland Pty Ltd

CLIENT

P. 016 86674 2888 P. 017 8600 2890

PO BOX 8089 KINGSTON NSW 2250 www.lightwave.com.au

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

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

Tweed Local Environmental Plan 2000

Clause 11 - The subject land is zoned 2(c) – Urban Expansion under the provisions of the Tweed Local Environmental Plan 2000. The objectives of the 2(c) zone includes:

- *To allow associated non-residential development, which meets the recreation, shopping, commercial, employment and social needs of future residents.*
- *To enable planning flexibility to achieve the other objectives of the zone by providing detailed guidelines through development control plans.*

The proposal is defined as a 'Childcare centre' under the TLEP 2000 and permissible with development consent in the 2(c) zone. The proposal is considered consistent with the aims and objectives of the 2(c) zone and is seen to satisfy the provisions of Clause 11.

Clause 15 of the TLEP requires Council to ensure adequacy of services prior to determining the application. All essential services are currently provided to the subject site. No additional services are required as part of the proposal.

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. The subject land has a height limitation of 3 storeys with the proposal comprising of 2 storeys. The proposal is therefore considered to comply with the provision of clause 16.

Clause 22 of the TLEP requires Council to protect and improve the capacity, efficiency and safety of designated roads. The proposal is considered generally in accordance with the provisions of Clause 22, however, the Development Assessment Unit is not completely satisfied that the proposal will not lead to a reduction in the efficiency of Leisure Drive or create additional traffic hazards. Council's traffic and transport assessment has not provided sufficient clarification and assurance that the proposal is acceptable.

Clause 35 - The site is affected by Class 2 Acid Sulfate Soils. Council's Environment & Health Unit advises that the submitted ASS Management Plan satisfies the requirements of Clause 35.

Clause 47 of the TLEP requires Council to ensure advertisers' messages and images are conveyed whilst, complementing and conforming to the character of the locality, does not adversely affect the locality in terms of appearance, size, illumination, overshadowing or proliferation of signs, and does not detract from the scenic qualities of the area of Tweed. The proposal involves the erection of 2 business identification signs, measuring 3m(high) x 0.6m(width)

and 1.8m(high) x 3.2m(width). The proposed signage is seen to be of appropriate dimensions, positioned to adequately mitigate visual clutter and utilises colouring that is sympathetic to the proposed building and surrounding environment. Accordingly, the signage is considered an adequate response to the site and the development proposed and the objectives of Clause 47 considered satisfied.

North Coast Regional Environmental Plan 1988

Clause 32B of NCREP applies as the subject land is located within the NSW Coastal Policy. The proposal is unlikely to create any overshadowing to 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 and, The North Coast: Design Guidelines.

State Environmental Planning Policies

State Environmental Planning Policy No. 64 – Advertising Structures

The proposal has been assessed against the relevant provisions of SEPP 64, particularly Schedule 1, in this regard the proposal is considered satisfactory.

State Environmental Planning Policy No. 71 – Coastal Protection

The proposal has been assessed having regard to Clause 8 of the Policy. In this regard the proposal is considered satisfactory with respect to attaining the clause 8 matters.

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

There are no draft EPIs of significance to this proposal.

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

Development Control Plan No. 2 – Access and Car parking Code

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

The proposal involves vehicular and pedestrian access via Woodlands Drive only. DCP 2 requires car parking for childcare facilities at a rate of 1 space per 10 children and 0.5 spaces per staff member. Accordingly as the proposal involves 75 children and 9 staff members a total of 12 spaces, or 9.6(10) if ESD principles are utilised.

The proposed development involves a total of 13 spaces and accordingly compliance with DCP No. 2 is acknowledged. During the assessment of the application, significant concerns were raised in relation to the accuracy of the DCPs requirements for this land use, primarily based upon issues arising from current childcare centres. Council's Traffic & Transport Engineer has stated as follows:

'An issue with the similar childcare centre in Covent Gardens Way is that there is inadequate car parking, even though DCP 2 is complied with. Parents and staff illegally park on the footpath causing significant safety issues.'

Council's DCP2, as it relates to childcare facilities, does not appear to adequately respond to the actual traffic and parking demands generated. Accordingly, car parking rates for child care centres in other Local Government Areas were researched and are detailed in Table 1 below;

Table 1 – Comparison of Car Parking Requirements for Child Care Centres

Council	Prescribed Rate	Spaces required
Gold Coast City Council	1 space per staff member 1 space per 5 children	24 spaces (9 for staff, 15 for customers)
Gosford City Council	1 space per staff member 1 space per 6 children	22 spaces (9 for staff, 13 for customers)
Coffs Harbour City Council	1 space per staff member 1 space per 10 children	17 (9 for staff, 8 for customers)

Note: The above Council's were arbitrarily selected. Other Council's within vicinity of Tweed Shire were reviewed however did not prescribe a specific rate for child care facilities, but rather involved a merit assessment.

Discussions with Council's Engineering Unit and Strategic Planning Unit indicate that DCP 2 is currently being amended and is likely to be exhibited within the next 3 to 4 weeks. Under the amended DCP, car parking for child care centres will reflect the Gold Coast city Council rate prescribed above, which would require the proposal to provide 24 car spaces.

On 20 January the Development Assessment Units' (DAU) concerns were conveyed to the applicant, as follows:

'...Primary concern is raised that the nature of the proposed land use involves condensed peak periods that generate short, but intensive car parking requirements. Upon review of existing childcare facilities of similar scale it has been noted that during peak periods the requirements established within DCP 2 have been insufficient to cater for their users, giving rise to clientele parking on the road reserve or spilling into adjoining businesses car parks, both of these 'relief' methods are considered unacceptable in the context of the subject site. It is also

noted that the nature of the proposed land use is not conducive to 'kiss and ride' transportation and involves reduced ability to efficiently offer public transport.

Confirming the above findings, the submitted Engineering Infrastructure Assessment details that under the RTA Guide to Traffic Generating Developments (1995), during peak periods, 40 trips would be made per hour. Concern is raised that the majority of car spaces will be utilised by staff members for an extended time period, leaving few spaces to facilitate a high trip rate for customers...'

In response the applicant stated:

'If in reference to "kiss and ride" you actually mean providing a "drop off" or "drive through" zone, then the applicant has a number of reasons why this was not adopted. These include;

- 1. Observation that most parents of young children prefer to personally deliver the child inside the facility.*
- 2. Consequently "drive through" does not reduce parking spaces nor increase turnover rates.*
- 3. The provisions of "drive through" requires a separate entrance and exit. It also needs to be designated to ensure children are not crossing access ways for other parking. The site does not facilitate such arrangements because street access is limited to a small length of Woodlands Drive'*

'You also indicated the proposal "involves reduced ability to efficiently offer public transport". Again we do not comprehend the nature of your comment. Firstly we do not believe many, if at all any, customers would bring their child to day-care by public transport because of the waiting times required.'

The following points are offered to highlight the DAUs outstanding concerns:

- The provision of a 'drive through' lane is not feasible for the proposal as the majority of parents personally deliver children inside the centre and carers must 'sign in' and 'sign out' children from childcare facilities, as required by the Department of Community Services.
- The above requirements result in longer parking stays, approximately in the order of 5 – 10 minutes, reducing the turnover rate of car spaces.
- Public transport is unlikely to be utilised as an alternate travel method due to the waiting times experienced and fragmented nature of public transport within the locality.
- Figures released for the Tweed within the Australian Bureau of Statistics (ABS) 2001 - Census of Population and Housing, stated that

78% of people who travelled to work did so as a driver. As a result it is highly probable that the majority of spaces available will be utilised by staff of the facilities, leaving few spaces for carers.

- It is acknowledged that not all childcare classes commence at the same time; however, the nature of the land use is conducive to peak periods given the timetables of their clientele, i.e. carers dropping off children on the way to and from work, resulting in likely peak periods between 8 – 9am and 3:30 – 5pm. During these periods, car-parking use is likely to be intensive.
- The intensive use of the site in peak period, combined with an insufficient number of car spaces is likely to force many users to park off-site, as has been identified with existing child care centres.
- Council's Traffic and Transport Engineer recommended that 'No Stopping' signs be erected for the full frontage of the site to Leisure and Woodlands Drive (in accordance with NSW RTA Guidelines) and to minimise the occurrence of illegal parking on the footpaths, bollards be placed behind the kerb on both street frontages.
- It is likely the above recommendation will then result in clients of the proposed centre parking in front of adjacent residences or on Council property opposite the site. This is not considered an acceptable outcome and the maintenance of amenity for existing neighbouring residents must be upheld.
- Council's adjoining car park already caters for several users, namely the Wallum Childcare Centre and the Salvation Army Sports Complex and as such, parking may not readily be available for clientele of the current proposal.
- Additionally, there is no 'zebra crossing' present linking the Council car park to the proposed site. In addition, Woodlands Drive currently operates at 3,400 vehicles per day with an 85th percentile speed of 58kph. It is not considered satisfactory that carers and children should be expected to cross Woodlands Drive without a zebra crossing. The proposal has insufficient car parking to cater for the demand at peak times.

In view of the above, the number of spaces proposed is not considered sufficient to adequately cater for the development and will cause detrimental impacts to adjoining landowners'. As discussed earlier, the proposals compliance with the provisions of DCP 2 is acknowledged, however past experience and analysis of the parking rate prescribed has indicated that the use of DCP2 is not appropriate for the proposed land use, as evidenced by the proposed changes to DCP2. In conclusion, the proposal is not seen to be a suitable response to the site and should be refused accordingly.

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

DCP 3 contains Council's objectives with regard to development of Banora Point West – Tweed Heads South. Within DCP 3, the subject land is identified for the purpose of a local shop. Accordingly, Council's Development Assessment Panel advised that an amendment to DCP 3 was required and the application includes same. The proposal was referred to Council's Strategic Planning Unit for comment, whom recommended as follows:

- '1. That the DA for a childcare centre at 38 Woodlands Drive does not required an amendment to DCP 3 in this instance and therefore should be considered on its merits.*
- 2. That Council consider the exhibited amendment to DCP 3 in a review of the retail structure of the DCP as part of the proposed retail policy.'*

The use of the site for a childcare facility is generally not inconsistent with the DCP 3. However, the DAU considers the childcare centre to be too large with respect to managing external impacts, i.e. car parking.

Development Control Plan No. 26 – Child Care Centres

DCP 26 contains specific controls for Child Care Centres, particularly within residential zones. The criteria of DCP 26 and the applicants response is discussed as follows:

'2.1 Residential Areas

- (a) In residential zones Council shall strongly favour the location of child care centres adjacent to non-residential uses such as retailing uses (neighbourhood shopping centres), schools, community facilities and the like.'*

The site is located adjacent to residential properties. It is opposite non-residential uses comprising the Banora Point Community Centre, Wallum Childcare Centre and the Salvation Army Indoor Sports Centre. It appears from the assessment undertaken that with appropriate design characteristics in place a childcare facility could be an adequate land use for the site, however the proposal seeks approval for a development that is inappropriately scaled and is seen as deficient of appropriate levels of car parking.

- (b) The development of child care centres on "infill" sites within low density residential areas shall not be favoured unless:*
 - (i) The lot has a minimum area of 800m², a 3.0 metre perimeter landscape buffer with adjacent proprieties and a minimum 1.8 metre high intervening fence. If the proposed building and play areas comprising the Child Care Centre are 10 metres or*

more from any adjacent dwelling, then the 3.0 metre landscape buffer and 1.8 metre high fence is not required. Some landscaping and fencing will still be required, however, each application will be treated on its own merits;

- (ii) The applicant can demonstrate that noise emanating from the use of the child care centre will not be detrimental to the amenity of adjacent residents;*
- (iii) Car parking is provided in such locations that will minimise disturbance to adjacent neighbours by the frequent arrival and departure of cars; and*
- (iv) The overall traffic impact to the immediate neighbourhood is not detrimental to the amenity.*

The site has an area of 1531m² and includes a minimum 3-metre setback to all boundaries, which can accommodate landscaping and fencing on residential boundaries.

Council's Environment and Health Unit have reviewed the proposal advising of no objection subject to the following conditions:

1. The development shall be carried out in accordance with the Noise Impact Assessment for the proposed childcare centre at 38 Woodlands Drive, Banora Point prepared by Max Winders & Associates Pty Ltd dated 9 November 2005 (Job No: 05-175).
2. Prior to the Construction Certificate being issued, a Site Management Plan shall be prepared and submitted to Council for review that incorporates the recommendations and conclusions raised by Max Winders & Associates Pty Ltd within the Noise Impact Assessment dated 9 November 2005 and letter dated 3 April 2006.
3. In the event that the childcare centre and/or Council receive a justified noise complaint, the owner/operator shall take all reasonable steps to the satisfaction of Council's Director of Environment and Community Services to prevent the unacceptable noise from occurring.

The proposed car-parking layout is not considered to satisfy the requirement of DCP 26. As has been discussed extensively above, the proposal is considered to be deficient of car parking to adequately service their clientele, forcing many of it's users to park within Council's road reserve in front of existing dwelling houses. This is not considered to be an appropriate outcome. Similarly, the overall traffic impact of the proposal is not considered acceptable.

- (c) *For new urban release areas there should be planned provision within a development control plan for a particular release area to locate child care centres immediately adjacent to retailing, commercial and community uses and which are essentially located to provide convenient access to the population served.*

This requirement is not applicable to the development.

(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 administration, training and playgroup facility 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

Under Council's existing planning codes (DCP 3), the subject site is not specifically identified for childcare purposes. However, given the size of the land there exists the potential for a variety of development types, with appropriate design, to be erected without external built environment impacts. The proposal is seen to provide external impacts to neighbouring properties that support single dwelling houses by not providing an appropriate number of car spaces. Having regard to the external built environment impact, as it relates to loss of amenity and inadequate car parking provisions, the proposed development is not considered suitable. The applicant was advised that external impacts were not acceptable having regard to the planning controls over this site and was requested to provide additional justification to how car parking and traffic can be managed to ensure amenity levels are maintained. The applicant's response to Council's concerns did not ease the concerns raised, nor mitigate the identified impact. The development is therefore considered unacceptable.

(c) Suitability of the site for the development

Suitability of the Lot

A search of Council's GIS system displayed that the site contains limited natural hazards and environmental constraints.

The subject site has a land area of 1531m² and is of a regular shape. The subject land is relatively flat is not seen to be constrained by topography. The

site is not identified as Bushfire Prone under the Bushfire Prone Land Map dated February 2004, is not identified as flood prone and is not affected by any Tree Preservation Orders.

Similar community-based land uses to that proposed are already existent within the locality (Wallum Childcare facility, Salvation Army Indoor Sports Centre and the Banora Point Community Centre) and the surrounding land uses comprise predominantly of low-density housing.

Whilst the subject land appears to be relatively free of constraints, as detailed earlier, the development in it's proposed scale is not considered to be an adequate response to the site. Whilst it has been recognised that the proposal is compliant with the provisions of DCP 2, car-parking concerns have been raised with the applicant and Council's concerns have not been eased. The proposal is considered to be of a scale that is unsuitable for the subject land, as it cannot provide sufficient levels of car parking for its clientele, which is likely to ultimately impact upon the amenity of surround residence.

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

The proposed development was notified to surrounding properties and advertised within the Tweed Link for a period of two weeks. During this period 5 written submissions were received with issues of concern. The main issues raised are discussed within the table below:

Issue	Detail	Response
Traffic & Parking	Concern was raised that the car parking proposed was insufficient and traffic problems were already present in the area. Further concern was raised that support of this application would only increase traffic problems and hazards	Much of the traffic and parking concerns raised are echoed by Council and discussed elsewhere in this report. In light of the issues discussed previously, the concerns raised are considered to have weight and refusal of the application is warranted.
Crime	Concern was raised that the proposal will result in an increase in crime within the vicinity	The applicant has confirmed that the premises would be locked and an after hours security patrol in service. Refusal of the application on this basis is not considered warranted.
Noise	Concern was raised to the noise impacts generated by the proposal, particularly with a	The application includes a 1.8m high concrete panel fence to the

Issue	Detail	Response
	number of shift workers living within the immediate vicinity. In addition, concern was raised that an increased noise level would result in adjoining landowners dogs barking	adjoining properties and an acoustic report was submitted with the application. Council's Environment and Health Unit have reviewed the acoustic report and raised no objection subject to the imposition of condition of consent.
Building Height	Concern was raised that the building height was not compliant with local covenants and height restrictions	As discussed earlier in this report, the subject site is affected by a three-storey height restriction. Refusal of the application on this matter is not considered warranted.
Proximity to other childcare centres	Concern was raised that there was no need to have another child care centre within close proximity to several established centres	The proposal is permissible within the zone and Council does not hold any controls relating to the proximity of other child care centres. Refusal of the application on this matter is not considered warranted.
Loss of amenity and privacy	Concern was raised that the proposal is result in a loss of amenity and privacy to adjoining residences	As discussed earlier in this report, the DAU has raised concerns with the relation to the suitability of the site for the proposed development and the potential for external impacts, i.e. car-parking and loss of amenity.
Non-compliance with the sites' nomination for 'shops'	Concern was raised in relation to the proposed land use in relation to it's nomination for 'local shops' under DCP 3.	As above.

(e) Public interest

The proposal is not considered consistent with the public interest for the following reasons:

1. The proposal displays car parking and traffic deficiencies.
2. The proposal displays external built environment impact to neighbouring properties.

OPTIONS:

1. Refuse the application in accordance with this report and instruct Council's Solicitors to defend the appeal.
2. Defer the application and provide reasons for doing so.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

It is not envisaged that the proposal result in any policy implications.

CONCLUSION:

In the absence of a development proposal that adequately maintains the amenity of adjoining land and provides an appropriate level on on-site car parking, the application is considered warranting of a refusal determination.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

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P21 [PD-PC] Tweed Local Environmental Plan 2000 Amendment No. 70 (Exempt & Complying Development) & Amendment No. 4, Development Control Plan No. 40 (Exempt & Complying Development)

ORIGIN:

Strategic Town Planning

FILE NO: GT1/DCP/40 Pt2 & GT1/LEP/2000/70 Pt1

SUMMARY OF REPORT:

Council exhibited an amendment to Development Control Plan No 40 - Exempt and Complying Development between 1 March 2006 and 5 April 2006, together with an enabling amendment to Tweed Local Environmental Plan 2000.

This amendment makes Film Shoots Production exempt development. One issue that has arisen following exhibition of the amendments has been 'Film Shoot Production'. Filming on Council administered land is controlled by the requirements of the Local Government Act and the relevant Plan of Management for the land. It is therefore counter-productive to also require development consent for any aspect of filming hence the proposed DCP amendment.

Any application for filming must meet the requirements of the relevant Plan of Management for the land. To ensure maximum control of any adverse impact of filming that Plan of Management needs to be upgraded, along with the procedures for issuing temporary licences on Council administered land.

Clause 15 of SEPP4 nominates the use of private land for the purpose of filming as exempt development.

To provide for completeness, the Advisory Note to the item in Schedule 1 of the DCP in respect of Film Shoots Production could include the following: -

For private land and iconic sites see State Environmental Planning Policy No 4, Clause 15.

RECOMMENDATION:

That : -

- 1. Council requests the Minister for Planning to make Tweed Local Environmental Plan Amendment No 70 (Exempt and Complying Development) as exhibited.**

2. Council adopts Amendment No 4 to Development Control Plan No 40 (Exempt and Complying Development) as exhibited subject to the following further amendment to Schedule 1 in respect of Film Shoot Productions, subject to the following further amendment: -

in Schedule 1 in respect of Film Shoot Productions add the following in the column headed "Advisory Note": -

*** For private owned sites and iconic sites see State Environmental Planning Policy No 4, Clause 15".*

REPORT:

Council exhibited an amendment to Development Control Plan No. 40 - Exempt and Complying Development between 1 March 2006 and 5 April 2006, together with an enabling amendment to Tweed Local Environmental Plan 2000.

The purpose of the Amendment to Development Control Plan No. 40 was to include: -

- Provisions for the use of Council land for the purpose of filming
- Provisions relating to the erection of single dwelling houses and ancillary development
- A variety of minor amendments to DCP40 to improve the efficiency of the approvals process for public works
- A clearer explanatory statement of what is exempt development

The Amendment of Tweed LEP 2000 included an enabling clause to bring the amendment into force and amendments to clauses 9 and 10 to ensure that Council's planning provisions for exempt and complying development are in accordance with State Government legislation.

No submissions were received during the exhibition process.

One issue that has arisen following exhibition of the amendments has been 'Film Shoot Production'. Proposals for filming typically fall into the following land tenures:

- Private land;
- Council administered land;
- Other public land which is not administered by Council.

Filming on Council Owned Land

This is controlled by the requirements of the Local Government Act and the relevant Plan of Management for the land. It is therefore counter-productive to also require development consent for any aspect of filming hence the proposed DCP amendment.

This amendment makes Film Shoots Production exempt development subject to the requirement that it must comply with the requirements of the 'Procedure for Issuing Temporary Licences for Events on Council Administered Land, including Road Reserves'.

Any application for filming must still meet the requirements of the relevant Plan of Management for the land. Unfortunately the current Plan of Management for Council administered land does not include filming. Therefore to ensure maximum control of any adverse impact of filming that Plan of Management needs to be upgraded, along with the procedures and criteria for issuing temporary licences on Council administered land.

Filming on Private Land

Clause 15 of SEPP4 nominates the use of private land for the purpose of filming as exempt development, subject to the following: -

- It is not carried out for more than 30 days within a 12 month period at a particular location. Whether or not those 30 days are consecutive.
- The filming must not create significant interference within the neighbourhood. 'Significant interference' does not include short disruptions referred to in the SEPP.
- A filming management plan must be prepared and lodged with the consent authority for the location at least 5 days prior to the proposed commencement of filming, and contain the details listed in the SEPP.
- The person carrying out the filming must obtain a policy of insurance for public liability for not less than \$10,000,000.
- The person carrying out the filming must, at least 5 days before the commencement of filming at a particular location give notice in writing to residents within a 50 metre radius of the location and contain the details listed in the SEPP.
- It must not involve or result in any permanent and irreversible changes or any damage to any part of an item of environment heritage, a heritage conservation area or an environmentally sensitive area.

Filming on private land which falls outside of the parameters of exempt development will require development consent.

To provide for completeness, the Advisory Note to the item in Schedule 1 of the DCP in respect of Film Shoots Production could include the following: -

- For private land and iconic sites see State Environmental Planning Policy No. 4, Clause 15.

Other Public Land

Filming on this land is proving to be the most problematic. If the land is managed by Council, it may grant a lease or licence for any activity which is consistent with the statutory purpose of the land. Any licence or lease must be granted in accordance with the Local Government Act.

If the filming activity is not in accordance with the lease purpose for the land, the owner issues the licence (imposing conditions as required), NOT Council. Filming is not included in lease purposes pursuant to the Crown Lands Act. Therefore, Council is unable to grant a lease or licence for Crown Land under its care, control and management.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Draft Development Control Plan No 40 (Amendment No 4) (DW 1406121) - please note this is the exhibited document with items to be deleted in ~~strike out~~, and items to be included in *italics*.
 2. Draft Tweed Local Environmental Plan 2000 (Amendment No 7) - Written Instrument (DW 1353247).
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P22 [PD-PC] Pottsville Trade/Industrial Area

ORIGIN:

Strategic Town Planning

SUMMARY OF REPORT:

On 21 September Council resolved to publicly exhibit the report *Trade/Industrial Area - Preliminary Investigation of Potential Sites*. This report was a precursor to Council considering a site for a Tweed Local Environmental Plan2000 (LEP) Amendment.

The site identified in this report is recommended for a trade/industrial area to create employment in the Pottsville locality. Council needs to obtain approval from the Department of Planning to undertake an amendment to the LEP and prepare a Local Environmental Study of the subject site.

RECOMMENDATION:

That Council:

- 1. Advises the Department of Planning that it intends to prepare a draft Tweed Local Environmental Plan Amendment for Lot 12 DP 1015369, Lot 4 DP 753328, Lot 1 DP 215998, Lot 1 DP 1080884 Pottsville Road, Pottsville, in accordance with Section 54 of the Environmental Planning and Assessment Act.**
- 2. Negotiates with the landowners of this land to obtain funding for the Local Environmental Study and advises the landowners that a consultant will not be engaged until the relevant monies are received by Council;**
- 3. Exhibits the draft Local Environmental Plan Amendment in accordance with the Best Practice Guidelines published by the Department of Urban Affairs and Planning, January 1997 titled "LEP's and Council Land - Guidelines for Council's using delegated powers to prepare LEPs including land that is or was previously owned by Council";**
- 4. Engage a suitable qualified independent planning consultant to undertake the preparation of the draft Tweed Local Environmental Plan Amendment and Environmental Study.**

REPORT:

Background

Council considered a report *Industrial Land Investigation Study* (2000) which identified a shortfall of industrial/commerce trade areas along the Tweed Coast between Chinderah and the southern Shire border.

One of the localities identified in that report was Pottsville. This was considered by Council's meeting at its meeting on 21 September. At that meeting it was resolved:

"... that Council publicly exhibits the Pottsville Trade/Industrial Area - Preliminary Investigation of Potential Sites document for a period of 28 days."

The report examined five (5) potential sites (Figure 1) and recommended a preferred site along Cudgera Ck Rd, refer to Figure 2.

Figure 1: Site Identified in Investigation Report

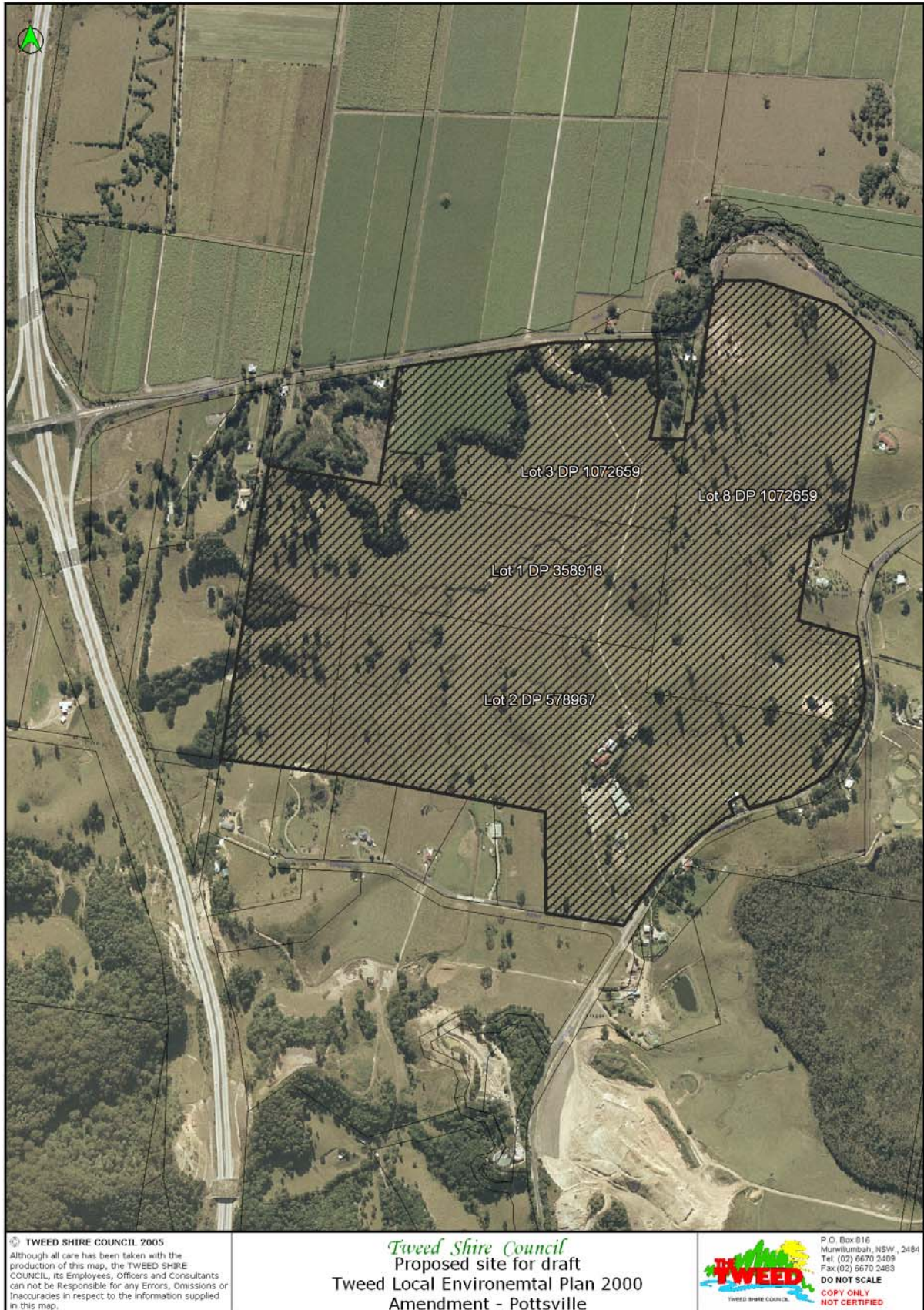


Figure 2: Sites Considered in Investigation Report



Public Exhibition

The Investigation Report was exhibited from 28 September to 2 November 2005.

Internal Council Consultation

During the exhibition period the following sections of Council were consulted for their input:

- Council Water and Sewer Infrastructure,
- Traffic Safety,
- Environment and Health,
- Infrastructure Planning.

Only one response, traffic safety, was received from this internal consultation. The specific issues raised were regarding the negative impact of increased traffic volume on the local road network, particularly through the centre of Pottsville, and the concerns of increased traffic volumes on the Highway, that would be raised by the Roads and Traffic Authority (RTA).

"Traffic volumes will increase through the CBD of Pottsville which is undesirable and the RTA will certainly object to any proposal that generates or attracts local vehicle trips onto the Motorway".

These matters will need to be addressed through an Environmental Study prepared as part of the preparation of a Tweed Local Environmental Plan (LEP) Amendment.

It is recommended by Council's Engineering section that all traffic impacts are quantified through proper traffic analysis and identified upgrades should be identified and costed. This requirement should be included into the brief for the preparation of an Environmental Study.

Tweed Economic Development Corporation (TEDC)

A submission was received from TEDC during the exhibition period.

1. The proposal to establish a "Tweed Enterprise Land Taskforce" will be considered for adoption of the draft Tweed Economic Development Strategy.
2. TEDC have levelled criticism at the premature community consultation Council has undertaken. Community consultation is a critical part of any future development area. Through this process Council can achieve sustainability by canvassing the community aspirations for economic development. Undertaking community involvement at this early investigation stage is important.

3. This submission offers considerable support for industrial land identifying that 13,000 new jobs need to be created in the Tweed by 2016 to accommodate the increase in working population. TEDC also acknowledge that there are different types of industrial land, particularly light industrial/bulky goods retailing areas and larger lot industrial areas.
4. Concerns have been raised about the appropriate mix of industrial/commercial/retail uses that might be undertaken within the Pottsville location. At this stage the identification and preservation of an appropriate site is paramount. The new requirements of the State Government for the preparation of LEPs in accordance with a standard template will require Council to reconsider its industrial zones and the appropriate allocation of defined land uses within each of these zones. This work will need to be undertaken for all of the existing and future industrial areas of the Tweed.

Pottsville Community Association (PCA)

The PCA made a submission to the exhibition. This has been summarised below.

1. The PCA acknowledge the need for a light industrial / trade area but do not support any of the five (5) areas identified in the Investigation Report. The report has identified these sites as the only suitable sites within a four (4) kilometre radius of Pottsville. Any sites beyond this are considered too remote from essential infrastructure to be considered viable.
2. The PCA have requested that any LEP Amendment not proceed until a Locality Plan has been prepared for Pottsville. The Pottsville Village Strategy has identified an area west of Pottsville for an employment since Council approved it in 1998.

The industrial land analysis which has been undertaken is comprehensive. If progress of this matter was delayed until a Locality Plan was finalised the Plan would rely on the findings and consultation of this analysis and would subsequently reach the same conclusion.

The remaining issues raised by the PCA are related to flooding, environmental constraints, traffic and loss of rural residential amenity. These issues are specifically addressed later in this report.

Pottsville Beach Chamber of Commerce (PBCC)

The PBCC offers its full support for an industrial area within Pottsville locality. They believe that it is warranted and they believe that the demand is evident. However they believe that this site investigation should be done in conjunction with a Development Control Plan. The issues raised above in relation to a Locality Plan are relevant here also.

Community Submissions

During the public exhibition period twenty (20) other submissions were received. Note that these submissions do not cover the submissions made by the organisations previously discussed. Due to the number of submissions they have been summarised into a matrix. Refer to Figure 3.

Submission	Flooding	Water Quality	Traffic	Environment	Rural Amenity	Pollution	Job Creation / Demand	Slope	Water & Sewer Infrastructure	agriculture	Buffering
1										<input checked="" type="checkbox"/>	
2	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>
3	<input checked="" type="checkbox"/>										
4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		
5	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>					
6											
7							<input checked="" type="checkbox"/>				
8			<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>					
9	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>
10					<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>				
11			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				
12							<input checked="" type="checkbox"/>				
13		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>					
14	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>					
15	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>				
16	<input checked="" type="checkbox"/>										
17	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
18	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>								
19	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						
20	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>			

Figure 3: Community Consultation Summary Matrix

Flooding

Localised flooding has been identified as a serious issue along Cudgera Ck Rd.

Some of the submissions have included photos of back up flooding within the preferred area. Council has very limited flood modelling for Cudgera Creek and as a result has to rely on the information submitted.

Due to the extent of localised back up flooding the preferred area identified in Figure 1 will no longer be pursued. A more appropriate site has been identified in Figure 4. This site has been identified as being a smaller catchment to Cudgera Ck and higher elevation and therefore less risk of back up flooding.

Water Quality

The submissions have identified that runoff and water pollution could be an issue for the area.

Although it is important to insure that water quality from any proposed industrial precinct within the area is maintained within Council's acceptable limits this matter will need to be addressed in the preparation of an environmental study for draft LEP Amendment.

It has been identified that suitable on site drainage through a drainage reserve on site structured treatment.

Traffic

An increase in heavy vehicle traffic is considered a potential issue.

As previously discussed the proximity of the site to the Pacific Motorway, the impact on local road network will require specific assessment. Traffic impacts are quantified through proper traffic analysis and identified upgrades should be identified and costed should be conducted as part of the Environmental Study.

Environment

Only a few of the submissions have identified environmental issues, which include the potential impacts on a small pocket of riparian rainforest on the opposite side of Cudgera Creek Road. Both the sites identified in Figure 1 and Figure 2 have limited native habitat and have both previously been cleared.

Any specific environmental constraints will need to be identified through on site investigation as a part of the Environmental Study.

Rural Amenity

The original site identified in Figure 1 has a considerable number of rural residential dwellings surround it. This is identified as a significant issue by the number of submissions received to the exhibition. This issue represents a significant impediment to siting an industrial area this locality. As a result this issue represents a contributing factor to changing the preferred area. The area identified in Figure 2 has less rural residential properties in the immediate vicinity.

Pollution

Numerous submissions have identified the potential pollution form the site as a serious restriction on their amenity. This includes water, air, visual and noise pollution.

This is a very important matter but one that needs to be reviewed in the preparation of the Environmental Study.

Job Creation/Demand

Several of the submissions supported the proposal and identified that job creation was an important to the sustainable development of the Pottsville area. This was supported by the TEDC submission which identified the need for future jobs growth.

Slope

Concerns were identified with slopes of part of the original area in Figure 1. There are some areas which are steep to undulating in parts of the site. Although not an absolute constraining factor the sites identified in Figure 2 can achieve flat industrial land. Some of the site is an old quarry and as a result can achieve suitable earthworks. If most of the original vegetation is preserved, works within the site will remain visually acceptable.

Water and Sewerage Infrastructure

Water and sewerage infrastructure were identified in several of the submissions. Water supply is not a constraining factor to any of the proposed sites as mains water supply runs along Pottsville Road from the reservoir on the hill adjoining the quarry.

Sewerage Infrastructure can be reached to the preferred site via a pumping station. These constraints are considered surmountable.

Agriculture

Several of the submissions identified the agricultural activities of the identified areas as important to both the agricultural viability and rural amenity of the area. It is granted that agricultural activities can contribute to the rural amenity of an area however none of the sites identified have ever been identified as significant agricultural lands.

Buffering

Buffering industrial activities is an important aspect of identifying and rezoning any area being considered for these land uses. This issue will need to be thoroughly investigated in the Environmental Study.

Alternative Site

One of the submissions has offered a site on the northern side of Cudgera Ck Rd and almost adjacent to the Pacific Motorway to be considered as an alternative. This general area is zoned 1(b) Rural Protection and is identified as **regionally significant** farmland on the S117 Ministerial Direction for Agricultural Protection on the North Coast. The person submitting the submission has engaged consultants who have contacted the Department of Primary Industries (DPI) to canvass their views on using this portion of agricultural land for industrial uses. DPI have identified that the loss of regionally

significant farmland and the conflict between adjoining uses would be the main issues with this proposal. The consultants have submitted that these issues are surmountable. Despite this, the land currently is productive cane land, is zoned for Agricultural Protection and recognized as Regionally Significant Farmland.

The land has been identified as flood liable through the flooding investigations carried out by WBM as part of the upgrade of Cudgera Creek Rd. This work has identified the site as flood liable. The submitter's consultants have also recommended that they will be willing to engage WBM to undertake a study to review the impact of filling of the land. This undertaking would need to be carried out as part of any Environmental Study for the land.

Furthermore, the land would require the RTA approval for industrial purposes as a result of S117 Ministerial Direction on development adjoining the Pacific Highway.

Due to these constraints, this site is not considered appropriate for any future urban purposes.

Regional Significance

This assessment 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 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.

Draft Far North Coast Regional Strategy

Economic development has taken a prominent position in the Draft Far North Coast Strategy which estimates that the region will need to create an additional 32,500 jobs within the next 25 years. This will allow employment rates to keep pace with population growth.

Council has made a submission to the draft Strategy which recognises the need for employment land, and in particular an area near Pottsville.

Specifically the Strategy identifies that Council should;

- Plan for future needs within existing urban areas;
- Integrate commercial and industrial land uses with the supply of infrastructure and transport.

The Strategy also identifies that Councils must prepare a Local Growth Management Strategy and an Employment Land Strategy if the proposed area is outside the identified

growth boundary. At this stage it is unclear what form these two documents should take and what they are to contain.

However, it is anticipated that this proposed LEP Amendment would be inconsistent with this proposed intention of the Strategy.

Over the last five years Council has undertaken several steps to reaching the recommendation made in this report. Specifically these are:

1. Adopt Pottsville Strategy
 - Identifies area west of Pottsville generally suitable for “future employment”
2. Established Industrial Land Taskforce 1999
 - Steering committee of internal and external experts arranged to guide a review of industrial land
3. Adopted Industrial Land Review Report 2000
 - Reviewed industrial/trade land demand and identified specific localities for further review
4. Pottsville Industrial/Trade Area Investigation Report
 - Reviewed potential sites for industrial / trade land west of Pottsville
5. Exhibition, Submissions and Public Community Forum
 - Investigation Report publicly exhibited and circulated widely. Numerous submissions received.
6. Review of Preferred Sites
 - Recommendation for LEP Amendment

The amount of work already undertaken in identifying an appropriate site for light industrial purposes west of Pottsville has been appropriate and transparent. There is a clear understanding of the expectations of the Pottsville community on the matter.

Considering the progress to identifying a preferred site it would be unreasonable to delay undertaking a draft LEP Amendment to await the adoption of the Strategy.

Owners' Consent

The owners of the site identified for the draft LEP Amendment will need to enter negotiations to establish financial contributions towards this draft LEP Amendment.

Council Owned Land

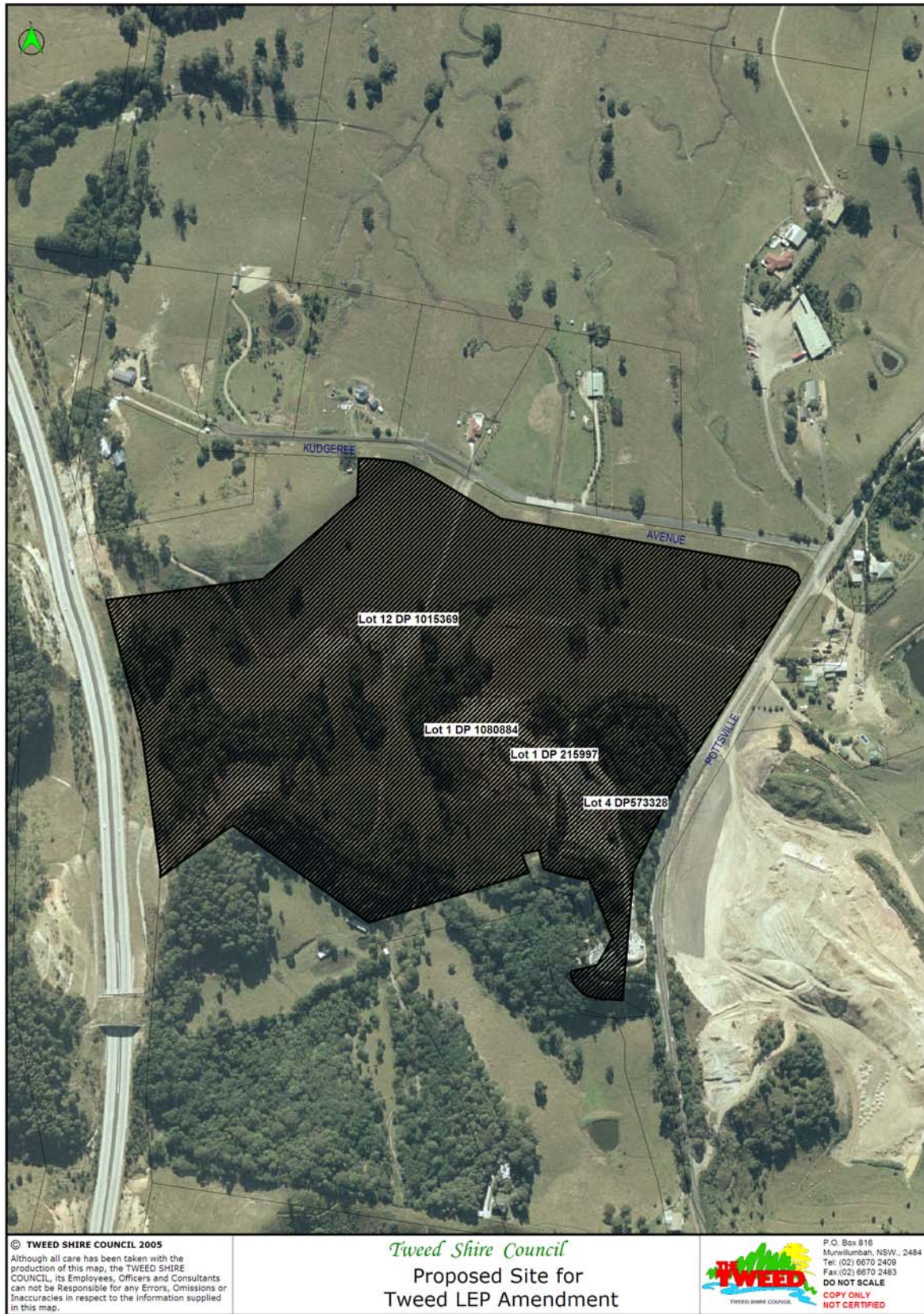
The landowners of the area identified in Figure 4 have engaged independent planning consultants to identify the potential of this site for industrial purposes. As a part of this process they have approached Council to have the adjoining parcels of land, which are owned by Council, to be included in the LEP Amendment. Currently these parcels of

land are used as a water reservoir and a disused quarry. It is considered a suitable outcome to have this area included into the proposed LEP Amendment.

As a matter of probity any Council owned land considered for an LEP Amendment must be assessed independent of any land dealings. These matters will need to be considered by Council in a separate report.

Considering the environmental constraints that have been identified through the consultation process, it is not recommended that the area originally identified in Figure 1 be pursued. The area originally identified in the Investigation Report as Site 4, is now recommended for further assessment to determine if it is suitable for an LEP Amendment. This area is identified in Figure 4.

Figure 4: Proposed Site for LEP Amendment



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

OPERATIONS COMMITTEE

O1 [GC-OC] Legal actions and costs for the period 1 March 2005 to 31 March 2006

ORIGIN:

Governance

SUMMARY OF REPORT:

In accordance with an Administrators Minute resolved at the Council Meeting of 12 April 2006, the following information in response to that request regarding legal actions and costs is provided.

Legal action against Council was instigated by fourteen individual applicants over the period 1 March 2005 to 31 March 2006, resulting in twenty one separate matters to be addressed.

Council initiated and undertook ongoing legal action against thirteen parties over the same time period, resulting in twenty five separate matters being addressed.

A table setting out each of these matters forms part of the report.

RECOMMENDATION:

That the Legal Actions and Costs report for the period 1 March 2005 to 31 March 2006, be received and noted.

REPORT:

Fourteen applicants undertook legal action against Council over the period 1 March 2005 to 31 March 2006 resulting in twenty one separate matters to be addressed:

- 86% of matters originated from developers lodging a merit appeal against a Council decision in relation to a designated development in the Land & Environment Court
- 14% of matters originated from Gales Holdings on amendments to Councils LEP 2000 and other matters
- Gales Holdings currently has 6 matters ongoing against Council
- All other applicants lodged only one appeal against a Council decision during this period
- 3 merit appeal matters were settled with consent orders with each party responsible for their own legal costs during this period
- The Land & Environment Court determined development application approval for one matter during this period
- Council lost a Freedom of Information matter against Gales Holdings, total cost of this matter was \$48,408
- 14 matters remain ongoing
- Legal costs for matters taken against Council by 14 applicants during this period totalled \$337,908, with the costs relating to matters instigated by Gales Holdings representing \$281,514 of this amount

Council initiated and undertook ongoing legal action against thirteen parties over the period 1 March 2005 to 31 March 2006 resulting in twenty five separate matters:

- Council won action against 2 respondents resulting in costs awarded of \$24,460 plus sale of scrap metal
- Council recently won an appeal against Blackington Pty Ltd, costs awarded to Council were unknown at the time this report was compiled
- 7 matters initiated by Council were either settled or won over this period
- 3 matters of class IV civil enforcement proceedings to recover costs and to enforce awarded consent orders in this period
- 24% of matters related to Council seeking legal advice only
- 13 matters remain ongoing
- 3 matters remain ongoing with Gales Holdings relating to recovery of costs for matters in the Land & Environment Court. Costs incurred by Council against Gales Holdings for matters over this period was \$13,162
- Costs incurred by Council against Caraco, Blackington & Tschannen for the matters over this period was \$82,833
- Total cost incurred by Council for matters in this period against 13 respondents was \$116,017

Legal actions taken *against* Council over the period 1 March 2005 to 31 March 2006

Applicant	Matter	Decision	2006/07 (\$'s)	Total cost
GPS Properties	50059 L&E court merits appeal #11634/04 for DA 03/1300 Bogangar	Action was settled 6/7/2005 with consent orders	\$1,476.26	\$3,854.60
Masterbuild Pty Ltd	50324 L&E Court merits appeal for DA 04/1058, McAllister Road Bilambil Heights	Court determined approval of DA		\$33,318.12
Greenview Developments Pty Ltd	50374 L&E Court merits appeal. DA 04/1618 subdivisions for Old Lismore Road Murwillumbah	Settled with consent orders	\$54,916.99	\$55,171.00
Turner	50373 L&E Court merits appeal	Settled with consent orders		\$7,087.48
Metricon QLD Pty Ltd	50412 L&E Court merits appeal for DA 05/0308, subdivision Barnby St, Murwillumbah	Ongoing matter		\$9,637.28
Peninsular Developments	60039 L&E Court merits appeal for DA 05/1291, shopping centre, Botanical Circuit, Banora Point	Ongoing matter		\$17,278.29
Project 28 Pty Ltd	50403 L&E Court merits appeal for DA 05/0840, Kings Forest	Ongoing matter		\$9,174.15
Debato	60105 L&E Court merits appeal for DA 04/0517, 75 Coast Rd, Hastings Point	Ongoing matter		\$1,408.50
Sinclare & Green	50498 L&E Court merits appeal DA 05/0701 Greyhound kennels, Kyogle Rd	Ongoing matter		\$2,143.74
JMS Capital Pty Ltd	60004 & 60110 L&E Court merits appeal for D88/0640.1, 440 Wooyung Rd	Ongoing matter		\$6,731.12
Mitchell	60030 L&E Court merits appeal for DA 05/0655, 2-lot subdivision Tumbulgum	Ongoing matter		\$1,276.77
T & J Blundell	50539 L&E Court merits appeal for DA 04/1643, 20-26 Greenway Dr Tweed Heads	Ongoing matter		\$2,580.26
Telco Select	50607 L&E Court merits appeal for DA 04/1300, 17-19 Moss St Kingscliff	Ongoing matter		\$5,382.48

Applicant	Matter	Decision	2006/07 (\$'s)	Total cost
Gales Holdings (6 ongoing matters)	41255 & 50550 LEP amendment 14 & appeal of decision of Bignold	Appeal Ongoing matter	\$72,103.60	\$172,657.00
	50149 & 50537 L& E Court #10263/05 for DA 05/004 (fill)	Ongoing matter	\$114,258.31	\$119,734.67
	50150 L& E Court #10264/05 for DA 04/1331 (Shopping centre)	Ongoing matter	\$88,741.25	\$91,578.43
	50399 L& E Court #11037/05 for DA 05/0271	Ongoing pending decision of matters 10263 & 10264		\$6,415.15
	50579 Proposed acquisition of land for a road	Ongoing		\$602.06
	50259, 40322 & 50502 Building of Turnock St Kingscliff	Ongoing		\$5,851.18
Gales Holdings	41266 FOI	Lost	\$6,411.18	\$48,408.34
Costs			\$337,907.59	\$600,290.62

Legal actions taken by Council over the period 1 March 2005 to 31 March 2006

Respondent	Matter	Decision	2006/07 (\$'s)	Total cost
Timothy Barr Pty Ltd & Narui Pty Ltd	21357, 50201, 50316, 50404 & 50580 Illegal land clearing Kings Forest enforcement of consent orders & recovery of costs	Matter was settled with consent orders	\$7,073.17	\$102,301.36
Dawe	41121 Unauthorised quarry extensions at McAuleys Rd	Matter was settled with consent orders	\$2,206.61	\$3,178.68
Walter Elliot Holdings	50212 Development not carried out with consent, Hastings Point, lot 2 Dp 628026	Matter was settled	\$5,339.61	\$5,517.61
Zanalan Pty Ltd	50388 Rehabilitation of property Wooyung Rd	Matter finalised	\$3,528.49	
Kress	11461 & 41224 Byrril creek junkyard, recovery of costs	Won \$20,000.00 settlement plus scrap metal sold from junkyard to fund rehabilitation of site	\$2,452.99	\$16,475.04
Taylor Made Car Sales	21509 Civil enforcement proceedings	Won, ordered to pay costs of \$4,460.25	\$1,321.51	\$6,465.27
Lizzo subdivisions	20362 Council seeking legal advice	Ongoing matter	\$11,262.04	\$31,326.66
Penny Ridge Resort	50618 Legal advice for non-compliance of DA for lot 264 Dp 755685 Carool	Legal advice only matter ongoing		\$1,811.56
Reysson Pty Ltd	50156 & 50421 Unauthorised vegetation clearing Lot 2 DP 1060215, Lot 4 Dp 228424 Sorley St, Tweed Heads	Ongoing matter respondent has submitted rehabilitation plan		\$3,168.00

Respondent	Matter	Decision	2006/07 (\$'s)	Total cost
Project 28 Pty Ltd	50443 Unauthorised vegetation clearing Lot 1 Dp 781633, Depot Rd Kings Forest	Matter is ongoing, respondent to prepare a rehabilitation plan		\$1,360.42
Gales Holdings (3 matters ongoing)	50514 Recovery of costs Land & Environment Court 41326/04, LEP	Ongoing matters		\$2,458.15
	50523 Recovery of costs Land & Environment Court 10263/04, Fill		\$531.24	
	60111, 50320 Recovery of costs Land & Environment Court 10264/05, Shopping centre		\$1217.56	
Gales Holdings (Legal advice)	50503, defamation of officers	Legal advice		\$142.88
	50537, Proposed prosecution for illegal slashing of land	Legal advice		\$122.94
	50317, legal audit of strategic planning	Legal advice		\$429.10
Gales Holdings (Mediation)	50451,50511,181005, mediation with John Mant	Legal advice		\$8,259.85
Caraco Pty Ltd, Blackington Pty Ltd & Tschannen	40479 Civic enforcement proceedings, Banora Point Caravan Park	Won, settlement agreed	\$8,155.80	\$95,154.36
	50184, recovery of costs		\$16,730.29	\$23,839.12
	50553, Outstanding rates order		\$328.81	
	60078, statutory demand for unpaid rates		\$403.25	
	60083, notice of motion to set aside order		\$5,136.85	
	60109, creditors statutory demand		\$980.38	
	60112, contempt proceedings		\$259.54	
Blackington Pty Ltd	50329 Appeal	Won in Councils favour (settlement unknown at time of reporting)	\$50,837.72	\$50837.72
Costs			\$116,017	\$354,598

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The legal costs incurred by Council in these matters have been taken into account in the quarterly budget reviews during this period, with a component of these costs being in excess of the initially budgeted amounts for legal expenses.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

02 [GC-OC] Contract No. AC2006-014 Provision of Mobile Telephone Services and Equipment

ORIGIN:

Information Technology

SUMMARY OF REPORT:

Council has a fleet of mobile telephones in service for use by both indoor and field staff provided by the Telstra Countrywide network.

In September 2005, a six month trial commenced to determine whether there was an alternate suitable coverage within the Tweed Shire region. As a result of the trial, it was determined that suitable alternative coverage does exist and that it would be advantageous for Council to tender for this service to obtain best value for money.

Tenders were called for the provision of mobile telephone services to Tweed Shire Council for a three (3) year period with an option to extend the period for a further 3 years and three responses were received.

The criteria for assessing the responses was based on coverage, pricing, service provider transition, service levels, accounting, reporting, benefits to community and strategic values.

RECOMMENDATION:

That Council awards the tender AC2006-014 for the Provision of Mobile Telephony Services and Equipment to Macquarie Telecoms for a three (3) year period with the option to extend the service for a further three (3) years.

REPORT:

Background Information

Council has a fleet of mobile telephone handsets used by indoor and field staff to assist in carrying out their work functions. The current provider of these services is Telstra Countrywide.

A decision was reached to research the availability of other provider networks operating in the Tweed region and in September 2005 a 6 month trial commenced with Macquarie Telecom using the Vodaphone network. Twelve employees, who generally work outdoors and cover a large area of the Shire, were selected to participate in the trial to determine the level of coverage. Each was required to record where there were "black areas" or where the coverage varied significantly (+ or -) from the current service. These records were then collated and it was determined that suitable alternative coverage does exist within the region.

Tender Responses & Evaluation

Based on the above background information, tenders were called for the provision of mobile telephone services to Council for a period of 3 years with an option to extend for a further 3 year period. Responses were received from the following companies:

- 1 Macquarie Telecom (using Vodaphone network)
- 2 Optus
- 3 Telstra Countrywide

Macquarie Telecom was established in 1992 and only services corporate and government customers. Macquarie has obtained accreditation in both ISO 9001 and various government panel contracts including NSW DITM.

Optus and Telstra are Australia's two largest communications carriers.

The criteria for assessing the responses outlined in the tender document was based on coverage, pricing, service provider transition, service levels, accounting, reporting, benefits to community and strategic values. The panel evaluating the responses created a weighting structure to assist in the determination. Refer to the confidential attachment.

Tender Evaluation Summary

The tender evaluation and summary are shown as Attachment 2 in the confidential attachment under separate cover.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The Macquarie proposal provides Council with the opportunity to achieve substantial savings on its mobile telecommunications spend.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. **Confidential** Supplementary Information to Agenda Item AC2006-014 Provision of Mobile Telephone Services (x2) (DW 1405064).
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03 [GC-OC] 2006 Union Picnic Day

ORIGIN:

Human Resources

SUMMARY OF REPORT:

Council has received a request from the United Services Union (USU) to hold this year's union picnic day on Friday, 10 November 2006.

It is advised that "Union Picnic Day" is now a prohibited content under the Work Choices Legislation and is not permitted in Council's Notional Agreement Preserved State Award (NAPSA) and any arrangements would need to be authorised by a Council Agreement with the Acting General Manager and Administrators.

In addition, it is advised that under the "Freedom of Association" provisions all staff must be granted the day off regardless of union affiliations and it is suggested that the name of the event could be changed to "Tweed Shire Council Picnic Day".

Advice from the USU representative was that there was no issue with this however advised that only Union members would be entitled to attend the union funded picnic.

RECOMMENDATION:

That Council:-

- 1. Endorses a "Council Picnic Day" to be held on Friday, 10 November 2006.**
- 2. Offices remain open and staffed as required. Employees who work will be owed a day in lieu.**

REPORT:

As per summary.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

O4 [GC-OC] Monthly Investment Report for Period Ending 31 May 2006

ORIGIN:

Financial Services

SUMMARY OF REPORT:

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

RECOMMENDATION:

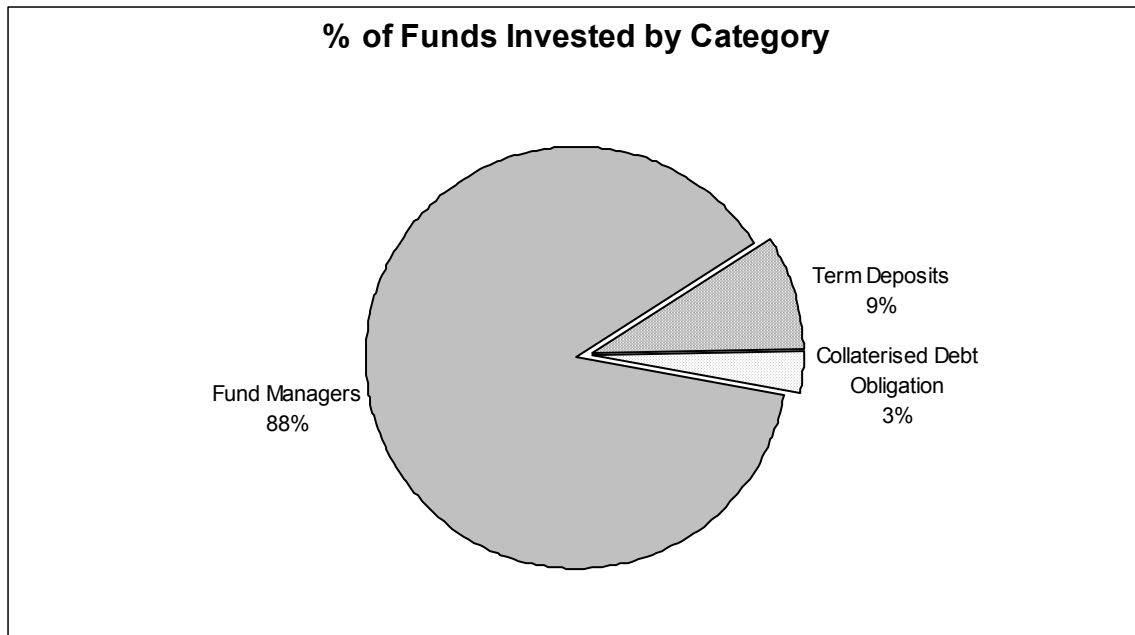
That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 31 May 2006 totalling \$126,453,739.82 be received and noted.

REPORT:

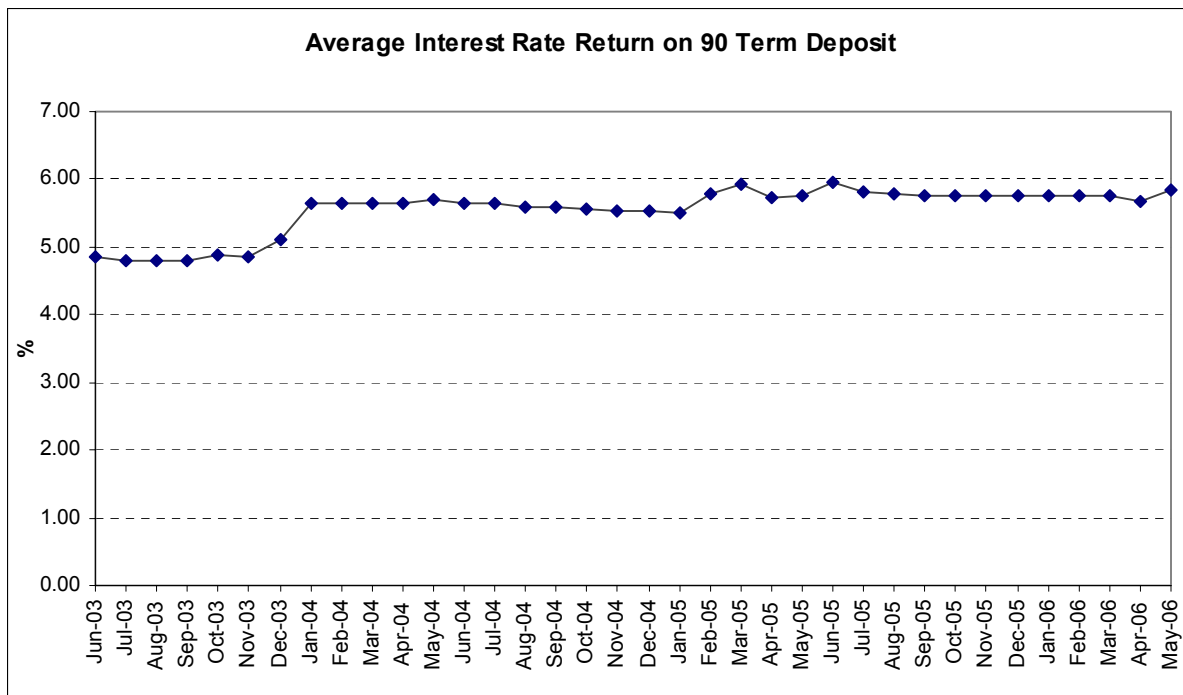
Report for Period Ending 31 May 2006

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies.

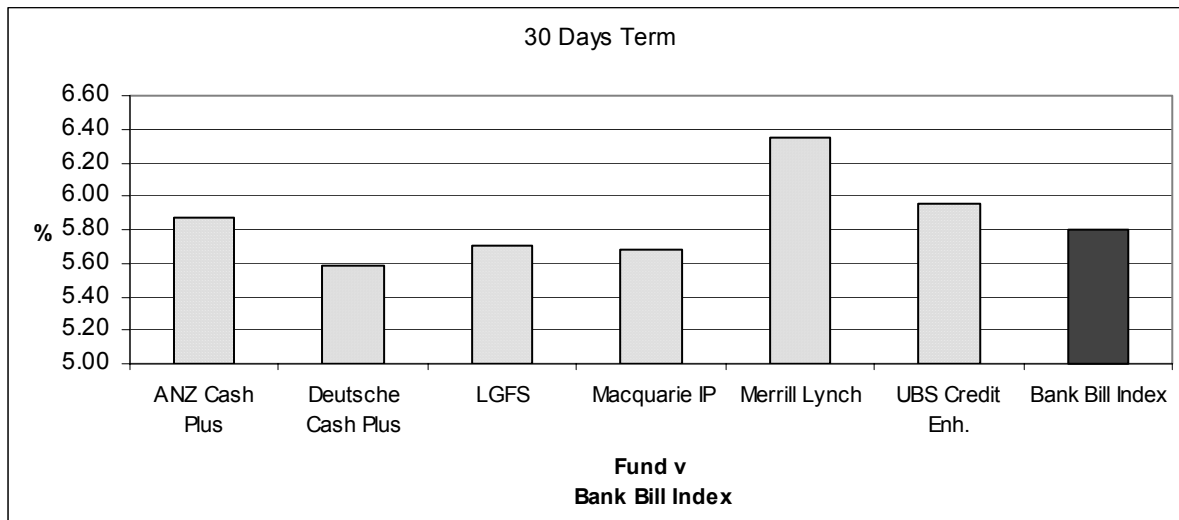
1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY



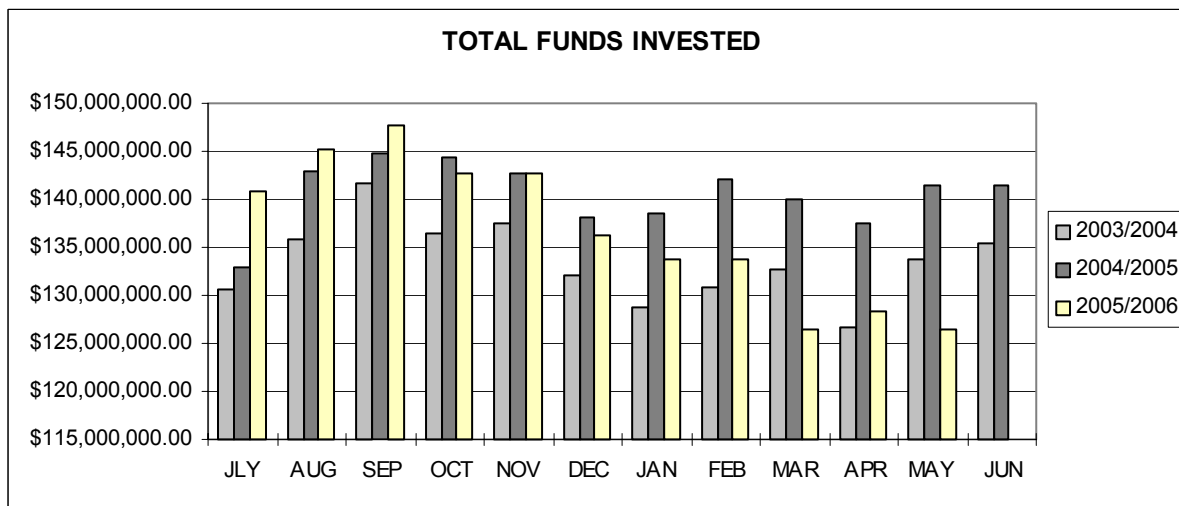
2. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)



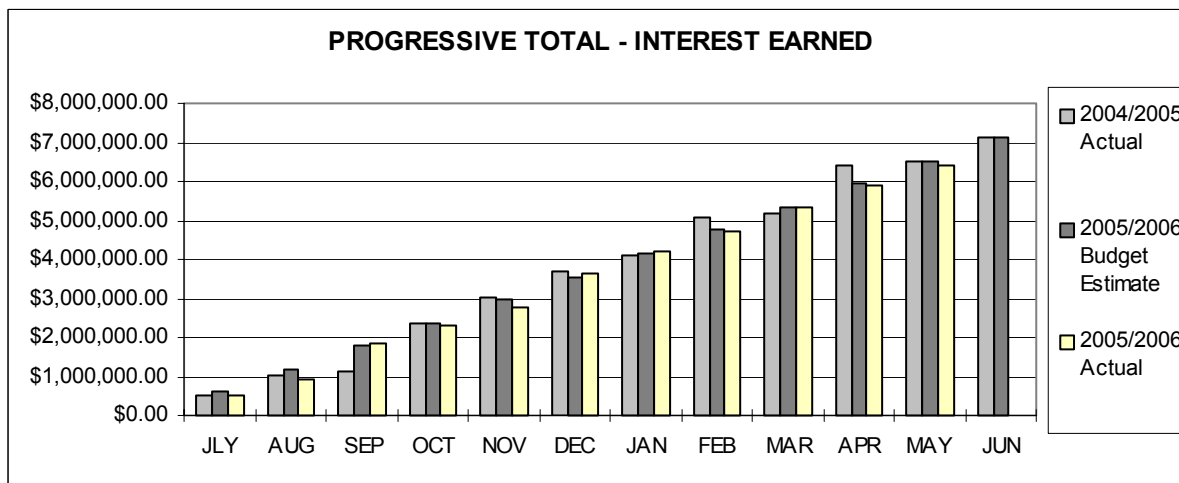
3. ANNUALISED RATE OF RETURN FOR FUNDS MANAGERS - NET OF FEES



4. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED



5. ANNUAL PROGRESSIVE TOTAL OF INTEREST ON TOTAL FUNDS INVESTED



6. MARKET COMMENTARY

The Reserve Bank of Australia (RBA) increased Australian interest rates to 5.75% in early May. Rates remained on hold after the RBA meeting 7 June.

Inflationary concerns continue to dominate globally, as inflation occupies the upper range of most world economies expectations.

Domestically, local 10 year bond rates rose approximately 0.30% to 5.70% which shows the market is factoring in at least one more 0.25% interest rate increase this year.

Source: Oakvale April Economic Commentary

7. INVESTMENT SUMMARY AS AT 31 MAY 2006

GENERAL FUND

TERM DEPOSITS	8,158,500.00	
FUND MANAGERS	34,862,568.97	
COLLATERISED DEBT OBLIGATION	4,000,000.00	
CALL	0.00	47,021,068.97

WATER FUND

TERM DEPOSITS	1,000,000.00	
FUND MANAGERS	29,144,919.49	30,144,919.49

SEWERAGE FUND

TERM DEPOSITS	2,000,000.00	
FUND MANAGERS	47,287,751.36	
CALL	0.00	
FLOATING RATE NOTE		49,287,751.36

TOTAL INVESTMENTS **126,453,739.82**

It should be noted that the General Fund investments of \$47 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

Statutory Statement - Local Government (General) Regulation 2005 Clause 212

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Local Government (General) Regulations and Council's investment policies.



Chief Financial Officer (Responsible Accounting Officer)

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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05 [EO-OC] Oxley Cove Peninsular Community Land Plan of Management

ORIGIN:

Water

FILE NO: Tweed River Committee

SUMMARY OF REPORT:

The Tweed River Committee has prepared a Community Land Plan of Management for an area of foreshore land at Oxley Cove, on the banks of the Tweed River. The area covered by the plan is undeveloped open space with high conservation and recreational value. The Community Land Plan of management has been prepared in accordance with the Local Government Act 1993, and will be implemented with funding from the Tweed River Committee. A significant recommendation of the plan of management is the closure of section of track on the long narrow constructed strip of land at the end of Old Ferry Road, to motorised vehicles. The track is located on road reserve, and closure is being recommended to limit incidents of dumping and other anti-social activity, and increase the safety of the area for pedestrian use. Track closure is recommended for six months to allow a comprehensive assessment of both positive and negative aspects of it's closure, after which a final decision on vehicle access will be made.

RECOMMENDATION:

That Council:-

- 1. Adopt and implement the Oxley Cove Peninsular Community Land Plan of Management.**
- 2. Approve a six month trial closure of the road reserve at the end of Old Ferry Road on the river bank to the west of the mouth of the canal estate pursuant to Section 122 of the Roads Act, 1993 being the temporary regulation of traffic and advertised accordingly.**

REPORT:

Oxley Cove Canal Estate is located off Old Ferry Road, Banora Point, and sits opposite Chinderah on the banks of the Tweed River. As well as residential homes and constructed waterways, the area is characterised by the presence of two areas of undeveloped foreshore land, highly popular for recreation.

A significant portion of this area is community land under the management of Council, and due to its high value in terms of both conservation and recreation, a community land plan of management has been prepared for the area in accordance with the requirements of the Local government Act 1993. This project has been undertaken with funding from the Tweed River Committee.

The Oxley Cove area and its attendant open space is shown in the aerial photograph below. Land coloured yellow is community land, areas with blue hatch are wetland protected under SEPP 14. The area where vehicles are proposed to be excluded on a six-month trial is located on the long narrow section of land, west of the canal entrance.



Figure 1. Oxley Cove canal Estate – Community Land and SEPP 14 Wetland

In accordance with the requirements of the Local Government Act, community land has been classified and recommendations for management of each part of the area developed. The bulk of this area is classified as Natural Area – Bushland, however certain appropriate portions have been classified as General Community Use.

During preparation of the Community Land Plan of Management, community consultation has been undertaken in accordance with the requirements of the Local Government Act.

Consultation has included:-

- Two mail outs to residents in the immediate locality
- Interviews with residents during preparation of the draft plan
- Distribution of surveys to assess community priorities
- Exhibition of the draft document and consideration of submissions
- A public meeting

The two main goals of the Community Land Plan of Management have been to protect and enhance the biodiversity values of the subject land, while supporting and ultimately improving the recreational opportunities provided in the area. Presently, parts of the area are degraded by high levels of weed infestation, and there are also strong community concerns relating to the use of motor vehicles in an area popular with walkers.

Generally there is a high level of satisfaction with the content of the plan, however there is one recommendation that has attracted opposition from a small number of people. This recommendation is to restrict motorised vehicle access to a section of the river foreshore at the end of Old Ferry Road, a step which will improve pedestrian safety and perhaps reduce anti-social behaviour in the area. To fully gauge the implications of this access restriction, and receive feedback from community members not reached through consultation, a trial track closure is recommended, with a final decision on the access being made following further submissions from affected parties. Notification of Councils intent to proceed with the temporary closure of the Road Reserve will be placed in the Tweed Link, if the recommendations of this report are adopted.

Another important recommendation of the plan is for a park design to be prepared for part of the land, a section previously cleared and heavily infested by weeds, classified under the plan of management as general community use. Such a plan will be commenced within 12 months of the adoption of this plan of management by Council with funding allocated to this area from the Recreation Services Unit.

A complete copy of the Oxley Cove Peninsular Community Land Plan of Management can be viewed at the Council Meeting, with the Director Engineering & Operations and can be found at DW 1397350.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The Tweed River Committee has allocated \$40, 000 from its 05/06 budget to implement the Plan of Management. Additional funding from the 06/07 Tweed River Committee budgets will be required, and this has been identified by the Tweed River Committee in forward allocation planning. Recreation Services have \$20, 000 available for a park design plan.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

O6 [EO-OC] Water Supply Catchment Stream Bank Protection Policy

ORIGIN:

Water

FILE NO: Council Policies

SUMMARY OF REPORT:

This report provides Council with the opportunity to formally adopt a policy position on investment in river and riparian management, in recognition of the fact that our river and its tributaries are an asset with importance equal to our engineered network of pipes, reservoirs and pump stations in terms of potable water supply. As such, an investment program has been developed for river and riparian management, with a recognition that to be effective, this program must be successful in promoting and supporting conservation and rehabilitation works on private lands.

RECOMMENDATION:

That Council:-

- 1. Implements a program which promotes and supports the allocation of grants to private landholders to undertake riparian rehabilitation projects in the freshwater catchments of the Tweed River.**
- 2. Adopts the Water Supply Catchment Stream Bank Protection Policy as follows:-**

"Objective

To support rural land owners in the drinking water supply catchment to manage their stream banks in a manner which protects and enhances the integrity of Tweed Shires raw water supply.

Applicable Sub-catchments

The Tweed River sub-catchments contributing to the town water supply and covered by this policy include:

- The Upper Tweed River (including Kunghur Creek, Midginbil Creek, Perch Creek, Sunday Creek and tributaries)***
- Clarrie Hall Dam Catchment (including Doon Doon Creek, Commissioners Creek and tributaries)***
- Rowland's Creek and Chowan Creek***
- Smiths Creek***

- *The Upper and Lower Oxley River (including Tyalgum Creek, Brays Creek, Back Creek, Fowlers Creek, Pumpenbil Creek, Wollumbin Creeks and tributaries)*
- *Byrill Creek (including Cedar Creek, Kunghurloo Creek, Cabbage Tree Creeks and tributaries).*

Rationale

Tweed Council has responsibility for the provision of water to over 70, 000 residents within the Shire, and all water is sourced directly from the Tweed River. It is vital to the wellbeing of our community, in terms of health and economic activity, that our water source be protected. To achieve this, Council must take an active role in protecting the environmental health of the freshwater reaches of the Tweed River.

The health of the Tweed River and the quality of water that flows through it is directly related to the condition of land adjacent to the banks of the river and its smaller tributary streams. Because most of this land is in private ownership, land holders who are protecting streams supply a vital service to the community, and should be supported to do this.

Where riparian land management does not conform to broadly recognised principals of best practice, it is in the community's interest to assist landholders to improve their performance. As a minimum standard, Council should aspire to provide off stream water access to cattle where ever practical, to reduce the amount of manure being deposited directly into the river. This is a key activity in reducing the risk of Giardia or Cryptosporidium out breaks in the shire's water supply.

Traditionally Council has concentrated its water management resources in the field of engineering, and this has required major investment in facilities such as water treatment plants, reservoirs and pipe networks.

Through adoption of this policy, Council will implement a River Health Grants program, which will financially support rural land owners in managing their stream banks. Council will also provide support to programs which have a similar objective to this Policy through the Catchment Management Authority.

Implementation

The aim of Councils River Health Grant Program is to improve and protect water quality. To achieve this, the scheme will supply funding to rural land holders to target the typical problems found on our river banks including erosion and weed infestation. To improve the hygiene of our water supplies, a priority activity will be to supply off-stream stock watering points throughout the catchment.

In almost all situations, healthy river banks are associated with healthy native vegetation. Where practical, revegetation of bare river banks will be encouraged, for water quality benefit, as well as the important role stream bank vegetation plays in protecting wildlife.

Eligible Landholders and Activities

- ***Applicants for assistance under the River Health Grants Scheme should own land zoned rural under Councils planning scheme.***
- ***Generally, a minimum bank length of 100 metres will be considered for funding.***
- ***Subject to agreement and design, funding will be provided for:***
 - ***Fencing, permanent or electric (materials, not labour).***
 - ***Stock drinking troughs – (materials, not installation)***
 - ***Erosion stabilisation – (design, materials, equipment).***
 - ***Revegetation - (minimum width 10 metres – materials and some maintenance).***
 - ***Stabilising stock stream access or crossing points - (design, materials, equipment).***
 - ***Weed control – (primary control, consumables and tuition in appropriate techniques).***
 - ***Maintenance of sites.***

Selection Process

Applications will be selected based on the potential improvement they can make to the health of the Tweed River and its Water Quality. Value for money will be a factor of consideration, so projects that include a significant land owner commitment to costs will be viewed favourably. Project proposals that achieve multiple aims, for example improving water quality and enhancing wildlife habitat, will also be prioritised. A panel comprised of Council, State Government and community representatives will be convened to select between projects if the demand exceeds funding availability.

Land owner obligations

- ***Participation in this project does not change the ownership rights of the land owner in any way.***
- ***Land owners will be asked to sign an agreement with Council confirming their intention to complete and maintain stated works, in a certain time frame, for a nominated sum. The basis of the agreement will be good faith.***
- ***Landowners will be expected to maintain their projects in the long term, however they will be eligible for maintenance assistance in the first three years after completion of works.***
- ***Allow access by Council to inspect works or use the site for monitoring or promotion purposes (subject to notification).***

Funding

The River Health Grants Program will be funded through the Catchment Water Quality Budget."

REPORT:

Introduction:

Council is the provider of potable drinking water for Shire residents, and currently manages an annual budget of \$25, 000, 000 to deliver a total of 9981 Mega Litres per year to 29, 924 connections. Connection figures are estimated to rise by approximately 25% over the next ten years.

Tweed Shire sources all of its water from within the Tweed River Catchment, and is in a fortunate position of being relatively secure in its ability to supply water, compared to neighbouring Local Government Areas (LGA's). Another advantage enjoyed by TSC over many other LGA's is that the Tweed River Catchment lies entirely within the borders of the Shire. This simplifies decision making and resource allocation within TSC's catchment management program, as Council is able to manage its freshwater resources without competition for allocation from other LGA's, nor is the quality of our supply compromised by effluent discharge or poor landuse in upstream LGA's.

Over the last 2 years Council has made several major commitments directly related to potable water treatment infrastructure, including the construction of a new micro-filtration water treatment plant at Bray Park (\$50, 000, 000), upgrading the weir at Bray Park (\$2, 000, 000), a new treatment plant at Tyalgum (\$1, 000, 000) upgrades to the water treatment plant at Uki (\$500, 000) and several other major pump and pipe upgrades.

While this infrastructure is critical in providing residents with a safe and reliable drinking water supply, it is clear that the most fundamental necessity for water security is the natural resource of precipitation, our catchment, the river and its tributaries. Without maintaining ecological health in Tweed River and its hundreds of tributaries, our ability to harvest good quality water would be severely constrained.

In the above context, 'ecological health' refers to the ability of the Tweed River to sustain a range of organisms and ecological processes with comparable biodiversity to similar undeveloped streams. Importantly, a healthy river will also retain the ability to assimilate contaminants, both natural and anthropogenic, which are derived from adjacent landuse. If this ability to self purify is compromised or lost, incidents such as algal blooms will become common place, seriously affecting community health and amenity, and significantly increasing Councils costs in treatment of potable water. The estimated cost of treating water to potable standard is \$0.38/kL, and there is a direct saving to Council on every litre treated, if raw water is of a better quality.

A commonly accepted definition of the natural river process described above is an 'ecosystem service'. In almost all areas of the Tweed Valley, the ecosystem service of a healthy river and potable water supply is provided by private land owners. This service is not provided intentionally and the public does not pay, but the service is essential for our community to function.

In the case of the Tweed River, ecological health is compromised but water quality is generally acceptable. Long term river health is threatened by two main factors, these

being the loss of native riparian vegetation, and the input of nutrients and sediments from adjacent landuses.

Research and current best practice from Australia and around the world confirms that the best way of protecting river health is through sustainable management of riparian zones. Replanting vegetative buffers, providing off stream water points for cattle and conserving existing good quality vegetation through weed management are all activities that must be undertaken to ensure that Tweed River health does not continue to decline.

Increasing effort in catchment management is also a response to management of risk related to Cryptosporidium and Giardia. These parasites are a particular concern for the long term health and safety of the valley water supply, as they are able to be carried into the system with runoff from pasture bearing animal manure. An acknowledged risk management strategy is to work with land owners to encourage adoption of best practice that will minimise animal waste transport to waterways.

This report provides Council with the opportunity to formally adopt a policy position on investment in river and riparian management, in recognition of the fact that our river and its tributaries are an asset with importance equal to our engineered network of pipes, reservoirs and pump stations. As such, it will be recommended that an investment program be developed for river and riparian management, with a recognition that to be effective, this program must be successful in promoting and supporting conservation and rehabilitation works on private lands.

Background:

TSC has been a key coordinating agency in management of the Tweed River since 1992, when funds were first allocated for implementation of the Tweed River Estuary Management Program. This funding has been sourced through the NSW Estuary Management Program, and as such has not been available for programs sustaining upper catchment health. Traditionally the Tweed River Committee (TRC) has focused on projects in the estuarine reaches of the river. Over the last 2 years some upper catchment projects have been initiated by the TRC, reflecting the greater investment in this committees budget by Council, and thus greater influence in the allocation of funds.

Council is also directly funding a limited number of water quality projects with a budget derived from profit on the provision of water and sewer services to residents of the Shire (Catchment Water Quality Program). Ecological/water quality projects being implemented with this funding source are being implemented at the following sites:-

Location	Stream	Nature of works
Tyalgum STP	Pumpenbil Creek	Riparian Revegetation
Tyalgum Weir	Tyalgum Creek	Riparian Revegetation
Uki STP	Smiths Creek Catchment	Community Catchment Nursery – plant production for Council and Landcare riparian revegetation
Bray Park Weir	Tweed River	Conservation of riparian rainforest
Byangum	Lower Oxley River	Stabilisation of eroding river banks

Location	Stream	Nature of works
Byrrill Creek Sub Catchment	Byrrill Creek, Cedar Creek, Cabbage Tree Creek	Bank stabilisation, conservation of riparian rainforest, revegetation, riparian
Kynumboon	Rous River	Flood levy and river bank stabilisation

There are a number of other sources of funds available for landholders in the upper catchments of the Tweed River to undertake riparian vegetation and ecological/water quality management projects on private lands. These include for example, contracts with the Northern Rivers Catchment Management Authority and grants from the Commonwealth Government Envirofund or NSW Environmental Trust. While these programs have the ability to support locally relevant river management outcomes, they are competitive on a national or state wide basis, and do not focus on the needs of local farmers and Council.

It is proposed that a more targeted riparian stewardship program be implemented by Council, and that formal arrangements to allow investment of Council funds on approved projects on private land be made, where this will improve water quality and the health of the Tweed River.

Program Proposal:

It is proposed to develop and promote a program that is aimed at rural land holders that encourages and assists them to undertake works on their properties. Typical projects would include stock management to increase water hygiene, stabilisation of eroding river banks, protection of existing native riparian vegetation and revegetation of stream buffers. An important component of the project would be extension services to ensure that land holders were aware of the opportunities and benefits of such a program, and increase the skill levels of participants to achieve and maintain environmental enhancements on their properties.

The main components of this program will be:-

- Advertising and attracting participants
- Developing riparian management plans with willing landholders
- Negotiating funding and stewardship agreements with landholders
- Monitoring, evaluation and maintenance of individual project outcomes

It is proposed that funds for the implementation of this program be sourced from the existing Catchment Water Quality Budget of \$180, 000 per annum.

The program will be run as two concurrent streams:-

Targeted sub-catchment allocations.

Each year, a certain sub-catchment of the river will be targeted for attention under the program. All landholders in the sub-catchment will be contacted and invited to participate, with financial support provided to undertake appropriate works on their land. The advantage of this approach is that significant gains can be achieved with less

overhead cost, and important environmental benefits can potentially be achieved through the formation of community partnerships and linking on ground work projects within creek systems.

Ongoing general allocations.

At any time during the year, land holders from across the Shire will be able to access funding and support to undertake appropriate works. It is important to provide this flexibility so that willing land holders are not frustrated in attempts to improve environmental conditions on their properties.

Wherever possible, funds allocated to land holders from Council will be used to leverage equivalent funds from the Commonwealth or State Government through the funding programs noted previously.

Application and management process

As with existing environmental grant programs, an application and reporting process will be necessary for management of this program. This will require landholders to prepare and submit a project description, detailing works to be undertaken and a budget for works. Benefits of a scheme run by Council will be a greater ability for Council to be involved in preparation of project plans and review of project implementation. A clear set of guidelines will be prepared detailing activities eligible for funding, and obligations of grant recipients. Staggered payments will be made to landholders based on the achievement of predetermined project milestones. Landholders will be asked to invoice Council in advance for works proposed, with a simple report required detailing previous outcomes and upcoming tasks. A regular series of site visits will be undertaken to inspect works and ensure landholder obligations are being met.

Clear minimum requirements for projects will be set. It is anticipated that at some point applications for assistance will be received that will purport to achieve ecological/water quality outcomes, but will be more focused on landscaping or property improvement. This type of application will be sent back with recommendations for modification, or with an explanation of why it would not be supported. It is envisaged that a minimum site size of 100 metres by 10 metres will be set to ensure that Council investments have significant on-ground the returns. Applications will generally only be considered from residents with land in rural zoned areas.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding for this project is to be sourced from the existing catchment water quality budget.

POLICY IMPLICATIONS:

A draft policy supporting this is included in the Recommendation of this report.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

07 [EO-OC] Naming of Council Public Road - Cudgera Creek

ORIGIN:

Design

FILE NO: GS5/1 Pt4

SUMMARY OF REPORT:

Council at its meeting of 12 April 2006 resolved to publicise its intention to name the road reserve created after the realignment of Cudgera Creek Road near the newly constructed bridge at Cudgera Creek, as "**Hardy Drive**".

The proposed road naming was advertised in the Tweed Link on 25 April 2006 requesting any written objections to the proposed naming be submitted within a one-month period.

One written objection was received. The writer advised that the name Hardy Drive was fitting but suggested that the name be extended to either Clarence Henry Hardy Drive or Clarrie Hardy Drive, as this person was a property owner in the area from 1923 to 1942.

However a further letter was received from a current Hardy family member requesting that the name Hardy Drive be used to recognise the entire pioneering family who resided in the area since 1901 and not simply after a lone member of the family.

There were no other objections or submissions relating to the name Hardy Drive.

RECOMMENDATION:

That:-

- 1. Council adopts the name of "*Hardy Drive*", being the road reserve created after the realignment of Cudgera Creek Road, near the newly constructed bridge at Cudgera Creek; and**
- 2. The naming of the public road be gazetted under the provisions of the Roads (General) Regulation, 1994 and the Roads Act, 1993.**

REPORT:

As per Summary of Report.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

08 [EO-OC] Coast to Coast Conference 2006 - A Focus on Climate Change

ORIGIN:

Water

SUMMARY OF REPORT:

The National Coast to Coast Conference is held biennially around Australia and the seventh conference was hosted by the Victorian Coastal Council and held in Melbourne on 22 to 25 May 2006.

A major focus for the 2006 conference, and a topic of great relevance to coastal Local Governments, was climate change and the resultant impact on sea level rise and storm intensity and frequency. The conference highlighted the need for Councils to maintain (or develop) a strong stance on planning future, and adapting current, land uses for potential impacts from increased storms and sea level rise. There may be instances whereby Councils are subject to legal action and will be held accountable for planning decisions made in the past.

RECOMMENDATION:

That:-

- 1. This report be received and noted.**
- 2. Council consider sending an appropriate delegate to the 2008 National Coast to Coast Conference in Darwin if relevant topics are to be discussed.**

REPORT:

The National Coast to Coast Conference is held biennially around Australia and the seventh conference was hosted by the Victorian Coastal Council and held in Melbourne on 22 to 25 May 2006. Tweed Shire Council was a sponsor and field trip host of the 2002 conference held in Tweed Heads.

A major focus for the 2006 conference, and a topic of great relevance to coastal Local Governments, was climate change and the resultant impact on sea level rise and storm intensity and frequency.

Jane Lofthouse, Waterways and Coast Coordinator, attended the conference in Melbourne. Conference abstracts / papers were not supplied, however some of them are available on the Victorian Coastal Councils website www.vcc.vic.gov.au for download. This report will discuss some of the interesting presentations attended and the relevance to TSC.

Vicki Spruill, President of SeaWeb USA presented via satellite on Social Marketing – how to influence and change behaviour, which is the desired outcome of most environmental (and other) education campaigns. This presentation highlighted the importance of market research to identify your target audience, assess their level of current understanding and identify triggers and tactics to make the audience think and ACT. The lessons learnt in SeaWeb's successful campaigns are well worth following up before embarking on any future education campaigns by Council. Unfortunately this paper is not available on the VCC website but SeaWeb have an excellent website.

Tim Costello, CE of World Vision Australia presented "Post-Tsunami – Rebuilding Sustainable Coastal Communities". Examples from Sri Lanka and Banda Aceh demonstrated the difficulty in rebuilding villages where all points of reference have been wiped out. Village elders are required to pace out parcels of land for landowners (those left) to rebuild houses. In Sri Lanka the government imposed a "buffer" strip of 500 metres from the coast and did not allow fishing villages to rebuild within this zone, isolating the people from their main source of income and food source. Strangely enough, luxury tourist resorts are now being constructed within these buffer zones along the coast.

The Victorian Coastal Landscape Assessment Project used disposable cameras distributed to members of the community to record landscape features that represented different aspects of the landscape. People were asked to record examples of what they liked, didn't like, and landscapes that they thought were spoiled and what you would show a visitor. These were then assessed against the landscape elements under a number of different criteria.

Of importance to Planning and Floodplain Management staff is the release of the Australian Soil Resource Information System (ASRIS). This web-based mapping and resource tool contains an atlas of coastal Acid Sulfate Soils (inland areas will be added as data is gathered). The address for this www.asris.csiro.au.

Les Robinson in the workshop “The Power of Buzz” discussed research he had undertaken that found that most changes in behaviours resulted from a conversation with a “significant other”. The workshop discussed an alternative method for educating the community through use of workshop spaces and leaders that facilitate conversations and constructive dialogues between groups of people. This method would work very well for example in the agricultural area whereby a local “champion” of best practice management can pass on the ways they have changed farm management to others who should change practices for the better.

One of the main focus points of the Conference was Climate Change – estimating sea level rises, discussion on potential impacts and level of unpreparedness in current local government planning.

The paper “A 20th century increase in the rate of sea-level rise – a challenge for coastal managers” by Neil J. White and John A. Church from the Antarctic Climate and Ecosystems Cooperative Research Centre, University of Tasmania and the Marine and Atmospheric Research Division of CSIRO, made the following conclusion:

“The underlying (i.e. ignoring changes due to more-or-less decadal cycles) rate of sealevel rise around Australia is likely to increase considerably in the coming decades. This will result directly in shoreline retreat. More serious consequences will result from the increased impact of extreme events such as storm surges caused by tropical cyclones and mid-latitude storms, leading to coastal damage and flooding. Over the 20th century, the return period of annual to decadal extreme events has already decreased by a factor of 2 to 3 at the few locations where we have long enough tide-gauge records to estimate this. Other groups (see, e.g., Cowell et al., 2005) are working on the impacts of climate change-related phenomena on shorelines. It is also believed that the current changes in the climate system may lead to more severe tropical storms, exacerbating the situation further, especially for low-lying population centres.”

This prediction has major implications for planning outcomes within the Tweed to address not only impact on future populations but ways to deal with current populated low-lying areas. Sustainability planning must encompass the ability for wetlands – saltmarsh and mangroves in particular – to adapt and move landwards. The economic value of estuarine wetlands has been calculated as one of the most valuable ecosystem types.

The conference highlighted the need for Councils to maintain (or develop) a strong stance on planning future, and adapting current, land uses for potential impacts from increased storms and sea level rise. There may be instances whereby Councils are subject to legal action and will be held accountable for planning decisions made in the past (see the paper “How will insurers respond to climate change in future? Will coastal managers be held accountable?” by Bruce Thomas from Swiss Re).

The National Coast to Coast Conference is planned and organised by both Federal and State Government Departments. This enables the conference to attract high-level speakers and provides access to current research. The 2008 Conference will be held in Darwin.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

09 [EO-OC] Australian Government Water Smart Australia Program

ORIGIN:

Water

FILE NO:

SUMMARY OF REPORT:

The NSW Water Directorate were successful in their application for Funding of a Water Loss Management Program for NSW Regional Water Utilities under the Australian Government Water Smart Australia Program. The funding is based on a \$22 million program with \$7.387 million from the Federal Government and the remainder from Regional Councils. See copy of notification to Regional Councils from the NSW Water Directorate at the end of this report.

Council Officers have determined that an appropriate amount to allocate for a Water Loss Management Program in the 2006/07 budget would be \$45,000.

RECOMMENDATION:

That Council:-

- 1. Allocates an amount of \$45,000 (on a 2:1 Council: Government basis) for the NSW Water Directorate Water Loss Management Program in the 2006/07 budget.**
- 2. Makes the necessary application for funding assistance when requested by the NSW Water Directorate.**

REPORT:

The NSW Water Directorate were successful in their application for Funding of a Water Loss Management Program for NSW Regional Water Utilities under the Australian Government Water Smart Australia Program. The funding is based on a \$22 million program with \$7.387 million from the Federal Government and the remained from Regional Councils. See copy of notification to Regional Councils from the NSW Water Directorate (DW1376041) at the end of this report.

Council Officers have determined that an appropriate amount to allocate for a Water Loss Management Program in the 2006/07 budget would be \$45,000. The NSW Water Directorate has indicated that funding will be on the basis of 2 or 3:1, Council: Government funding.

Initiatives identified that would comprise a water loss management program in the Tweed include trunk main flow metering, extension of pressure reduction zones and targeting of illegal use of standpipes and unmetered services. When requested by the Water Directorate a plan will be prepared incorporating the aforementioned initiatives.

Local Government
Association of NSW

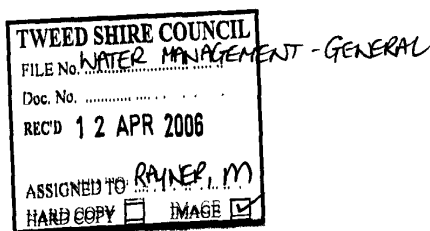


Shires Association
of NSW



Our ref: R90/1056 Out-13469
5 April 2006

Dr John Griffin
General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484



Dear Dr Griffin

The Water Directorate and Local Government and Shires Associations of NSW (LGSA) are pleased to announce the success of our joint application to the Australian Government's Water Smart Australia program to fund a Water Loss Management Program for NSW Regional Water Utilities.

Under the four-year Water Loss Management Program, participating councils will introduce water loss management strategies at a total cost of over \$22 million. The Australian Government has agreed to contribute \$7.387 million towards this groundbreaking initiative, with participating councils contributing an average \$2 to \$3 for each \$1 of grant funding, based on a business case assessment of each project.

Over the next four years the Water Loss Management Program will involve:

- The development of a Water Loss Management Fund to be accessed by council-owned water utilities that have developed water loss management strategies and are keen and ready to pursue program implementation.
- The development of a Water Loss Management Implementation Guideline by the Water Directorate for use by NSW council-owned water utilities.
- The employment of a project team to support, educate and empower council-owned water utilities to identify water loss problems and implement practical low cost solutions.
- The purchase of specialist water loss detection equipment that could be shared amongst water utilities.

The Water Directorate and the LGSA will call for submissions and select the first round of participating councils over the next nine months. It is important to act quickly if your Council is interested in participating in the Program in 2006/07 as you will need to factor any Council contributions into your current planning and budgetary processes. We recognise that Council budgets are being finalised over the coming weeks and we appreciate that the timing will be tight for some Councils.

The types of projects that will be eligible for consideration include (but are not limited to):

- Leakage from reservoirs and storages
- Repair of leaking trunk mains
- Repair of leaking reticulation
- Leakage control initiatives, for example, pressure reduction and management

Local Government
Association of NSW



Shires Association
of NSW



Should you have any queries or would like to informally register your interest in participating in the Water Loss Management Program, please contact Renee Barbaro, the LGSA's Senior Policy Officer - Water, via email: renee.barbaro@lgsa.org.au. Initial registrations of interest would be appreciated by Friday 19 May 2006.

Yours sincerely

Cr Genia McCaffery
President
Local Government Association of NSW

Mr Stewart McLeod
Interim Chair
Water Directorate Inc.

Cr Col Sullivan OAM
President
Shires Association of NSW

Cr Robert Bell
Chair
LGSA Water Management Committee

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

010 [EO-OC] Trees - Fraser Drive, Banora Point

ORIGIN:

Recreation Services

SUMMARY OF REPORT:

Problems are being experienced along a section of Fraser Drive Banora Point as a result of root invasion and branch overhang from trees located within the road reserve, effecting neighbouring properties. The effected section is approximately 130m long, on the western side of Fraser Drive, south of Botanical Circuit (Figure 1).

It appears these trees were planted with the intent of creating a visual and acoustic barrier between the residents and Fraser Drive. They not only serve to offer privacy and an element of noise dampening to the residents, but also add to the streetscape of Fraser Drive.

However, some of the species planted are inappropriate for the site, specifically fig trees (4) and Fiddlewood's (8), with the situation exacerbated by the proximity of the plantings to the property boundaries. This has resulted in extensive root invasion into the neighbouring properties and unmanageable branch overhang, causing damage to infrastructure (Photos attached). Considering the trees are still relatively immature, it is reasonable to expect that these circumstances will intensify as the trees mature.

Subsequently, a removal and replacement program is proposed. In order to minimise the impact of the tree removal, it is not intended to remove large numbers of trees in one instance. Alternatively, trees to be removed will be prioritised according to the immediacy and extent of damage being evidenced. Appropriate replacement trees will then be planted and other trees progressively removed as the newly planted trees establish.

It is proposed to mark the trees targeted for future removal and forward a letter to the affected residents informing of the proposed program, allowing opportunity for input.

RECOMMENDATION:

That Council initiates the proposed tree removal and replacement program, following appropriate consultation with the affected residents.

REPORT:

As per Summary of Report.



Figure 1. Locality map



Photo 1. View from inside private property boundary out to Fraser Drive. The fig tree roots have lifted pavers and concrete in this backyard. As evidenced by the girth of the trunk, this tree is immature, and will eventually take out the fence and cause significant property damage.



Photo 2. View north along property boundary demonstrating impact on property of branch overhang.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil. Works undertaken within allocated budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

O11 [EO-OC] EC2006-049 Supply Contract for the Supply and Spraying of Bituminous Surfacing at Various Locations

ORIGIN:

Contracts

FILE NO: EC2006-049

SUMMARY OF REPORT:

Tenders for the Supply and Spraying of Bituminous Surfacing on Council's road network have been called.

The spraying contract will be for a two (2) year period commencing 1 July 2006 until 30 June 2008.

RECOMMENDATION:

That:-

- 1. Pioneer Road Services be awarded the contract for the Supply and Spraying of Bituminous Surfacing at Various Locations as the primary contractor based on their alternate rise and fall submission for the period 1 July 2006 until 30 June 2008.**
- 2. The ranking order of contractors on the unavailability of Pioneer Road Services be as follows:-**
 - 1. Boral Asphalt**
 - 2. SAMI Pty Ltd**

REPORT:

Tenders for the Supply and Spraying of Bituminous Surfacing closed on Wednesday 3 May 2006. The supply contract will be for a two (2) year period commencing 1 July 2006 until 30 June 2008.

At the close of tenders submissions had been received from Pioneer Road Services, Boral Asphalt and SAMI Pty Ltd.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

1. **Confidential** Attachment (DW 1405787).
-

O12 [EO-OC] EC2006-054 Supply of Pavement Linemarking Services

ORIGIN:

Contracts

FILE NO: Traffic - Linemarking

SUMMARY OF REPORT:

Tenders for the supply of Pavement Linemarking Services on Council's road network have been called.

The Pavement Linemarking contract will be for a two (2) year period from 1 July 2006 until 30 June 2008.

RECOMMENDATION:

That Linemarking Australia Pty Ltd be awarded the contract for the Supply of Linemarking Services for the period 1 July 2006 until 30 June 2008.

REPORT:

Tenders closing 3 May 2006 have been called for the supply of Pavement Linemarking Services on Council's road network for the period 1 July 2006 until 30 June 2008.

The tender called for the provision of standard linemarking services and the supply and application of Thermoplastic road markings.

Four (4) contractors sourced the tender documentation however at the close of tenders only two (2) submissions were received.

Submissions have been received from the RTA's, Rural Linemarking Services (RLS) based in Grafton and Linemarking Australia Pty Ltd located on the Gold Coast.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. EC2006-054 Supplementary Confidential Information to Contract for the Provision of Linemarking Services (DW 1404298).
-

013 [EO-OC] EC2006-055 Supply of Ready Mixed Concrete

ORIGIN:

Contracts

FILE NO: EC2006-055

SUMMARY OF REPORT:

Tenders for the supply and delivery of ready mixed concrete for maintenance and general construction purposes to two (2) specified areas across the Shire have been called.

The supply contract will be for a twelve (12) month period commencing 1 July 2006 until 30 June 2007.

RECOMMENDATION:

That the contract for the supply and delivery of ready mixed concrete for the period 1 July 2006 until 30 June 2007 be awarded to Readymix Concrete.

REPORT:

Tenders closing 30 May 2006 have been called for the supply and delivery of ready mixed concrete for the period commencing 1 July 2006 until 30 June 2007.

Tenderers were requested to provide prices for the supply and delivery of ready mixed concrete for maintenance and general construction purposes in various strengths, mix types and quantities too two (2) specified supply areas.

The contract is to be let in either separable portions or as a whole contract.

The concrete supply contract, when previously offered to tender, was broken down into five (5) individual supply areas however following the establishment of a number of suppliers in the Chinderah and Murwillumbah industrial areas rationalisation of the supply areas across the Shire was considered appropriate. The supply areas were reduced to two (2). Area 1 serving the Tweed Heads and Tweed Coast regions and Area 2 the Murwillumbah, southern and western parts of the Shire.

Following the close of tenders submissions were received from four suppliers Readymix Concrete (Areas 1 & 2), Brims Concrete (Areas 1 & 2), Boral (Area 1) and Hymix (Area 1).

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. **Confidential** Attachment - EC2006-055 Supplementary Information for the Supply and Delivery of Ready Mixed Concrete (DW 1404067).
-

O14 [EO-OC] EC2006-060 Supply and Delivery of Liquid Environmental Oxygen to Gollan Drive, West Tweed and Casuarina Beach Swer Pump Stations

ORIGIN:

Contracts

FILE NO: EC2006-060

SUMMARY OF REPORT:

Tenders for the Supply and Delivery of Liquid Environmental Oxygen to Gollan Drive West Tweed Heads and Casuarina Beach Sewer Pump Stations have closed.

The supply contract is for a five (5) year period commencing on 1 July 2006 until 30 June 2011.

RECOMMENDATION:

That the contract for the Supply and Delivery of Liquid Environmental Oxygen to Gollan Drive West Tweed Heads and Casuarina Beach Sewer Pump Stations be awarded to BOC Limited. The contract period will be from 1 July 2006 until 30 June 2011.

REPORT:

Tenders closing 3 May 2006 have been called for the Supply and Delivery of Liquid Environmental Oxygen to Gollan Drive West Tweed Heads and Casuarina Beach Sewer Pump Stations.

The supply contract is for a five (5) year period commencing 1 July 2006 until 30 June 2011.

The liquid oxygen is used to control the generation of odours emanating from the Gollan Drive and Casuarina sewer pump stations.

Two suppliers took tender documents however at the close of tenders only one (1) submission was received.

The sole submission received was submitted by BOC Limited

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. EC2006-060 Supplementary Confidential Information for the Supply and Delivery of Liquid Environmental Oxygen to Gollan Drive West Tweed Heads and Casuarina Beach Sewer Pump Stations (DW 1403081).
-

O15 [EO-OC] EC2006-056 Supply and Delivery of Pressure Pipe and Various Water Service Fittings

ORIGIN:

Contracts

FILE NO: GC12/1-2 Pt2

SUMMARY OF REPORT:

Tenders for the Supply and Delivery of Pressure Pipe and Various Water Service Fittings for the period 1 July 2006 to 30 June 2008 have closed.

The materials offered in the tender are held as stock items in Council's Depot Store and used in the maintenance of Council's water and sewerage systems.

RECOMMENDATION:

That the recommended prices and suppliers listed be awarded supply contracts for the period 1 July 2006 until 30 June 2008.

REPORT:

Tenders closing 3 May 2006 have been called for the Supply and Delivery of Pressure Pipe and Various Water Service Fittings for the period 1 July 2006 until 30 June 2008.

The various pipe and water service fittings offered in the tender are materials held as stock items in Council's Depot Store and used in the maintenance of the Shire's water and sewerage systems.

The tender was separated into thirteen (13) sections with prices requested for approximately 290 items.

The contract can be let in their separable portions or as a whole contract or any combination of the separable portions.

Eight submissions to the tender were received.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Supplementary Confidential Attachment to EC2006-056 for the Supply and Delivery of Pressure Pipe and Various Water Service Fittings (DW 1404322).
-

O16 [EO-OC] EQ2006-044 License to Operate Water-based Activities in Tweed Shire

ORIGIN:

Contracts

SUMMARY OF REPORT:

Quotations for the License to Operate Water-based Activities in Tweed Shire were called and publicly opened on Wednesday 3 May 2006. The License is for a three (3) year period commencing on 1 July 2006.

RECOMMENDATION:

That licenses to operate Water-based Activities in Tweed Shire from 1 July 2006 to 30 June 2009 be issued to Peter Sloan and Trevor Arbon.

REPORT:

Quotations for the License to Operate Water-based Activities in Tweed Shire were called and publicly opened on Wednesday 3 May 2006. The License is for a three (3) year period commencing on 1 July 2006.

Following the close of tenders two (2) submissions were received:-

Applicant	Location	Activity
Peter Sloan	Cudgera Creek, Hastings Point	Kayaks Canoes
Trevor Arbon	Jack Evans Boat Harbour, Chris Cunningham Park, Tweed Heads	Paddle Boats Kayaks Sailing Catamarans Beach Sports

These applicants are both current license holders for the Water-based Activities in Tweed Shire and have satisfactorily fulfilled their license requirements.

Therefore both applications submitted are recommended for renewal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. EQ2006-044 Supplementary Confidential Information to Contract for License to Operate Water-based Activities in Tweed Shire (DW 1404351).
-

O17 [EO-OC] EQ2006-043 License to Operate Commercial Sight-Seeing Charters/Guides on Clarrie Hall Dam

ORIGIN:

Contracts

SUMMARY OF REPORT:

In accordance with the Clarrie Hall Dam Plan of Management, quotations for the License to Operate Commercial Sight-Seeing Charters/Guides on the Clarrie Hall Dam Waterways were called and publicly opened on Wednesday 3 May 2006. The License is for a three (3) year period commencing on 1 July 2006.

RECOMMENDATION:

That licenses to operate Commercial Sight-Seeing Charters/Guides on Clarrie Hall Dam from 1 July 2006 to 30 June 2009 be issued to Midginbil Hill Outdoor Education Centre and Inter-Action Experiential Learning Pty Ltd.

REPORT:

In accordance with the Clarrie Hall Dam Plan of Management, quotations for the License to Operate Commercial Sight-Seeing Charters/Guides on the Clarrie Hall Dam Waterways were called and publicly opened on Wednesday 3 May 2006. The License is for a three (3) year period commencing on 1 July 2006.

Following the close of tenders two (2) submissions were received:

Applicant	Activity
Midginbil Hill Outdoor Education Centre	Canadian Canoe Tours
Inter-Action Experiential Learning Pty Ltd	Canadian Canoe Tours

The Clarrie Hall Dam Management Plan specifies that two (2) operators be awarded license to operate Sight-Seeing charters on the dam waterways.

These applicants are both current license holders for the Commercial Sight-Seeing Charters/Guides on the Clarrie Hall Dam Waterways and have satisfactorily fulfilled their license requirements and dam management criteria.

Therefore both applications submitted are recommended for renewal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. EQ2006-043 Supplementary Confidential Information to Contract for License to Operate Commercial Sight-Seeing Charters/Guides on Clarrie Hall Dam (DW 1404466).
-

018 [EO-OC] EQ2006-042 License to Operate Commercial Fishing Charters/Guides on Clarrie Hall Dam

ORIGIN:

Contracts

SUMMARY OF REPORT:

In accordance with the Clarrie Hall Dam Plan of Management, quotations for the License to Operate Commercial Fishing Charters/Guides on the Clarrie Hall Dam Waterways were called and publicly opened on Wednesday 3 May 2006. The License is for a three (3) year period commencing on 1 July 2006.

RECOMMENDATION:

That a license to operate Commercial Fishing Charters/Guides on Clarrie Hall Dam from 1 July 2006 to 30 June 2009 be issued to Gary Prerost.

REPORT:

In accordance with the Clarrie Hall Dam Plan of Management, quotations for the License to Operate Commercial Fishing Charters/Guides on the Clarrie Hall Dam Waterways were called and publicly opened on Wednesday 3 May 2006. The License is for a three (3) year period commencing on 1 July 2006.

Following the close of tenders one (1) submission was received:-

Gary Prerost

This applicant is a current license holder for the Commercial Fishing Charters/Guides on the Clarrie Hall Dam Waterways and has satisfactorily fulfilled his license requirements and dam management criteria.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. EQ2006-042 Supplementary Confidential Information to Contract for License to Operate Commercial Fishing Charters/Guides on Clarrie Hall Dam (DW 1404475).
-

019 [EO-OC] EQ2006-030 Supply and Delivery of Selected Materials

ORIGIN:

Contracts

SUMMARY OF REPORT:

Tenders closed on 3 May 2006 for the Supply and Delivery of Selected Materials into Council's Buchanan Street Store for the period 1 July 2006 to 30 June 2007.

This supply contract is called on an annual basis for selected large dollar turnover items purchased for issue through Council's Store.

RECOMMENDATION:

That the contracts for Supply of Selected Materials for the period 1 July 2006 until 30 June 2007 be awarded to the following suppliers:-

ITEM	SUPPLIER
Concrete Products (Pipes, Surrounds, Kerb Inlets, Headwalls)	Rocla
Work Shorts	Armstrong's Store
Work Shirts	Armstrong's Store
Rain Coats	Armstrong's Store
Work Trousers	Armstrong's Store
Waterproof Trousers	Armstrong's Store
Work Boots - Leather & Rubber	Armstrong's Store
Herbicides	Rural Buying Service
Premix Cement	Mills Distribution
Bagged Cement	Mills Distribution
Reinforcing Mesh	Neumann Steel
Ag Pipe	Neumann Steel
90mm PVC Stormwater	JH Williams
Geotextile Material	Elco Solutions
Electrodes	JH Williams
Form Ply	JH Williams
Padlocks	JH Williams
Fill Stop	Neumann Steel

REPORT:

Tenders closing the 3 May 2006 were called for the Supply & Delivery of Selected Materials into Council's Buchanan Street Store for the period 1 July 2006 until the 30 June 2007.

This supply contract is called on an annual basis for selected large dollar turnover items purchased for issue through Council's Store.

It is recommended that the contracts for Supply of Selected Materials for the period 1 July 2006 until 30 June 2007 be awarded to the following suppliers:-

ITEM	SUPPLIER
Concrete Products (Pipes, Surrounds, Kerb Inlets, Headwalls)	Rocla
Work Shorts	Armstrong's Store
Work Shirts	Armstrong's Store
Rain Coats	Armstrong's Store
Work Trousers	Armstrong's Store
Waterproof Trousers	Armstrong's Store
Work Boots - Leather & Rubber	Armstrong's Store
Herbicides	Rural Buying Service
Premix Cement	Mills Distribution
Bagged Cement	Mills Distribution
Reinforcing Mesh	Neumann Steel
Ag Pipe	Neumann Steel
90mm PVC Stormwater	JH Williams
Geotextile Material	Elco Solutions
Electrodes	JH Williams
Form Ply	JH Williams
Padlocks	JH Williams
Fill Stop	Neumann Steel

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Selected tenders conform with Council's Purchasing Policy.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. EQ2006-030 Supplementary Confidential Information to Contract for Supply of Selected Materials (DW 1404537).
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O20 [EO-OC] EC2006-031 Supply and Delivery of One (1) or Four (4) 12,500 Kg Operating Weight Vibrating Road Rollers

ORIGIN:

Works

FILE NO: EC2006-031

SUMMARY OF REPORT:

Tenders closing Wednesday 19 April 2006 were invited for the supply of one (1) or Four (4) 12,500 kg Operating Weight Vibrating Road Rollers Plant Number 9812, 9820, 9916, 9918. Further a decision has been taken to rationalize the road rollers that Council owns and dispose of 2 specialist but low usage rollers. Hence it is recommended that Council purchase four (4) new rollers and sells six (6) surplus to requirement rollers and to offer the surplus to requirements rollers at auction in Brisbane after the new units have been delivered and commissioned to operation.

Following evaluation in accordance with the specified criteria, the offer from Wirtgen Australia Pty Ltd for the supply of four- (4) Hamm Vibrating Rollers is recommended. It is further recommended that Council authorise the General Manager to sell six- (6) Plant Nos 9812,9820, 9916, 9918, 9819, 9810 surplus to requirement road rollers at auction.

RECOMMENDATION:

That Council:-

- 1. Accepts the tender from Wirtgen Australia Pty Ltd for the supply of four (4) Hamm 3414 Vibrating Drum Road Rollers in accordance with Tender No EC 2006-031, for the price of \$569,800.00 GST inclusive. Plant No 9812, 9820, 9916, & 9918**
- 2. Authorises the General Manager to sell six- (6) surplus to requirements road rollers through an appropriate auction house in Brisbane using the auction process.**

REPORT:

Tender EC2006-031, closing Wednesday 19 March 2006, invited tenders for the supply of one (1)/ four (4) 12,500 Kg's Operating Weight vibrating road rollers. The tenderers are listed below:-

Tenderers:

Construction Equipment Australia
Dynapac Australia Pty Ltd
Writgen Australia Pty Ltd
Writgeen Australia Pty Ltd
Conplant AMMANN Australia
Westrac Pty Ltd
Clark Equipment Sales Pty Ltd
BT Equipment
Construction Equipment Australia
McDonald Murphy Machinery Brisbane Pty Ltd

Tenders are analysed in a separate confidential attachment.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funds have been voted in the current 2005/2006 budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. **Supplementary Confidential Attachment** EC2006-031 Supply and Delivery of One (1) or four (4) 12,500 kg's Operating Weight Vibrating Road Rollers (DW1405775).
-

O21 [EO-OC] Letitia Road

ORIGIN:

Works

FILE NO: R3040

SUMMARY OF REPORT:

At its meeting on 1 June 2005 Council considered a report on the proposed trial stabilisation of a 500 metre section of Letitia Road. (The previous report is attached DW No. 1208304).

Council resolved "that staff organise a round table discussion with interested parties to discuss the stabilisation trial of the unsealed pavement of Letitia Road".

Since Council's resolution the following has occurred:-

1. Initial contact was made with various interested parties, with a wide and varied response.
2. Letitia Road received heavy grader maintenance and gravel resheeting (November 2005).
3. The Aboriginal Advisory Committee (Tweed Shire Council) arranged a summit of interested parties to discuss issues relating to Letitia Road and the whole spit area (15 February 2006).

The range of issues and response options are discussed in this report. Having regard to the variety of views it is unlikely that a solution will be reached that satisfies all parties. More consultation is required to find the most viable and effective option(s).

RECOMMENDATION:

That Council:-

1. **Continues to maintain the gravel surface of Letitia Road on an as needs basis having regard to other competing priorities.**
2. **Continues to work with the Tweed Byron Local Aboriginal Land Council to protect public investment in land regeneration by closing tracks into Lots 740 and 741, using suitable fencing, physical barriers and sign posting.**

3. Establishes a sunset committee comprised of representatives from the NSW Police, Tweed Byron Local Aboriginal Council, Tweed River Sand Bypassing Company, Fingal Head Coastcare Inc. and Council officers to consider options and report back to Council with recommendations and costs.

REPORT:

It may help in considering this report to understand the land tenure on Letitia Spit.

KEY TO LAND TENURE

LOT	OWNER	COMMENTS
737	Public Road (TSC)	Includes the two side tracks to the beach
733, 738, 739, 740, 741	Tweed Byron Local Aboriginal Land Council	There are narrow easements for public access and maintenance along the River foreshore. The whole of Kerosene Inlet is an easement for public access.
734, 735, 736	Tweed Byron Local Aboriginal Land Council	These whole of these lots are subject to an easement for public access
The beach	Crown Land	

Discussions Regarding Stabilisation Trial

At its meeting on 1 June 2005 Council considered a report on the proposed trial stabilisation of a 500 metre section of Letitia Road. (The previous report is attached DW No. 1208304).

Council resolved "that staff organise a round table discussion with interested parties to discuss the stabilisation trial of the unsealed pavement of Letitia Road".

A meeting was held with representatives of the Progress Association and the Fingal Heads Spit Committee and the Tweed River Sand Bypass Co on 29 June to discuss the proposal and to explain further the type of stabilisation product to be used and how it would be placed on the road. Those attending were to then make any submissions considered necessary within one month.

As the Tweed Byron Local Aboriginal Land Council were not present a special presentation was made to them by the Works Manager on Friday 29 July.

Submissions have been received from the Progress Association which oppose the stabilisation. However the Land Council has approved the trial for a twelve month period (DW No. 1243910). Copies of the submissions and Council's responses are attached (DW Nos. 1245926, 1253327).

Gravel Resheeting

In November 2005 Letitia Road was gravel re-sheeted. During this heavy maintenance work it was found that the quantity of large rock in the pavement structure precludes the use of stabilisation as a means to reduce the maintenance requirements of the road. Conversely, the pavement structure indicates that sealing is a viable option. Additionally, routine maintenance requirements have been substantially reduced by the re-sheeting.

Summit

Following the earlier discussions, the Aboriginal Advisory Committee recommended that a summit be arranged to allow discussion of all issues relating to Letitia Road and the Letitia Spit in general. The Summit was held on 15 February 2006. The following is a summary of the issues raised:-

ISSUE	SUGGESTED SOLUTION
Vehicles on Road	
Speeding	<ul style="list-style-type: none">• Speed humps (These cannot be accommodated on an unsealed road.)• Increased policing
Dust	<ul style="list-style-type: none">• Sealing (May increase visitation and speeding.)• Stabilisation of road surface (Not feasible due to presence of large rock in pavement.)
Erosion into Kerosene Bay	<ul style="list-style-type: none">• Sealing (May increase visitation and speeding.)• Sealing of localised section adjacent to Bay• Relocate road away from Bay• Stabilisation of road surface (Not feasible due to presence of large rock in pavement.)

ISSUE	SUGGESTED SOLUTION
Noise	<ul style="list-style-type: none"> Restrict access by gate closed at night. (Who will control? Emergency access?)
Off-Road Vehicles	
<ul style="list-style-type: none"> Damage to bird habitats Damage to bush & dunes Damage to the bush regeneration carried out by the TBLALC with the assistance of Council in Lots 739, 740 and 741. 	<ul style="list-style-type: none"> Better signposting of area with maps, go & no-go areas, restrictions & penalties Close off tracks leaving road with fencing and/or physical barriers. (However, access will still be available from beach and gates will be vandalised /damaged /removed /bypassed) Restrict access by boom gate (Who will control? Emergency access?) Provide parking bays at strategic points along the road allowing pedestrian access to beach, etc
Illegal Dumping	
Rubbish left behind by visitors	<ul style="list-style-type: none"> Provide bins and service them regularly
Illegal dumping of waste	<ul style="list-style-type: none"> Restrict access by boom gate (Who will control? Emergency access?)
Dumping/burning of cars	<ul style="list-style-type: none"> Restrict access by boom gate (Who will control? Emergency access?) Policing
Illegal Camping	<ul style="list-style-type: none"> Better policing by Rangers
Sand Bypass Project	
Require well-maintained road for safe access	<ul style="list-style-type: none"> Sealing (May increase visitation and speeding.) Stabilisation of road surface (not feasible due to presence of large rock in pavement.)
Vandalism	<ul style="list-style-type: none"> Restrict access by boom gate (Who will control? Emergency access?)
Other Issues	
Maintain public access for all to appreciate the area	
Management plan for whole area	(This is the responsibility of the Tweed Byron Aboriginal Land Council).
Management plan for road only	

The names of the parties invited to the Summit held on 15 February 2006 appear on DW 1366036 which is a confidential attachment to this report.

Letitia Road and Letitia Spit

From the perspective of road asset management, Letitia Road is of little significance. It is a low traffic, unsealed, no-through road that can be maintained by standard procedures for minimal cost.

The real issue is the management of the adjacent land. The majority of the discussion so far has been directed at solving a land management problem by a treatment on the road, rather than directly addressing the problems.

- Rubbish dumping
- Abandoned/burning of cars

- Antisocial activities and parties
- Damage to bushland by off road vehicles
- Illegal camping
- Damage/disturbance of bird breeding grounds
- Bushfires
- Vandalism
- Erosion into waterways
- Noise
- Dust
- Speeding vehicles

Summary of Issues

Only the last four items are road problems. However these problems are common to many unsealed roads in the Shire - it is only the location of Letitia Road within the Spit that has them raised in importance in this context.

Options to Address the Land Management Issues on Letitia Spit

Option	Advantages	Disadvantages
Road stabilisation \$200,000 capital	<ul style="list-style-type: none"> • Reduces future maintenance needs • Reduces erosion and dust • Improves access to area 	<ul style="list-style-type: none"> • Does nothing to resolve land management issues • Not a technically viable option
Road sealing \$80,000 capital every 10 years	<ul style="list-style-type: none"> • Reduces future maintenance needs • Reduces erosion and dust • Low cost • A technically viable option • Improves access to area 	<ul style="list-style-type: none"> • Does nothing to resolve land management issues • May increase speed • Not favoured by Summit participants
Traffic regulation by boom gates (authorised entry only) \$30,000 annually	<ul style="list-style-type: none"> • Addresses rubbish dumping, abandoned cars, antisocial activities, damage to bushland and bird rookeries, illegal camping, plus reduces noise, dust and erosion 	<ul style="list-style-type: none"> • Restricts public access to significant coastal strip • Management of access rights • Vandalism of gate • Bypassing of gate through bush or along beach may cause additional damage to area • Recurrent cost of gate repairs and blocking bypasses
Fencing of road reserve \$35,000 capital plus	<ul style="list-style-type: none"> • Addresses damage to bushland and bird 	<ul style="list-style-type: none"> • Vandalism of fence • Recurrent cost of fence

Option	Advantages	Disadvantages
\$10,000 recurrent	<ul style="list-style-type: none"> rookeries Reduces rubbish dumping, abandoned cars, anti-social activities, illegal camping 	<ul style="list-style-type: none"> repairs Does not address dust, noise, speed and erosion
Increased policing (2 shifts, Ranger) \$120,000 recurrent	<ul style="list-style-type: none"> Could address all issues Could have educational role with visitors 	<ul style="list-style-type: none"> Very high recurrent cost
Informative and regulatory signposting \$15,000 capital \$8,000 recurrent	<ul style="list-style-type: none"> Assists in addressing all issues through public education and information Low cost 	<ul style="list-style-type: none"> Will not be effective with all visitors
Speed humps \$50,000	<ul style="list-style-type: none"> Addresses speed 	<ul style="list-style-type: none"> Not a viable option on an unsealed road Increased noise Does not address most issues
Close of tracks into bush from the road \$20,000 capital	<ul style="list-style-type: none"> Addresses damage to bushland and bird rookeries Low cost Reduces rubbish dumping, abandoned cars, anti-social activities and illegal camping 	<ul style="list-style-type: none"> Recurrent cost of closing new tracks as they are opened Does not address dust, noise, speed and erosion
Provide and service rubbish bins \$5,000 capital plus \$10,000 recurrent	<ul style="list-style-type: none"> Reduces litter 	<ul style="list-style-type: none"> Does not address any other issues May attract additional dumping
Provide parking bays along road at bush/beach access points \$35,000 capital	<ul style="list-style-type: none"> Reduces damage to bushland and bird rookeries 	<ul style="list-style-type: none"> Does not address any other issues
Protection of bush regeneration areas \$15,000 capital	<ul style="list-style-type: none"> Directly addresses damage to these areas 	<ul style="list-style-type: none"> Does not address any other issues

Comments & Conclusions

- All of the available options have cost impacts on Council, yet Council is not the owner of the subject land.
- If Council wishes to proceed with any of the options, then it must allocate a funding source.

- Many of the practicalities of the various options have not been fully considered. More discussion and consultation with the relevant stakeholders is required. It is recommended that a sunset committee of stakeholders be formed to further consider and develop the options and their costs and report back to Council with recommendations.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

All suggested options have budget implications.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Council Report Dated 1 June 2005 (DW 1208304)
 2. Incoming Correspondence (DW1245926, 1243910)
 3. Outgoing Correspondence (DW1253327)
 4. The Roads Act 1993, Section 115 (DW 1404683)
 5. Confidential Attachment: Letitia Road Excerpt from Summit held 15 February 2006 (DW1366036)
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O22 [EO-OC] Bray Park Water Treatment Plant Upgrade – Capital and Design Budget Review

ORIGIN:

Water

FILE NO:

SUMMARY OF REPORT:

A review has been undertaken of the total project costs for upgrading of the Bray Park Water Treatment Plant (WTP). As highlighted in the [EO-OC] Water Supply and Sewerage Program Status Report to Council on 2 May 2006 *"Since its (the Long Term Financial Plan LTFP) preparation there have been two major impacts on the LTFP and Developer Services Plan DSP namely the increase in construction costs of capital works, including significant costs for higher levels of treatment and reduction in DSP income due to slower than expected growth"*.

The current estimate for the upgrade of the Bray Park WTP has seen an increase in the Project Cost from \$38 million (as detailed in the LTFP prepared in 2004 and adopted in May 2005) compared to the current estimate of \$50 million as provided in the report to Council on 2 May 2006. This additional cost can be attributed to the increase in construction costs along with changes to design to reduce operational risks and whole of life costs. There has also been a corresponding increase in design cost as there have been significant changes and increases in the scope of works undertaken by the Design Consultants.

Hunter Water Australia (HWA) were engaged following resolution of Council on the 20 October 2004 on a single invitation basis. The invitation and acceptance of a single invited quotation was based on Section 55(3) of the NSW Local Government Act 1993, which exempts the Crown, or an entity of the Crown. Hunter Water Australia is a complying organisation being a wholly owned subsidiary of Hunter Water Corporation.

The purpose of this report is to advise Council of progress with the project, along with the revision of the capital works cost and design costs. The funding implications of the revised costs have been incorporated into the 10 year financial plan as reported to Council on 4 May 2006. The funding program indicates the necessity to borrow \$29 million in the 2007/08/09 financial years to fund this and other water fund programs.

RECOMMENDATION:

That Council:-

- 1. Approves the variation to Hunter Water Australia for the increase in scope of works for the Detailed Design of Bray Park Water Treatment Plant defined in this report for \$974,418.**
- 2. Revises the Target Alliance fee for the Detailed Design of Bray Park Water Treatment Plant to \$2,943,563.**

REPORT:

Background

A comprehensive review of project capital costs for the Bray Park WTP has been undertaken. This project review is timely with the design development phase now fully completed and the detailed design phase currently underway.

The purpose of this document is twofold:-

- To provide a revised and improved capital cost estimate to adjust the capital budget, taking into account the changes during the design development phase. This includes revision of the design budget.
- To benchmark the developed capital cost against other recent water industry capital costs.

A Partnership Approach

Hunter Water Australia has worked closely with Tweed Shire Council throughout the project to date. Key project phases have included the water quality risk assessment, existing plant capability review, process options selection, concept design, membrane supplier phases of the project and subsequent detailed design (currently in progress). A partnership approach has been adopted to allow project flexibility and to best utilise the resources of TSC and HWA. An overall project plan outlining the partnership approach was submitted and approved by Tweed Shire Council in October 2004.

This is a very important project for the Tweed community and it is important to put resources into activities that best manage risk for the project. For example:-

- A high level of design detail is proposed to minimise contractual and construction risks to Tweed Shire Council,
- Risk assessments are proposed at key stages,
- A very consultative approach with operator and maintainers on design decisions,
- Specialist sub-consultants are proposed to manage key project risks.

Throughout the design phase, considerable effort has been made to include Council's Operations and Maintenance personnel in the decision-making processes. A number of workshops have been held that have allowed for interactive participation between operators and maintenance personnel and the overall project team.

Contractual Arrangements HWA

Hunter Water Australia (HWA) which is a company owned by Hunter Water Corporation was originally engaged by Council resolution on the 19 March 2003, following a competitive tendering process, to undertake a Concept and Detailed Design for a 50ML/day Dissolved Flotation Plant.

Following a substantial change to the preferred treatment process, on the 20 October 2004 Council resolved to engage HWA on a single invitation basis to complete the Detailed Design for a 100ML/day Ultra Filtration Plant for the Target Alliance Fee of \$1,619,145 exclusive of GST. The Target Alliance Fee provided by HWA was based on

the Concept as of that date and a partnership approach to the management of the project which allowed Council a high level of control in terms of project direction and resource allocation. As the client, Council has been provided with full and transparent access to the financial costs incurred by HWA including man hours, resource allocation and subcontractor costs required to complete the work under the Contract. Invoicing and payment is based on actual hours of work, agreed contract rates and actual subcontractor costs. The Target Alliance Fee also provided an estimate of the number of drawings required to complete the works and the associated fee if more or less drawings are required. This approach allows significant flexibility in how the project is managed through the design development stages without compromising the design integrity. As the Design has been developed a conscious effort has been made to ensure that all risks have been minimised through the production of concise detailed drawings and specifications. This approach reflects the recommendation by an industry wide taskforce that examined the engineering practices used in Queensland and published in a report by Engineers Australia entitled "Getting it right the First Time" Oct 2005. In summary this report highlighted the problems encountered over the last 20 years from the reduction in effort and therefore costs in the design phase which has led to the increase in the number of variations and costs during the construction phase of projects.

Council further resolved on 19 October 2005 to accept a scope variation to Hunter Water Australia's contract for \$350,000 to include additional design, which was removed from the Membrane Suppliers contract (Zenon) giving a revised target alliance fee of \$1,969,145.

Outcomes of Design Development Phase

The design development phase of the Bray Park WTP upgrade has realised a number of changes to the original membrane plant concept and site layout. The relocation of the plant away from the front of the site to the vacant land on top of the site was necessary due to a number of unworkable site constraints on the originally proposed lower site which were not apparent in the concept phase. The key drivers for the change in location were:-

- The original site was extremely space constrained. This would have resulted in an increased number of compromises in the functionality and operability of the plant and minimal opportunity to modify the design during the detail design phase.
- Future upgrades would be more costly and difficult to integrate. To upgrade the original site in the future a second membrane facility would need to be constructed where the existing sedimentation tanks are located.
- Construction costs were higher. The potential impact on the existing plant was greater during construction for the original site. This would lead to a higher construction cost premium, more potential contract variations, a longer construction period, increased OH&S risk and an increased risk of disruption to the existing supply.
- Sludge plant location. The sludge plant and ancillaries would need to be located somewhere at the top of the plant, which is against the gravitational flow. Therefore a significant amount of washwater would need to be pumped uphill to these facilities for treatment.
- Reduced public impact since site is further away from existing residents.

Having resolved the site location, the project team set about further refining the overall design to ensure the plant meets Council's long term requirements. This has been a valuable process and has resolved a number of the design issues and resulted in a number of design innovations. The following represents some of the positive outcomes that have been derived from this more flexible design approach to date:-

- Providing safe access around equipment for operation and maintenance activities.
- Reducing long term operating costs through the introduction of siphoning of water through the membranes. By doing this, the hydraulic grade provides a substantial amount of the energy required for the water to pass through the membranes.
- Reuse of existing infrastructure where possible. This includes the existing clear water tank and the upflow clarifier.
- Ensuring the overall design provides a low cost pathway for any future upgrade.
- Improving the functionality of the sludge handling system with reduced power and operating costs.
- Providing a ring road around the site to improve vehicle access.
- Consolidation of all the liquid chemicals into the one area, improving traffic control and unloading facilities.
- Adding extra functionality to the building such as membrane viewing areas and community education areas.

At each stage due regard was given to the overall lifecycle costs and non-cost factors in making the design decisions. In addition to this improved operability, emphasis was also placed on improving the aesthetic appeal of the building structures through functional architectural design.

Significant interaction was also required with the membrane supplier (Zenon) during the design development phase in order to ensure the membrane system and building integrates with the other infrastructure and maintains the same standards of operability and access for maintenance.

These design improvements together with the current high cost of delivering construction projects in the water industry have resulted in an increase in the estimated capital cost for the project. The following section provides a more detailed rationale for the revised capital cost estimate.

Revised Capital Cost Estimate

The estimate for the upgrade of the Bray Park WTP has seen an increase in the plant capital cost from \$32.9M (provided in Mar-05) compared to the current estimate of \$44.1M.

Table 1 summarises the revised overall project budget including the capital costs, design costs and project management/contract administration costs.

Table 1: Project Budget Estimate

CAPITAL COSTS	
Revised Capital Cost Estimate	44,086,000
Total CAPITAL COSTS	\$44,086,000
DESIGN COSTS	
Zenon Design Costs (Items A,C,D + membrane warranty)	1,372,000
HWA Design and Construction Assistance Costs	2,944,000
Total DESIGN COSTS	\$4,316,000
CONSTRUCTION PROJECT MANAGEMENT	
Project Management & Contract Administration (allowance of 3% of capital cost)	1,323,000
Total PROJECT MANAGEMENT & CONTRACT ADMIN COSTS	\$1,323,000
Overall PROJECT COST ESTIMATE	\$49,725,000

A comparison between the Mar-05 and Mar-06 capital cost estimates is provided in Table 2. This table also shows the main areas where the cost estimate has increased from the previous estimate.

Methodology

A ground-up approach to the capital costing for the plant upgrade has been used. In this approach the plant has been broken down into a series of units or segments and capital costing estimate applied to the equipment and construction methods required for that part of plant. This allows the building of costings with some confidence that all the equipment and construction tasks have been allowed for, thereby providing a much more robust capital cost estimate.

Table 2: Capital Cost Comparison

Plant Segments	Mar-06	Mar-05	Diff (\$M)	Main Differences
Est / Disest Earthworks, Roads and Fencing	2,172,000	1,135,000	1.0	Extra roadwork due to site relocation. +\$0.4M Additional earthwork and site establishment / destabl. +\$0.3M. Landscaping, detention pond. +\$0.15M.
Raw water to PAC tank	1,825,000	1,943,000	-0.1	
New PAC contact tank	1,528,000	1,501,000	0.0	
PAC Tank to Membrane facility	631,000		0.6	Additional pipeline due to relocation, Additional Alum & CO2 pits due to design development.
Membrane facility	24,504,000	17,825,000	6.8	Membrane Building Architecturals, Fitout and Chemical building +\$3.9M Valves/Pumps/Motorised equipment +\$1.2M Flocculator tank +\$0.7M Membrane tank civils +\$0.5M
Wastewater recovery, Sludge Handling and Wastewater	3,771,000	2,446,000	1.3	Sludge Building & equipment +\$0.9M, Sewer system +\$0.3M
Chemical dosing systems	5,667,000	4,923,000	0.7	Roofing over PAC tank to protect membranes +\$0.4M
POWER distribution, PLC/SCADA	1,956,000	1,856,000	0.1	
Plant monitoring	437,000	400,000	0.0	
Membrane Facility to Clear Water Reservoir	812,000	852,000	0.0	
Stormwater	413,000		0.4	Overflow pits & Detention Basin +\$0.4M
Land Acquisition	250,000		0.3	Purchase of Durroon Ave +\$0.3M
Total Capital Costs	\$44,086,000	\$32,879,000	\$11.2	

As highlighted in Table 2, the key segments are as follows:-

- Earthworks and roads
- Raw water main up to Powdered Activated Carbon (PAC) tank and associated strainer equipment & civil works
- The new PAC tank and mixers
- The main from the PAC to the membrane plant and associated injection pumps & civil works
- The membrane facility
- Washwater and wastewater handling, sludge dewatering
- Chemical dosing equipment and buildings
- Plant power, Programmable Logic Control (PLC) and System Control and Data Acquisition (SCADA) system
- Plant online monitoring and laboratory fit-out
- Post dosing and the Clearwater main down to the reservoir
- Plant stormwater
- Increase in design costs.
- There is also a need to realign the design budget component in line with changed scope to account for the increased overall design effort including increased number of drawings and external consultant costs.

Assumptions

The estimates provided allow a 20% contingency to cater for minor items which may have not been allowed for. The estimate also allows for a normal margin on equipment supply and installation. However, this does not include allowance for market factors such as constructor availability (ie. above normal profit margin) and above normal material price rises. For these factors an additional contingency may need to added between 0% or 30%.

A significant cost of construction will be the supply and installation of concrete structures. The estimates are based on a figure of \$1500/m³ installed which has been validated based on a number of recent projects.

A value of \$250,000 has been allowed for the acquisition and closing of a section of Durroon Avenue for additional site security.

Change Drivers

There have been a number of drivers that have contributed to the increase in the plant capital cost including:-

Relocation of the plant. A closer assessment of the original plant location highlighted some concerns as to whether the plant would fit into the space allocated and still provide sufficient functionality from an operations and maintenance perspective. The assessment also raised a number of substantial risks to council. Experienced construction industry practitioners were consulted. Their feedback indicated that with the original site there were increased construction risks and a longer construction period could be expected. Both these factors would translated to higher actual tender costs. There was also

increased occupational health and safety risks with existing site which would be reflected in tendered construction price.

The relocation of the site to the top of the existing plant makes the project more of a *greenfield* upgrade hence decreasing overall project risks, the benefits being observed during the tender stage and lower number of variations throughout the project.

However, the change in location from the bottom to the top of the site has had an impact on the capital cost due to the increased distances for some items and services (eg. pipelines, roads, power, stormwater etc). This has also resulted in increased excavation costs for levelling of the site.

Improved Functionality. As a result of the site relocation there was more opportunity to optimise the plant design and layout to improve functionality from an operating and maintenance perspective. Emphasis was placed on ensuring good working access around the equipment. Compromises on effective working space at the existing site would have been required. The allowance for this additional space has increased the size of some structures.

Operational Cost Savings. Adoption of partial siphoning increases capital costs but will result in ongoing operating cost savings when plant is operated through reduced energy usage. This was assessed and decided on a whole of life (NPV) basis.

Architectural Design. The adoption of architectural design to the membrane building and surrounding structures has resulted in an increase to capital costs. Emphasis has been placed on producing a design that is not only aesthetically pleasing but also functional in terms of constructability, operations and maintenance. It was originally proposed to reuse the existing plant rooms (eg. offices, meeting room, etc) but the relocation has made this unfeasible. These and other areas such as the membrane viewing area have also increased the building footprint and costs. The overall design allows TSC to use the plant as a community education showcase.



Figure 1: Bray Park WTP – Architectural Perspective

Design development. The design development phase has identified a number of areas of the plant design that were not within the original concept and have increased the capital cost. This process however means the design has been well thought through and hence minimises the potential for future variations and improves the detail design process. This concept of putting the effort in upfront is consistent with industry professional opinion as highlighted in the Engineer Australia report titled “*Getting it Right the First Time*”, October 2005.

Benchmarking

Capital cost benchmarking has been undertaken to compare the current budget estimate with recent completed WTP projects from around the country. The capital cost for each plant was indexed to 2006 prices so a direct comparison could be made.

The NSW reference rates (2003) for the valuation of water supply assets from the Ministry of Energy and Utilities were also indexed to 2006 prices and plotted as a line. The reference rate includes the contract rate plus 20% for survey, investigation, design and project management plus 10% contingency.

Industrial evidence suggests there was a step change in construction costs around three years ago to coincide with a construction boom. On this basis, a sensitivity analysis on the index rate has been provided at 5%, 10% and 15% to take this into account. The plants that were constructed several years ago show a significant range of capital cost due to the indexing effect.

There are a significant number of large infrastructure projects currently underway in South East Region of Queensland that is placing pressure on resources. Resource

pressures are expected to increase for the next 5 to 10 years as more planned major infrastructure projects commence in the region.

Figure 2 shows a graph of the indexed capital costs for these plants. Figure 3 provides the same data but only for membrane installations. Lines of fit have been manually drawn through the data. Based on these results the following observations can be made:-

- Plants lower than 15 ML/d generally fall on the NSW reference rates curves.
- There are three plants (including Bray Park) which sit just above the 15% reference rates curve (RRC). These plants correlate well with the plants less than 15 ML/D.
- There are five plants that sit well above the reference rates curves and the other data. Three of the five plants (two membrane, one conventional plants) contain ozone/BAC modules which may explain the deviation. One of the NSW (Coast) plants (also a membrane plant) is known to have had high civil costs due to difficult site constraints, a high level of architectural finish and contains additional infrastructure (eg. rising main, high lift pump station, educational facility, etc) that would contribute to a higher capital cost. The final NSW (West) plant included infrastructure such as raw water pump station, rising mains and clear water storage which may account for it being above the curve.

Overall, with all the plants present, the data provides some confidence that the capital cost estimate for Bray Park is consistent with industry practice. There are however data points for several plant installations which fall above this trend, and unfortunately three of the four membrane installation data points fall into this category. This skews the data when looking at only membrane installations towards suggesting TSC may require a higher capital estimate. As described above there are explanations for many of the deviations in the data points. Unfortunately, there are too few membrane installations in the country to provide more confidence in the benchmarking figure.

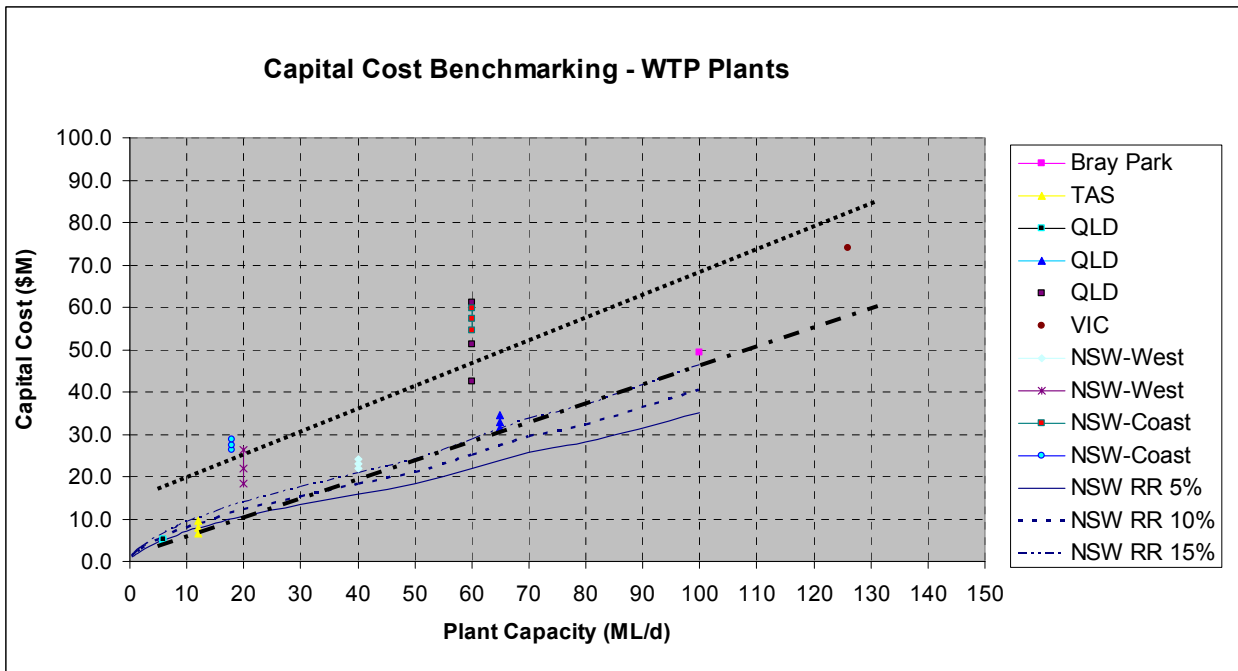


Figure 2. Benchmarking – All Plants

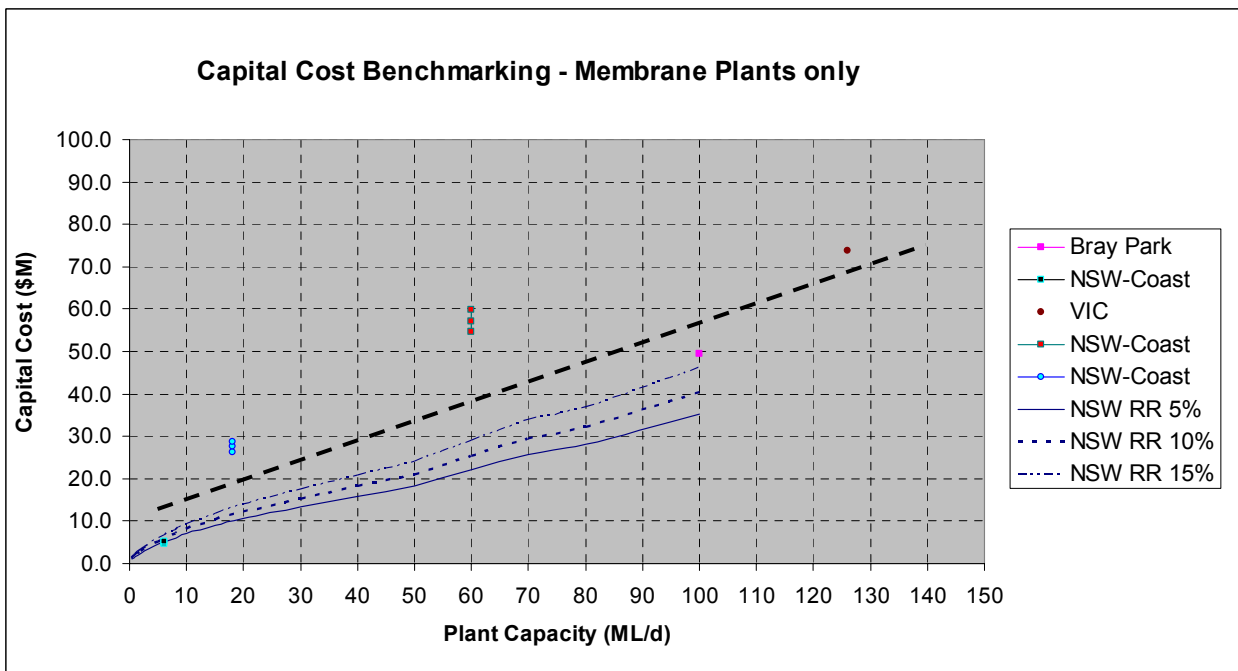


Figure 3. Benchmarking – Membrane Installations Design Cost Estimate

This section outlines the changes to the design budget for HWA’s scope of work for TSC’s approval. This budget has seen an increase from the current approved budget of \$1.97M to a revised estimate of \$2.94M to cater for an increased scope, level of detail and additional subconsultant costs, described in more detail below.

The overall project design budget (HWA and Zenon) represents \$4.3M or 9.8% of the estimated capital cost (ie. \$44.1M). This percentage is consistent with recognised industry levels, particularly given the level of detail to be provided.

A summary of the overall design budget showing the proposed increases is provided in Table 4 below:-

Table 4: HWA Design Budget

Task	Original Budget	Increase	Proposed Budget
Phase 2 - Project Initiation & Design Development	\$121,210	\$100,918	\$222,128
Phase 3 - Detail Design Preliminaries	\$117,270	\$18,000	\$135,270
Phase 4- Detail Design	\$1,030,710	\$785,500	\$1,816,210
Phase 5 - Construction Tender Documentation	\$80,360	\$0	\$80,360
Phase 6 - Web based Operations Systems	\$86,760	\$0	\$86,760
Phase 7 - Construction Tender Assistance	\$70,550	\$20,000	\$90,550
Phase 8 - Technical Project Support & Management	\$462,285	\$50,000	\$512,285
Overall Project Control	\$1,969,145	\$974,418	\$2,943,563

Change Drivers

There are a number of drivers that have combined to increase the design budget. These are described in more detail below. The budgeted figures are based on the design development and current drawing list. A detailed analysis is provided in the attached Confidential Report "HWA Design Budget Review" (DW 1404265).

Additional Scope / Tasks

There were a number of additional tasks that were completed during the design development phase that were not included in the original scope. These include:-

- Hydraulic investigation of the 900NB clear water pipeline and recommendations.
- Clean and dirty water jar testing programmes.
- Hydraulic modelling of the raw water pump station and upgrade recommendations.
- Stability modelling and manganese / silica data analysis.
- Alternative site concept design and financial analysis.
- Investigation into partial siphon feasibility.
- Assistance with the Deed of Variation and Deed of Assignment (Zenon International assigned to Zenon Australia).
- Preliminary work on the Expression of Interest.
- Sewer waste discharge and impact on STP investigations.

Time spent on these tasks relate to design development and contributed to a significant amount of the cost overrun on this task. These tasks account for an increase in the budget of \$100,918.

Additional Geotechnical Consulting

An increase in the number of boreholes from the original estimate resulted in an increased geotechnical cost (\$16.5K compared to \$8.5K). This was due to the increased number of bores required to relocate the plant to the top of the site. The design development phase has also identified that additional borehole depth is required around where the post dosing contact tank will be located. The geotechnical consultant is currently performing settlement analysis to identify the preferred foundation method. An allowance of \$10K has been made to complete this task. A budget increase of \$18K has been made to account for the original increase and the outstanding work.

Additional Detail Design Drawings

The number of proposed detail design drawings has increased substantially from the initial budget estimate at the start of the project. This has been a cumulative effect resulting from a number of changes throughout the project including:-

- Relocation of the plant location from the bottom to the top of the site and the overall increase in the size of the site.
- An increase in the level of design in some areas of the plant design. In particular the liquid chemical dosing systems, lime system, carbon dioxide system, PAC system and sludge dewatering facility.
- The transfer of the civil and electrical design scope from Zenon's contract has increased the number of drawings.
- The design development phase has changed the process concept.

The concept of providing a high level of upfront design documentation is something that has declined over the last two decades within the building, engineering and construction industry. This decline in documentation has been investigated by Engineers Australia and has been outlined in the report titled "Getting it Right the First Time". This report highlights the problems with poor design documentation that has led to:-

- An inefficient, non competitive industry.
- Cost overruns, design reworking and extensions of time. The study identified that 60-90% of all variations are related to poor design documentation.
- Adversarial behaviour between parties as a result of inconsistencies and a diminishing of business and personal reputations.
- High levels of stress, reduced morale and personal output.

The project's team approach to date on this project has been consistent with this philosophy by providing a high level of design development and detailed design. In this regard, the design costing has been made as transparent as possible through a partnering approach between Council and HWA project personnel.

A detailed civil/mechanical drawing list has been prepared based on the design development to date. It is the team's best estimate of the total design effort to successfully deliver this project. This has been reconciled against the original drawing list provided in March 2005.

In addition to the civil/mechanical drawings the following design developments have required a substantial augmentation of the electrical power and control infrastructure and associated design and drawing costs:-

- The use of optical fibre based Ethernet PLC system loop for the process.
- The power supply and switchboard network has been increased to include one main switchboard and five sub- switchboards distributed around the new works.
- The new works will now include a substantial HVAC system (Heating, Ventilation and Air Conditioning) for both the admin / control room, theatre and the main / sub switch rooms.
- Due to the significant increase in the main building size there have been a proportionate increase in building services required.
- It is now considered that the works should be protected against lightning strikes. This will require a risk based approach to the design and include the construction of a number of lightning spheres across the works with appropriate electrical hardware to prevent damage to the power and control systems.
- A back up generator will now be incorporated in to the works. This will require design of the generating equipment and associated civil works. Council has requested that selected equipment be connected to the generator as an emergency backup.
- Design development of the process train will require an increase the number of control devices / instrumentation, such as turbidity meters and Ph meters, and their integration in to the design documents.
- Full detailing in lieu of traditional 'design and construct' approach to select chemical dosing systems.

Based on the increased number of drawings, the design budget has been increased by \$619K to account for the increased number of civil/ mechanical and electrical drawings.

Additional Building and Architectural Consulting

A total design budget increase of \$167K to cater for additional costs from subconsultants detailed below.

Architecturals. There has been additional architectural consulting required as a result of the increased level of detail proposed and the additional building structures. An allowance of \$15K has been made to develop architectural plans and elevations for the PAC contact tank and the sludge handling building in order for them to blend in with the other structures. An additional \$92K is required to provide detailed sections through the membrane and chemical dosing buildings, and other details such as windows, door and hardware schedules, wet area detailing, joinery detailing, specifications etc.

Landscaping. An additional allowance of \$8K is required to provide a landscaping plan for the finished site.

Structural. An additional contingency of \$20K is included above the original \$38K allowance to cater for additional structural costs arising from the increased complexity of the building.

Heating, Ventilation and Air Conditioning. A total of \$32K has been included to cover the concept design of the HVAC component of the plant which was not allowed for in the

original estimate. This is made up of \$27K quoted amount for the concept design (calculations, equipment sizing and sketches) and \$5K contingency to generate drawings if required.

Additional Tender Assistance

An additional budget allowance of \$20K is included to cater for assistance during the Expression of Interest phase. This phase has been included into the project plan to simplify the evaluation of tenders from Construction companies. Three to Four major Construction companies will be short listed and invited to tender for the construction of the plant. Council used this approach successfully in the procurement of the Kingscliff Sewage Treatment Plant.

Additional Design Project Management

An additional budget of \$50K has been allowed to complete the project management of the HWA and Zenon design processes. This is to cover the increased design detail and the extended design delivery phase.

Project Timing

An indicative program for the work with key completion dates is as follows:-

- Receive expressions of interest May 2006
 - Submit Part 3A Development Application June 2006
 - Select pre-qualified Tenderers July 2006
 - Design briefing workshops with Short-listed Tenderers August 2006
 - Finalisation of Detailed Design and Documentation August 2006
 - Submit s60 Application August 2006
 - Invite Tenders September 2006
 - Close Tenders November 2006
 - Award Contract February 2007
 - Complete WTP Construction May 2008
 - Complete Process Commissioning July 2008
- Complete Defects Liability Period July 2010

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The revised 10 year financial plan was presented to Council on the 2 May 2006. This plan indicates loan borrowings are required initially in the 2007/2008 financial year in the order of \$25,500,000 for the water fund. Council is currently awaiting a response from the Department of Local Government on the approval or otherwise of the proposed borrowing program. Tenders will not be called until Council has some assurance that the loan borrowings will be approved.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Confidential Attachment to Bray Park Water Treatment Plant Upgrade - Capital and Design Budget Review (DW1404265).
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O23 [EC-OC] Footpath Dining License Agreement - Policy Variation

ORIGIN:

Environment & Health

SUMMARY OF REPORT:

Application has been made for a footpath dining agreement by the new owner of Ocean's Sole Seafood, 1/26 Marine Parade, Kingscliff. The owner, Mr Cram seeks use of the same area that has been leased previously (prior to adoption of the current Policy) which is a formal dining blister.

Clause S of Council's Footpath Trading Policy requires that where a driveway crosses a footpath, a 2m clear footpath area shall be maintained on either side of the crossing. This 2m clear space is not achieved in this case. On the south side the driveway immediately abuts the blister. The blister was constructed prior to adoption of the current Policy.

Given that it is a formal blister and previously approved for dining, it is considered unreasonable to disallow further use based on the 2m separation requirement. Council has previously approved use of the area and the Environment and Health Services Unit is unaware of any incidents or hazards that have resulted from that use.

It is recommended that the Policy be varied and use of the formal dining blister be approved.

RECOMMENDATION:

That Council:-

- 1. Approves variation of the Footpath Trading Policy and consents to a Footpath Dining License Agreement to be finalised for use of the respective area; and**
- 2. Issues delegated authority to the General Manager to determine variations to the respective Footpath Trading Policy in future.**

REPORT:

Application has been made for a footpath dining agreement by the new owner of Ocean's Sole Seafood, 1/26 Marine Parade, Kingscliff. The owner, Mr Cram seeks use of the same area that has been leased previously (prior to adoption of the current Policy) which is a formal dining blister. Photograph of the area is below.



Photo – Driveway immediately abutting dining blister

Clause S of Council's Footpath Trading Policy requires that where a driveway crosses a footpath, a 2m clear footpath area shall be maintained on either side of the crossing.

A driveway exists on both sides of the formal blister. On the north side the driveway is separated from the blister by 3.5m which complies, however on the south side the driveway immediately abuts the blister. The blister was constructed prior to adoption of the current Policy. Given that it is a formal blister (with pedestrian safety barriers) it is not recommended that a portion of the blister not be used due to the 2m separation requirement. Council has previously approved use of the area and the Environment & Health Services Unit is unaware of any incidents or hazards that have resulted from that use.

It is recommended that the Footpath Trading Policy be varied and use of the formal dining blister be approved. Further, it is recommended that delegated authority be provided to the Director Environment & Community Services to determine variations to the Footpath Trading Policy in future.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Footpath Trading Policy

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

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O24 [EC-OC] Approvals to Operate Markets - Kingscliff, Pottsville, Knox Park Murwillumbah and Recreation Reserve, Tweed Heads

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

The current approvals to conduct the markets at Kingscliff, Tweed Heads Recreation Ground, Knox Park Murwillumbah and Pottsville expire on 30 June 2006.

On 12 April 2006 Council resolved to call for expressions of interest from any person or group who wishes to be considered as a candidate to operate the four markets from 1 July 2006, for a period of three years.

The period for receipt of expressions of interest closed on 10 May. Submissions from a number of interested parties have been received, as detailed in this report. The matter is put before the Administrators to determine the most suitable applicants.

A report on this matter will also be put to the Reserves Trust for consideration.

RECOMMENDATION:

That:

- 1. Approval be granted to the following persons/groups to operate the respective markets from 1 July 2006 for a period of three years:**
 - (a) Knox Park Murwillumbah – Markets Down Under Pty Limited**
 - (b) Recreation Ground Tweed Heads – Tweed Heads Police and Community Youth Club**
 - (c) Pottsville – Pottsville Beach Neighbourhood Centre Inc**
 - (d) Kingscliff – Kingscliff Lions Club (2nd and 4th Sunday of the month) and Cudgen Headland Surf Club (5th Sunday of the month)**
- 2. Relevant conditions be applied to those approvals as determined by the Director Environment and Community Services.**

REPORT:

The current approvals to conduct the markets at Kingscliff, Tweed Heads Recreation Ground, Knox Park Murwillumbah and Pottsville expire on 30 June 2006. On 12 April Council resolved to call for expressions of interest from any person or group who wishes to be considered as a candidate to operate the four markets from 1 July 2006, for a period of three years.

The period for receipt of expressions of interest closed on 10 May. Submissions from a number of interested parties have been received, as detailed below. One late submission was received from the Tweed Heads Police and Community Youth Club. An assessment of the submissions is provided in the two tables below. The submissions are also provided in full as attachments to the report (see listings in "Under Separate Cover" section of this report).

The markets have traditionally been conducted on the following basis:

Knox Park, Murwillumbah – 1st and 3rd Saturday of the month.

Recreation Street, Tweed heads – Every Sunday (includes 1st and 3rd Sundays at Recreation St Oval)

Kingscliff – 2nd and 4th Saturday and 5th Sunday of the month (about 4 times per year)

Pottsville – 1st and 3rd Sunday of the month

The current operators of both the Tweed Heads and Pottsville pay 15% of stall rental income to Council (both community based charitable organisations). The current manager of the Knox Park market pays 25% of stall rental income to Council whilst the operator of the current Kingscliff market pays 15% to Council and makes an annual donation to a local charity.

Knox Park Murwillumbah

One submission received from the current operator, Markets Down Under P/L. They re-established the 'Murwillumbah Cottage Markets' in June 2004, following closure by the previous operator. They have expended some \$47,000 in promoting the market since June 2004. They report suitable experience as market management since 1985 and propose to pay 25% of stall rental income to Council. The submission notes ties to charity groups in existing market operations and demonstrates a detailed understanding of the key market management issues. The submission reports a number of possible improvements to market operation and includes a number of letters of support and references. The applicant appears to have a very professional approach to market operation.

Murwillumbah - Saturdays versus Sunday Trade

A letter has been received from the Murwillumbah District Business Chamber (refer attachments) which supports the application by Markets Down Under P/L to operate the Murwillumbah Market, subject to:

“the market reverts back to a Sunday our reason for this is two fold firstly on at least 3 occasions it has been too wet to hold a market in the park and the market has taken over the car park with parking at a premium we have received numerous complaints. Secondly the market was changed to a Sunday without any Public or Business consultation many Businesses have complained of unfair competition.

We have no complaints with the Market Operators who have been great supporters of Local Community Groups.”

Markets Down Under Pty Ltd have responded to this request as follows:

As you are aware, through our comprehensive application to be reconvened as licensees of the Murwillumbah Cottage Market (and other Council market places), I would hope that your review of the papers before you reveal us as being creditable and capable Market Organisers. I would also hope that, particularly from our numerous references on hand with Council, you are in a position to confidently presume that we are good community minded corporate citizens with an absolute passion to be commercially involved in the commercial hierarchy of the Tweed.

Above all though, we would hope that our belief in the love of and for the Murwillumbah district is obvious.

*We first became involved in Murwillumbah through Council's granting of a licence for us to convene a **Saturday** Market on the 1st and 3rd Saturday of each month. Rest assured, we only applied for a **Saturday** market place after undertaking an extensive review of which would be the preferred trading day not only for stall holders but also the public of the township and beyond. **Of course we were considerably swayed by the historical fact that previous SUNDAY market places from the Knox Park site had failed dismally many times over.** As well, we were able to demonstrably establish that a viable number of appropriate stall holders would not be available to purvey their goods from Murwillumbah of a Sunday because of other long standing market commitments throughout Northern NSW and South/East Queensland.*

*The Saturday Murwillumbah Cottage Market commenced under a blaze of national, interstate and local publicity on June 4 last year. Over the past 11 months the said market place has become renowned as a friendly family venue and generous benefactor of local Community Groups (see references). It should be noted that by determination Planning Appeals Boards have found that markets have “a predominantly recreational appeal and must be considered against the background of a family outing”. That understanding and appreciation of our chosen business has stood the Murwillumbah Cottage Saturday Market in fine stead. Local and visiting families **do gather** at Knox Park on a Saturday Market day and not only enjoy the magnificent parkland that Knox Park is, but also enjoy our **free** family entertainment. Our **free children’s activities** have included magicians, jumping castles, face painting and children’s Easter and Mother’s Day workshops to name a few.*

*I (Terri) will never forget the occasion on a recent Market Day when two (2) elderly local ladies sought me out to thank me for “**giving us our park back**”. For one reason or another many local citizens were reluctant to take in the enjoyment of the inner city green belt.*

*Of interest is the fact that the Murwillumbah Croquet Club has reported on that since the advent of the Market more families are venturing to Knox Park not only of a Market day but also on other days of the week. We can now confidently say that the Murwillumbah Cottage Market is both a **tourist attraction and a social focus for persons to meet and recreate in a pleasant environment**. (See attached email from Tourwise a Queensland Tour Company.)*

*It also has to be extended that the **recreational feature dominates the shopping aspect** of a visit to the Market. Markets of the Knox Park type appeal more to browsers than shoppers.*

To date, the only interruption to the establishing success of the Murwillumbah Cottage Market came early in the piece when one, or two members of the Murwillumbah and District Business Chamber took exception to our marketing strategy. In an effort to quickly identify the market place we were hand billing and advertising our Fruit and Vegie specials of the week. When the concerns were put to us we immediately compromised our business operation (and indeed financial viability) by not only withdrawing from the successful promotion but by also (without any advances from the Chamber whatsoever) capping the number of our fruit and vegie merchants. As the reputation of the Murwillumbah Cottage Market has grown over the months, we have refused a considerable number of outside fruit and vegie applicants.

For the record our last Saturday Market recorded the following registration of fruit and vegie merchants.

*Paul Gardner of Uki – organic vegies
John Mayall of Uralba – avocados and pineapples only
Scott Adams of Bray Park – fruit and vegies
Ross Campbell of Billinudgel – organic fruit and vegies
Danny Crane of Cudgen – fruit and vegies*

You will obviously note that all of our fruit and vegie sellers are local constituents as too were another 34 small local businesses that we serviced at out most recent Market.

*The 11 months operation of the Cottage Market has seen the Market cancelled through **inclement weather** on 3 occasions and with Council permission on 3 occasions the Market has operated from part of the **car park** so as to **protect and preserve the environs of Knox Park**. Our observations patently determine that, on such occasions, there does not appear to be a shortage of public car parking. There has always been several vacant spaces with Market shoppers coming and going quickly in the poor weather. However, we invite Council Officers to meet on site with us to perhaps redesign “our” wet weather layout. **Consultation is always a better outcome than confrontation.***

In summary, I ask Council to read each and every letter of reference that we have provided on. I am confident that such readings will translate our passion for Murwillumbah as well as out commercial acumen and zest to succeed.

*We have established the Murwillumbah Cottage Saturday Market at a great cost. To date taxation records (available on request) will confirm that we have expended no less than \$47,910.05 on advertising, promotion, sponsorship and casual wages over and above general running costs. We personally have not drawn one cent from the enterprise ... **such is our faith in the future of the Saturday Market**. It however **will not succeed as a Sunday Market** place for reasons previously explained.*

In closing, we thank you and Council for your consideration.

Officer Comment

It should be noted that the previous market operator ceased trading of the market on Sundays as it was not financially viable. There is also a regular market held at the Murwillumbah Show Ground on the fourth Sunday of the month. There have also been letters of support received which suggest that the market would be better patronised when held on a Saturday. Despite the comments of the Murwillumbah District Business Chamber it is recommended that approval be given for the markets to be held on a Saturday. As the concern appears to relate to fruit and vegetable sales, Council may wish to consider restricting the number of permissible fruit and vegetable traders. Whilst trading at the market may have some impact on individual local businesses, the overall

positive impact from people visiting the Town for Saturday markets should be recognised.

Recreation Ground Tweed Heads

One late submission received from the current operator, Tweed Heads Police and Community Youth Club (PCYC). The club is undergoing major renovations/extensions and was not aware expressions of interest had been called. When approached, a late submission was provided to Council promptly. The Club has operated the market successfully for over 15 years and has demonstrated experience in market management. The Club is a non-profit company, and income from the markets is a 'vital funding strategy'. PCYC provides a diverse range of programs and services to young people and the community and agrees to pay 15% of stall rental income to Council. A \$1.6M extension to the existing PCYC facility is underway.

PCYC seeks approval to operate all markets within the adjacent park due to the extension of their building. Markets are held every Sunday, with those on the 1st and 3rd Sundays being major market days. The extension of the PCYC building has removed the old basketball court at the front of the PCYC premise where markets were previously held on the 2nd and 4th Sunday of the month. It has been requested that all markets now be held within the Recreation Street playing fields, although the markets held on the 2nd and 4th Sunday of the month will remain relatively small. Council's Recreation Services Unit Manager has raises no objection.

The Tweed Heads Police and Community Youth Club have successfully operated the markets for many years. The income from market operation forms a significant part of their funding strategy for their community based activities. It is recommended that Council support the submission made by PCYC.

Pottsville

General Summary Table

Pottsville		
Candidate		Points of Note
Pottsville Beach Neighbourhood Centre Inc		Has successfully operated the market for the past three years. Has demonstrated a good understanding of key market management issues. Agrees to pay 17.5% of stall rental income to Council. Income retained by PBNC is directly used to fund extensive activities and services for the community. 10% of income distributed directly to local community based organisations. Income from Market assists PBNC in being self-sustaining. Provides an extensive list of supporters, including State and Federal Members. Appears to have a very professional approach to market operation. No complaints about there existing operation in the past 3 years.

Pottsville	
Candidate	Points of Note
Markets Down Under Pty Ltd (seeking Murwillumbah, Kingscliff and Pottsville)	Reports suitable experience as market management since 1985. Successfully re-established the 'Murwillumbah Cottage Markets' in June 2004, following closure by the previous operator. Has expended some \$47,000 in promoting that market since June 2004. Proposes to pay 30% of stall rental income to Council. Submission notes ties to charity groups in existing market operations. Submission demonstrates a detailed understanding of the key market management issues. Reports a number of possible improvements to market operation. Submission includes a number of letters of support and references. Appears to have a very professional approach to market operation.

Assessment Against Identified Criteria

	Experience	Business Skills	Policy Compliance	Financial Return to Council	Benefits to Comm Based Organisations	Fee Record System	Proposed Improvements	Total
POTTSVILLE								
Pottsville Beach Neighbourhood Centre	3	3	3	2	3	3	3	20
Markets Down Under P/L	3	2	3	3	3*	3	3	20

Legend: 3 Good
 2 Adequate
 1 Not Addressed

* Proposes, in addition to returns to Council, to pay \$1,000 to Cabarita Surf Club

Whilst Markets Down Under P/L offer Council a higher return if stall rental income and an annual payment to the Cabarita Beach Surf Club, this needs to be considered against the community services and benefits achieved by the Pottsville Beach Neighbourhood Centre (PBNC). PBNC has successfully operated the markets for three years and income from markets assists PBNC in providing community facilities and services. If Council were to approve the market to be operated by Markets Down Under P/L, then it would most likely also need to increase the direct financial support it provides to PBNC to compensate for loss of market income. It is recommended that Council support the submission of PBNC.

Kingscliff

General Summary Table

Kingscliff	
Candidate	Points of Note
Kingscliff Lions Club 1*	Community based service club. Reports that other sources of income diminished. The Club provides an extensive list of community groups to whom they provide assistance. Seeks approval to operate the market on second and forth Sunday only. Submission includes a number of letters of support and references. Proposes to pay 25% of stall rental income to Council. Reports business operation skills amongst club members.
Cudgen Headland SLSC Ltd 2**	Community based service club. Reports that sources of income are minimal. Seeks approval to operate the market in Lions Park on fifth Sunday of the month and Easter Saturday only. Proposes to pay 15% of stall rental income to Council. Existing club members to be involved in market operation.
Markets Down Under Pty Ltd (seeking Murwillumbah, Kingscliff and Pottsville)	Reports suitable experience as market management since 1985. Successfully re-established the 'Murwillumbah Cottage Markets' in June 2004, following closure by the previous operator. Has expended some \$47,000 in promoting that market since June 2004. Proposes to pay 30% of stall rental income to Council. Submission notes ties to charity groups in existing market operations. Submission demonstrates a detailed understanding of the key market management issues. Reports a number of possible improvements to market operation. Submission includes a number of letters of support and references. Appears to have a very professional approach to market operation.
Kingscliff and District Chamber of Commerce	Reports business operation skills amongst club members. Proposes to hire a professional coordinator to run market. Proposes to pay 30% of stall rental income to Council. Income retained by KDCC is directly used to fund activities and services for the community, such as Food and Jazz Festival. Proposes improvements to markets.

1* & 2** - The submissions of Kingscliff Lions Club and Cudgen Headland SLSC are complimentary. That is the Lions Club seeks approval to operate the market on the 2nd and 4th Saturday only, north of the Bowling Club. The Cudgen Headland SLSC seeks approval to operate the market on the fifth Sunday of the month and Easter Saturday in Lions Park (about 4 – 5 times per year), south of the Surf Club. In the past, the incumbent operator has operated all of these markets under a single approval.

Assessment Against Identified Criteria

	Experience	Business Skills	Policy Compliance	Financial Return to Council	Benefits to Comm Based Organisations	Fee Record System	Proposed Improvements	Total
KINGSCLIFF								
Kingscliff & District Chamber of Commerce	2	3	3	3	3	3	2**	19
Kingscliff Lions Club	2	3	3	3	3	2	1***	17
Cudgen Headland SLSC	2	1	1	2	3	2	1****	12
Markets Down Under P/L	3	2	3	3	3*	3	3	20

Legend: 3 Good
 2 Adequate
 1 Not Addressed

- * Proposes, in addition to returns to Council, to pay \$1,000 per annum to Kingscliff Lions and Cudgen Surf Club
- ** Proposes to relocate market to town centre
- *** Proposes market on 2nd and 4th Saturday only
- **** Proposes market on 5th Sunday of the month and Easter Saturday only

Officer Comment

Having considered the above submissions it is recommended that the submissions of the Lions Club and Surf Club be accepted. This would recognise the community service based nature of these organisations. Should Council support the complimentary submissions of the Lions Club and Surf Club, then the Surf Club will only operate the market on the Easter weekend, where the Easter weekend falls on the 5th Sunday of the month.

PREVIOUS REPORT:

The current approvals to conduct the markets at Kingscliff, Knox Park Murwillumbah and Pottsville expire on 30 June 2006.

Previously Council and the Trust have called for expressions of interest to determine the most suitable applicant. Given the impending expiry date of June 2006 it is appropriate that expressions of interest now be called.

Previously, approvals were granted for a 3 year period.

The markets have not been the subject of any major incidents or complaints to Council or the Trust. They benefit the community, encourage visitors and tourists and provide income to stall holders and participants. Therefore it is considered appropriate that the Trust continue to consent to operation of the markets.

The existing market managers of the Kingscliff, Pottsville and Knox Park Murwillumbah markets may seek to have their existing approvals to operate the markets extended.

However, it is appropriate that Council seek, through public expressions of interest, the most appropriate person or group to manage the markets, rather than simply continuing to renew approvals to the existing managers. It may well be that following this process the existing managers are the successful applicants.

This type of competitive process may result in improvements in terms of payments to Council for use of the respective area for markets, and also ensuring the best possible management practices are in place.

The existing managers pay to Council between 15% and 25% of total income from stall fees. In calling for expressions of interest a successful applicant may be willing to pay to Council a higher percentage.

The criteria on which expressions of interest are likely to be assessed are:

- Suitable experience in market operations or management of like or community activities*
- Demonstrated business operation skills*
- Willingness to comply with Council policies*
- Financial return to Council*
- Possible benefits to community based organisations*
- Ability to establish and maintain an accountable record system for stall fees received*
- Submissions which provide details of proposed improvements to Market operation*

CONCLUSION

It is appropriate that Council call for expressions of interest to operate the markets prior to making a determination about approvals. This will permit the most advantageous submission and resulting improvements to be identified. The outcome of this process will be reported to Council and the Reserves Trust.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

A. Expression of Interest/Submissions:

- Markets Down Under Pty Ltd - Knox Park, Tweed Heads, Pottsville and Kingscliff Markets (DW1390786)
- Tweed Heads Police & Community Youth Club - Tweed Heads Market (1396004)
- Pottsville Beach Neighbourhood Centre Inc - Pottsville Market (DW1390222)
- Kingscliff Lions Club Inc - Kingscliff Market (DW1386116)
- Kingscliff & District Chamber of Commerce - Kingscliff Market (DW1390787)
- Cudgen Headland Surf Life Saving Club Inc - Kingscliff Market (DW1389310)

B. Correspondence in Support of Submission from Markets Down Under Pty Ltd

- Sample of promotional activity at Knox Park Market (DW1386115)
 - Response from Markets Down Under to Murwillumbah District Business Chambers-Knox Park Market (DW1395493)
 - Status Report on the Knox Park Market from Markets Down Under Pty Ltd. - Knox Park Market (DW1389891)
 - Support letter from Peter Madden, Yum Yum Strawberries for Markets Down Under Pty Ltd - Knox Park Market (DW1395494)
 - Support letter from Markets Down Under - Knox Park Market (DW 1401959)
 - Support letter from S Miller and E Macmillan for Markets Down Under Pty Ltd - Kingscliff Market (DW 1390842)
 - Support letter from C Degenhardt for Markets Down Under Pty Ltd - Kingscliff Market (DW1389895)
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O25 [EC-OC] Policy Document - Building Policies

ORIGIN:

Building Services

SUMMARY OF REPORT:

A review has been undertaken of various building policies within Council's Policy Document, which are now reported for adoption.

RECOMMENDATION:

That the proposed amendments to Council's Policy as detailed within the report be adopted.

REPORT:

Following a review of Council policies implemented by the Building Services Unit it has been identified that a number of policies required updating and amending to reflect both changes within the organisation and current legislative and development standards.

The amended policies do not change or amend the general direction of the organisation.

The policy document is presented as an attachment to this Agenda item. The key in reading this document is as follows:-

Plain black print - indicates that the policy was previously existing
Grey Underline print - indicates a new or amended text or policy
~~Strikethrough print~~ - indicates deleted text and policy

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Draft Policy - 1.2 Building Line (DW 1405192)
 2. Draft Policy - 1.2 Fencing (DW 1405193)
 3. Draft Policy - Television Antenna (DW 1405194)
 4. Draft Policy - Use of Footpaths (DW 1405196)
 5. Draft Policy - 1.2 Swimming Pools (DW 1405197)
 6. Draft Policy - Approval for Demolition and Removal of Structures (DW 1405198)
 7. Draft Policy - Displaying of Signs - Buildings Under construction (DW 1405199)
 8. Draft Policy - Retaining Wall Construction (DW 1405201)
 9. Draft Policy - Satellite Receiving Dishes (DW 1405202)
 10. Sedimentation Control - Building Sites (DW 1405203)
 11. Sewerage Plumbing for High Rise Buildings (DW 1405204)
-

O26 [EC-OC] Web Site and Education Kit for Tweed River Regional Museum

ORIGIN:

Environment & Health

SUMMARY OF REPORT:

The vision and role of the Tweed River Regional Museum includes heritage interpretation of the people, places and environments of the Shire, and heritage tourism. A grant has been approved to develop a web site and education kit to make the heritage of the Tweed accessible to visitors.

RECOMMENDATION:

That Council:-

- 1. Accepts the grant offer of \$7,500 from the Heritage Office, Heritage Incentives Scheme**
- 2. Votes the expenditure with matching funding from the residual funds from the Historical Signage allocation (05/06 budget) and funds drawn from the current museum allocation.**
- 3. All necessary documentation to be completed under the Common Seal of Council.**

REPORT:

Tweed Shire Council has been offered a grant of \$7,500 to be matched by Tweed Shire Council in the 2006/2007-budget period.

This project has been identified as a priority in the Tweed River Regional Museum Strategic Plan. It links with other key projects planned or underway, including the "Moving to the Tweed" project and work to digitise the Museum's significant collection of photographs.

It is an important project at this point in the museum's development, with architectural plans for a new building at Tweed Heads and extensions at the Murwillumbah museum currently in preparation.

The web site and education kit will help to give the museum a stronger public face at a time when the collections and museums are undergoing redevelopment. Once the building works are complete it is anticipated there will be an education officer appointed to help deliver the education kit and develop new programs based on the resources on the web site.

The 2005/2006 Historical Signage allocation was underspent by \$7,000. It is not currently proposed that further signs be installed. Additional funds (\$500) will be found from within the existing Museum allocation. This will total the requisite matching funds. These funds will need to be carried over to the 2006/2007 budget

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

2005/2006 Historical signage allocation of \$7,000 and \$500 from the existing Museum allocation to be included and carried over to the 2006/2007 budget for this project.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

O27 [EC-OC] Tweed River Art Gallery and Tweed River Regional Museum Advisory Committees

ORIGIN:

Environment & Health

SUMMARY OF REPORT:

The Museum & Gallery Coordinator no longer reports to the Manager of Environment & Health. The position now reports directly to the Director of Environment & Community Services. This will require an amendment to the current list of members of the Tweed River Art Gallery Advisory Committee and the Tweed River Regional Museum Advisory Committee, deleting the Manager of Environment & Health and inserting the Director of Environment & Community Services from both lists.

RECOMMENDATION:

That the membership lists of the Tweed River Art Gallery Advisory Committee and the Tweed River Regional Museum Advisory Committee reflect the changes in the reporting structure for the Museum & Gallery Coordinator by deleting the Manager Environment & Health and inserting the Director of Environment & Community Services to the membership list of both committees.

REPORT:

As per summary.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

O28 [EC-OC] Entomological Control Report for Period February to May 2006

ORIGIN:

Environment & Health

FILE NO: GN 1/3 Pt5

SUMMARY OF REPORT:

The following report outlines nuisance insect and vermin control carried out during February to May 2006.

RECOMMENDATION:

That this report be received and noted.

REPORT:

BITING MIDGE

Seasonal activity

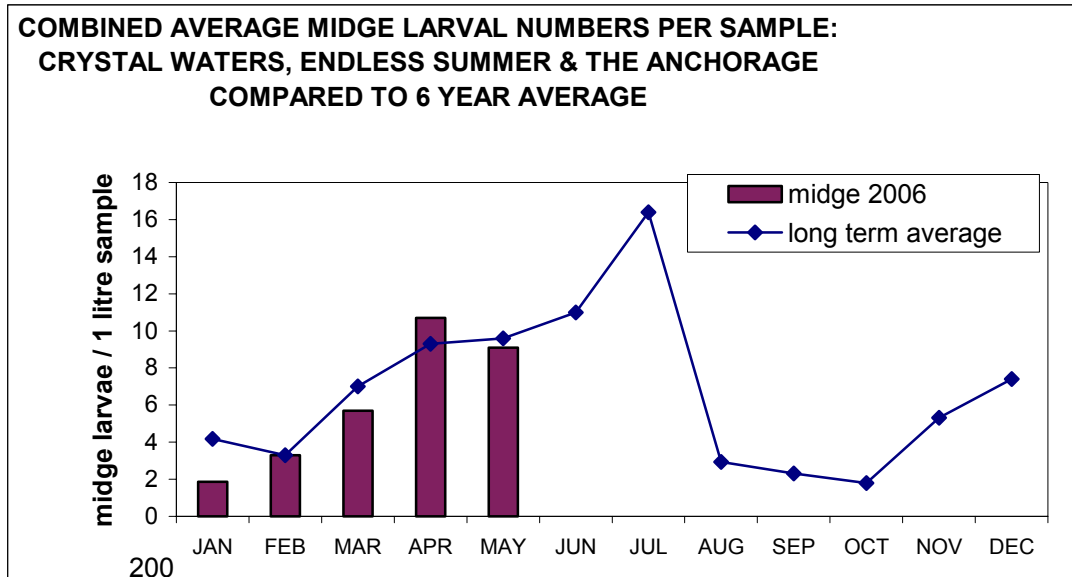
Biting midge activity was generally quiet over the early part of the report period, however, reports of biting midge nuisance increased during late April.

Monthly biting midge larval monitoring indicated average to slightly above average numbers of the canal-breeding midge species *Culicoides molestus* in the major canals.

Larvicide spraying of midge-affected canal beaches is planned for early June. Spraying during the winter period will substantially reduce the biting midge adult emergence next spring. To comply with pesticide permit requirements, pre-spray assessment of non-target organisms on canal beaches was carried out by sieving test plots in late May. Post-spray midge and non-target assessment of the sample areas will be carried out following larvicide treatment.

A short technical paper on a simple method for field collecting biting midge pupae was submitted in May to the American mosquito journal "Wingbeats".

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



MOSQUITOES

Seasonal activity

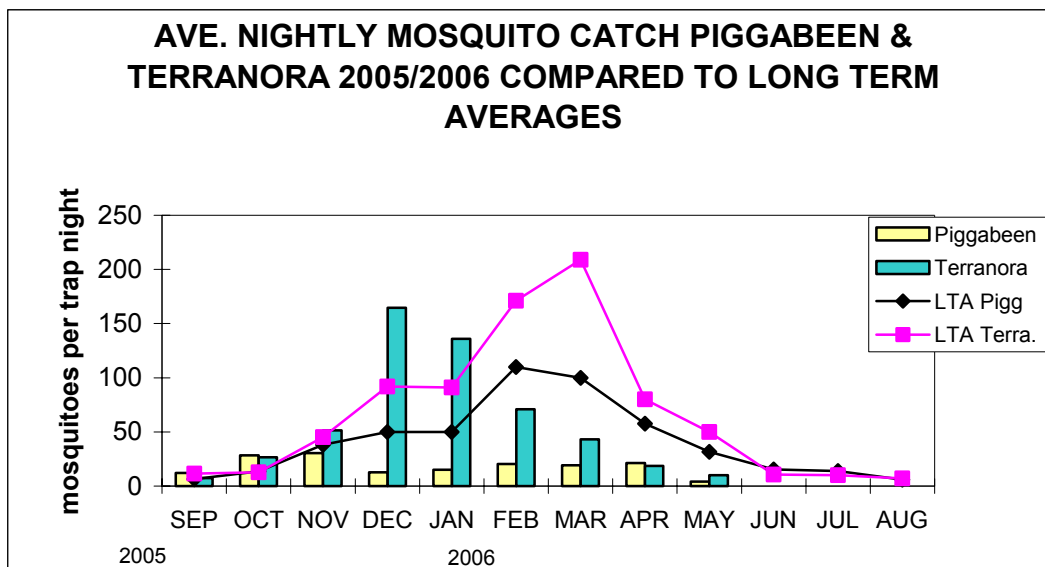
Despite major rainfall events in the first 3 months of the year (1200mm at Tweed mosquito trap site), mosquito activity was below average for the report period. The

brackish water breeding *Culex sitiens* was by far the most common mosquito species trapped, followed by *Coquilleltidia xanthogaster* and *Aedes notoscriptus*.

Reported mosquito nuisance was generally low, with 31 related enquiries over the report period. Most mosquito complaints related to a localized *Aedes burpengaryensis* upsurge – the second for the season around the Tweed Heads area. As stated in the January Entomological report to Council, this species has not previously been recorded as a local pest. The breeding source for *Ae. burpengaryensis* is suspected to be wetlands adjacent to Ukerebagh Passage. However, larval searches in this area proved fruitless and it is probable that the mosquito hatch was synchronous and they had emerged as adults prior to the larval search.

Coastal Melaleuca and Casuarina wetlands in southern areas of the Shire hatched *Ae. procax* and *Verrallina funerea* populations (both effective arbovirus vectors) following heavy rain in March. These mosquitoes affected some urban areas around Pottsville and Hastings point.

The following graph shows average nightly mosquito numbers caught in CO2 baited traps this season compared with long-term averages (LTA)



Attempt to rear *Ae. burpengariensis*

Larval descriptions are not available for Tweed Heads’ recent mosquito pest, *Ae. burpengaryensis*. Accordingly, fifteen females of this species were collected at Tweed Heads while man biting, then caged and blood-fed to try to collect eggs for rearing and larval studies. For sustenance the adult mosquitoes were provided with a sugar solution and apple slices. Moist filter paper and a container of moist peaty soil were provided for egg laying. The mosquitoes died in the cage within 6 days and no egg laying occurred.

Mosquito control

Due to the consistent summer rains, large populations of larvivorous fish and aquatic insect predators had developed in many of Tweed’s wetland areas by February. These

predator populations effectively dealt with mosquito larvae in many chronic mosquito-breeding coastal sites, which allowed a reduction in chemical control efforts.

One aerial larvicide treatment was carried out in February to areas close to Bilambil Heights. A proposed treatment in March was aborted due to strong winds.

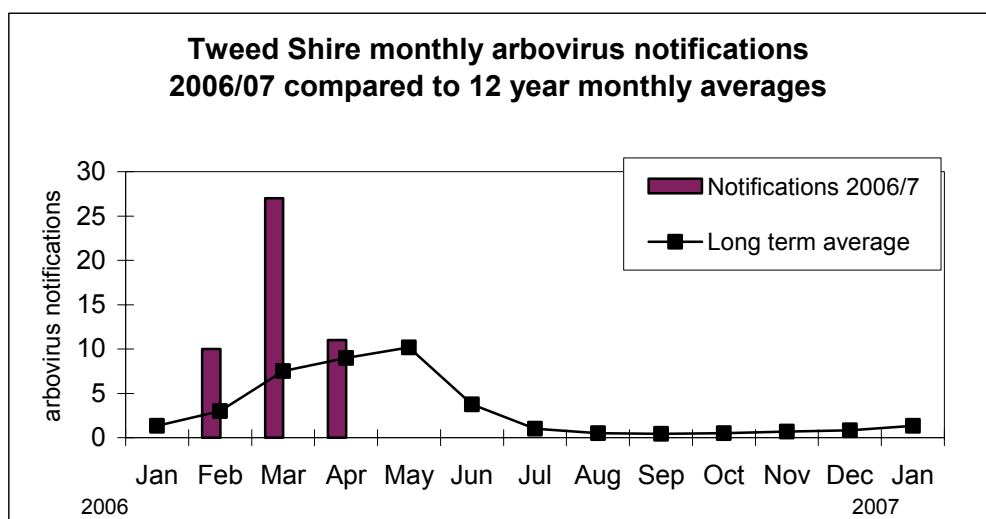
Ground based larval control with the bacteria Bti and sustained release methoprene pellets was carried out to areas around Tweed Heads, Cobaki, Terranora, Fingal Head, Bilambil, Banora Point and North Tumbulgum.

Arbovirus

Despite relatively low local mosquito populations, Ross River virus was prevalent in the Shire through February to April. Given the apparent low number of saltmarsh breeding mosquito vectors (the most commonly caught saltmarsh -breeding mosquito *C. sitiens*, is not a known RRv vector), it is likely arbovirus disease was transmitted by fresh water breeding mosquitoes. By contrast, Barmah Forest virus activity has been low this season. There were 42 RRv cases and 6 BFv cases notified in the Shire over the report period with the majority of cases reported during March. The Tweed area has not had such a high monthly number of RRv notifications for many years.

Very high notification rates for RRv were also observed in February and March throughout S.E Queensland and coastal areas of the mid to far north of NSW.

The following graph depicts combined RRv & BFv cases notified 01 Jan –30 Apr 06 compared with long-term monthly averages.



MISCELLANEOUS PESTS

There were 97 miscellaneous requests for information and services over the report period. The most common requests dealt with ants, paper wasps and rodents.

Rodent baiting was carried out around coastal van parks, reserves and infested Tweed River retaining walls.

Pandanus planthopper update

Inspections carried out recently throughout coastal areas of the Shire show no indications of further Pandanus planthopper activity. Tweed Council first detected this pest in NSW in March 2004 and effected management and control measures immediately. Following later discoveries of Pandanus planthoppers killing trees in Byron and Ballina Shires, the Pandanus Planthopper Working Group was set up with representatives from Tweed Council and other potentially affected North Coast councils and relevant NSW government departments. This group has addressed such issues as educating local councils and relevant groups to the potential Pandanus dieback problem, GPS mapping of threatened Pandanus populations, training of staff from councils and national parks in systemic tree injection, seeking permits for biological control with egg parasitic wasps, public awareness campaigns and developing protocols on the movement of Pandanus from planthopper infested areas. The NSW Department of Environment and Conservation nominated and funded an entry on behalf of the working group for a 2006 National Banksia Award in the category "Land and Biodiversity" for its actions in protecting this iconic tree in NSW.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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O29 [EC-OC] Alcohol Free zones

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

Alcohol-free Zones were previously established by Council in 2002 over specified public roads and carparks for the Murwillumbah Town Centre, Tweed Heads and Kingscliff for a period of 3 years. The declaration of these zones has expired. Council has undertaken public consultation in accordance with the provisions of **Section 644** and **644A** of the **Local Government Act 1993** for the re-establishment of these zones.

RECOMMENDATION:

That Council:

- 1. Approves the establishment of Alcohol-free Zones, 24 hours per day for a period of 3 years at Murwillumbah, Tweed Heads and Kingscliff over the streets and carparks detailed on the attached maps, in accordance with the provisions of Section 644B of the Local Government Act 1993, excluding business areas, approved by Council for the purposes of footpath dining whilst those businesses are trading.**
- 2. Extends the Alcohol-free Zone within Murwillumbah from the intersection of Wollumbin St and Nullum St to Nullum Lane, along Nullum Lane through to Byangum Rd, along Byangum Rd to Murwillumbah St, along Murwillumbah St to Nullum St.**
- 3. Delegates authority to the General Manager to approve variations to the zones for special circumstances.**

REPORT:

In May 2002 Council declared specified streets and carparks within Tweed Heads and Kingscliff as Alcohol-free Zones. Numerous streets and carparks within the Murwillumbah Town Centre were declared Alcohol-free Zones in September 2002. These declarations were for a period of 3 years only in accordance with the maximum period specified within **Section 644** of the **Local Government Act 1993**. Whilst the **Act** prevents an extension of time for the operation of an Alcohol-free Zone, a Zone can be re-established after a phase of public consultation and advertising.

Public consultation has been undertaken to satisfy the requirements of **Sections 644** and **644A** of the Act. As a result of this consultation, 2 written submissions were received and a number of telephone enquiries received. One written submission from the Tweed Valley Uniting Church requested an extension of the Murwillumbah area to include Nullum Lane, incorporating the Uniting Church property. They have stated that they have experienced considerable littering of various alcoholic beverage containers as well as broken windows and structural damage. Their request appears valid as set out under the Ministerial Guidelines for Alcohol-free Zones.

The nominated areas, which have previously been encompassed by Alcohol-free Zones, are as follows:

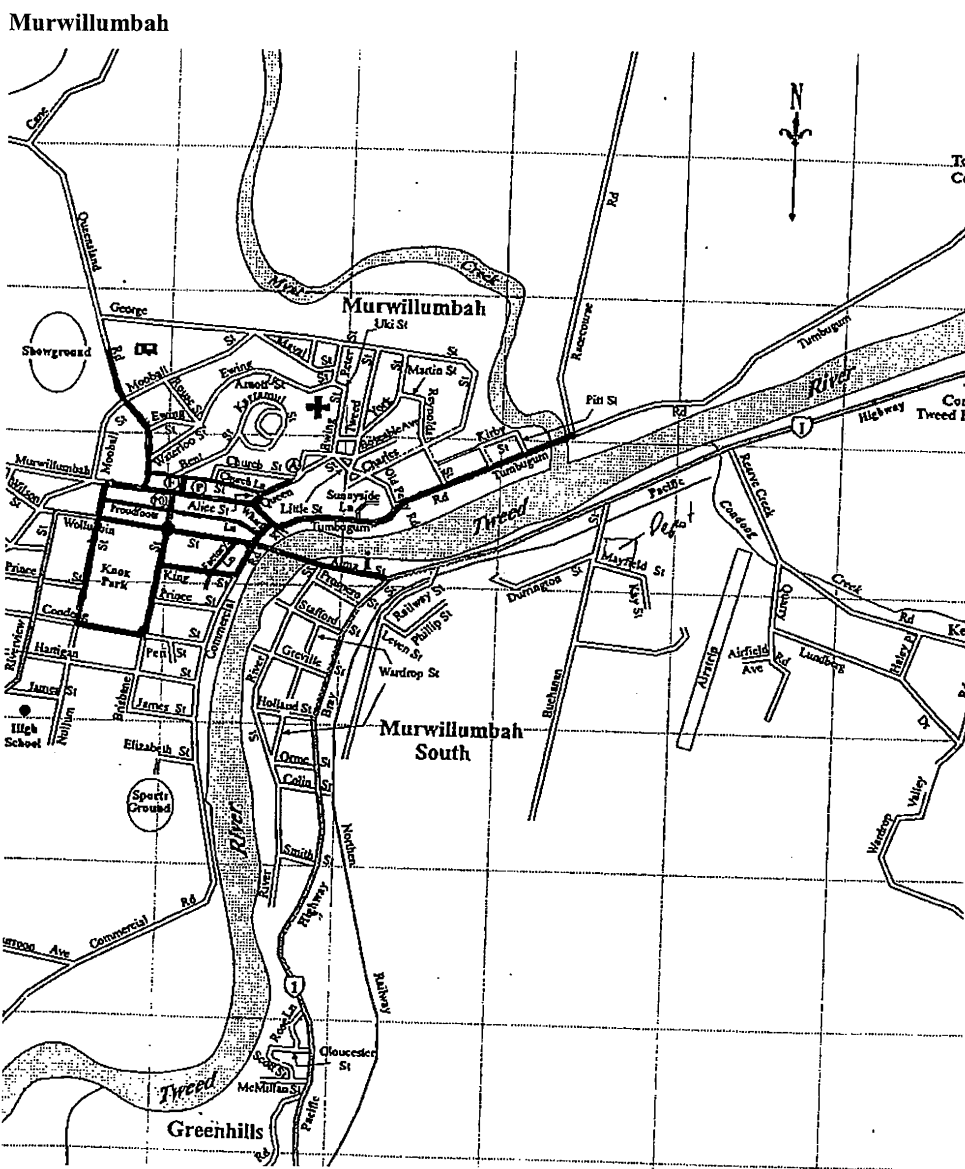
- Murwillumbah Town Centre:
 - Queensland Road from 'Harry Williams Gate' of the Murwillumbah Showgrounds to Murwillumbah Street Murwillumbah, including the car park area near Mount Saint Patricks School on Queensland Road.
 - Bent Street from Queensland Road to Church Lane
 - Church Lane
 - Police Lane
 - Queen Street from Main Street to Church Street
 - Murwillumbah Street from the intersection of Nullum Street to Queen Street.
 - Wharf Street from Queen Street to Tumbulgum Road.
 - Commercial Road from Wharf Street to King Street.
 - King Street from Commercial Road to Brisbane Street.
 - Brisbane Street from Main Street to Condong Street.
 - Condong Street from Brisbane Street to Nullum Street.
 - Nullum Street from Condong Street to Murwillumbah Street.
 - Wollumbin Street from Nullum Street to the Commercial Road roundabout.
 - Alma Street from the Commercial Road roundabout to the Alma Street/Tweed Valley Way roundabout.
 - Tumbulgum Road from Wharf Street to Racecourse Road.
 - Factory Lane.
 - Budd Park car park

- Tweed Heads
 - Wharf Street between Bay Street and the Queensland border;
 - Kingscliff
 - Marine Parade between Turnock Street and Cudgen Creek;
 - Turnock Street between Marine Parade and Pearl Street;
 - Pearl Street between Turnock Street and Seaview Street; and
 - Seaview Street between Pearl Street and Marine Parade.

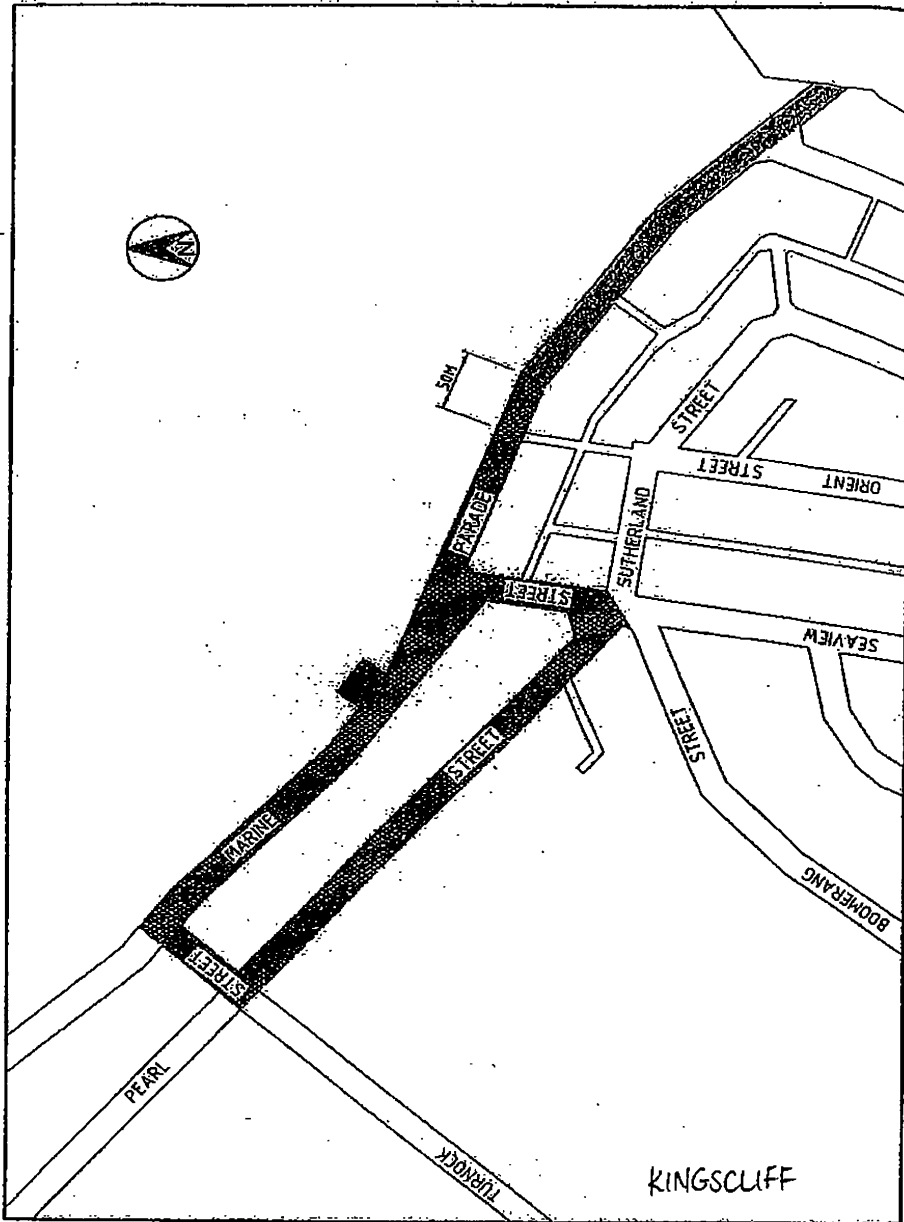
It should be noted that business areas licensed by Council for footpath dining are not included.

Maps of the nominated areas are reproduced in following pages.

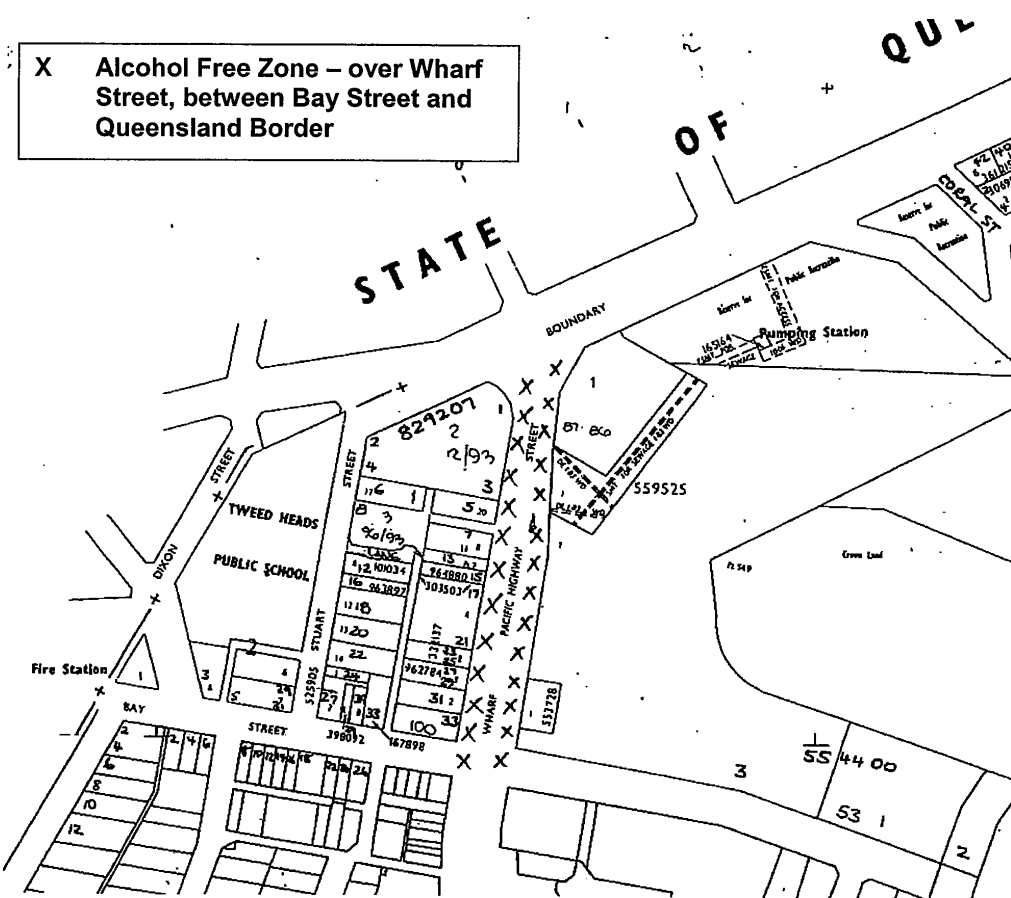
The re-establishment of Alcohol-free Zones will provide police with options beyond their existing 'move on' powers including the confiscation of alcohol or the issue of Penalty Infringement Notices in problem cases.



Kingscliff



Tweed Heads



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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**O30 [EC-OC] Proposed Lease of Home and Community Care (HACC) Buidling
Tweed Heads South**

ORIGIN:

Environment & Health

SUMMARY OF REPORT:

Home Care are the major tenant of the above Council facility and they advise that they will be moving to new premises and will not therefore renew their lease which expired on 31 May 2006.

Tweed Valley Respite Service a smaller tenant with an expanding service and needing larger accommodation have approached Council to lease this vacated space.

RECOMMENDATION:

That Council agrees:-

- 1. To enter into a lease for a two (2) year period with a two (2) year option with Tweed Valley Respite Service to lease the area formerly occupied by Home Care in the HACC building located at South Tweed Heads including enclosure of the area for bus storage.**
- 2. To enter into a lease for a two (2) year period with a two (2) year option for that area of the HACC building currently occupied by Tweed Valley Respite Service including the office at the rear of the South Tweed Heads Community Hall.**
- 3. To the lease fee being that currently paid by Home Care and Tweed Valley Respite Service and such fee is to be linked to CPI adjustment.**
- 4. All necessary documentation be completed under the Common Seal of Council.**

REPORT:

Council is advised that it owns office accommodation at Tweed Heads South located next to the Tweed Heads Swimming Pool known as the Home and Community Care (HACC) building. The facility was leased to Home Care as the major tenant and to Tweed Valley Respite Service, Red Cross and Home Modification Service as minor tenants.

Tweed Valley Respite Service is an increasing service and have been planning to move to new premises as their accommodation at the HACC Centre can no longer provide for their needs. In this regard Council had resolved to provide funding towards a new facility at Kingscliff and preliminary planning to this end has begun.

However, with recent advice that Home Care is to move, Tweed Valley Respite Service have approached Council to lease the area previously occupied by Home Care with the retention of the area currently lease by them. They would pay the same lease fee as HACC as well as that for the area they now occupy.

As well, Tweed Valley Respite Service advise that they need a secure area on site to house their two buses. This could be developed by partial inclosure of the existing undercover car park area.

This is seen as an ideal solution towards the accommodation needs for Tweed Valley Respite Service as well as providing a tenant of known quality and reliability and would allow immediate use of the space and continuing financial return to Council.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Preparation of a lease for a two (2) year period with a two (2) year option with Tweed Valley Respite Service to lease the area formerly occupied by Home Care and the lease to include that area of the building currently occupied by Tweed Valley Respite Service including the office at the rear of the South Tweed Heads Community Hall.

Lease fee being that currently paid and such fee is to be linked to CPI adjustment

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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O31 [EC-OC] Three Year Funding for Major Festivals

ORIGIN:

Environment & Health

SUMMARY OF REPORT:

This report proposes to offer to the major festivals within the Tweed the possibility of allowing three year funding support from Council to allow certainty for festival forward planning.

This proposal includes a strict funding criteria which would limit the eligible festivals to a small number of festivals.

RECOMMENDATION:

That Council endorses the proposal to provide three year funding towards major festivals subject to the criteria set out in this report.

REPORT:

Tweed Shire Council, through the Festival & Events Strategic Plan, is developing its support and assistance of the many festivals and events held annually around the Shire. As well as some festival funding there is assistance offered in areas of professional development such as market research, risk management training and business planning. Future opportunities for festival and event organising committee include professional training in event planning and operations, and participation in the growing cooperation and resource sharing across the region.

For major festivals in the Tweed that are attracting audiences of between 20,000 and 60,000 people, there are many new challenges in planning for future growth and sustainability, the introduction of multiyear funding to major festivals will assist them in their business planning and management. Small festivals and events will continue to be supported through the Council's festival funding. The Tweed is fortunate to have a community active in a broad range of festivals and events and Council recognises the importance of these activities to the quality of life and local economy.

This has been raised by festival organisers at meetings discussing the Festival & Events Strategic Plan with the Festival and Events Liaison Officer.

Wintersun Festival proposed this three year funding in a discussion with EMT at the end of 2005.

Main reason for the change is to allow the major festivals to plan in advance with three years of funding certainty and support from Council.

A business necessity for planning future festivals programs and marketing, particularly where national or international tourism is a major component.

There is pressure on the current level of festival funding with new festivals developing and other festivals growing strongly.

With this new separate funding, the Council's annual festival funding can stretch to cover more events, not competing with these few major festivals.

Criteria for 3 Year Funding

Funding Guidelines (adapted from the current Festivals policy document)

- Only one application for three year funding per festival organisation or community group will be considered.
- Programs will not be funded retrospectively.
- Festivals must be held annually and the first of these commence within 12 months of funding.

Criteria for 3 Year Funding (new)

- The Festival has been successfully established in the community for more than five years.
- The Festival has an annual financial turnover of more than \$100,000.
- The Festival can demonstrate a significant tourism component and economic benefit to the Tweed Shire.
- Applications will be reviewed by the Festival and Events Committee (Cultural Advisory Committee) and recommendations made to Council.

Reporting

Reporting Requirements Each Year

- An Annual Report outlining in detail the activities undertaken by the festival.
- Annual Audited Accounts showing in detail the financial position within three (3) months of completion of the festival.
- A Review of the Business Plan outlining achievements, adjustments and any future developments.
- A Statement relating the Council's funding to the social and economic benefits of the festival to the Tweed Shire.
- Funding for Year 2 and Year 3 of the agreement will be forwarded once the Reporting Requirements have been received.

Funding

Funding Agreement

- A funding agreement signed between Council and the festival organisation will be required to cover the three years.
- This will outline the responsibilities of each party to the agreement.

Funding Allocation

- Maximum funding per individual festival is \$10,000 per annum for three years,
- a total of \$30,000.
- This is reflected in the Council's budget planning, starting with one festival and then possibly adding a festival each year.
- It is anticipated that no more than two or three major festivals will ever be funded concurrently.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

O32 [EC-OC] Tweed Heads/Coolangatta Community Safety Program

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

Three applications for funding were submitted under the Tweed Heads/Coolangatta Community Safety Program. Advice has now been received that the applications were successful.

RECOMMENDATION:

That Council:-

- 1. Accepts the funding for the programs being \$12,400-Portable Beach Lockers, \$7,284-Sailing Adventures in Life Skills Diversionary Program, \$7,500 Domestic Abuse Awareness-Education for Youth.**
- 2. Votes the expenditure accordingly.**
- 3. Completes all necessary documentation under the Common Seal of Council.**

REPORT:

Council is advised that as part of its Community Safety Plan, in conjunction with Gold Coast City Council, for the Tweed Heads/Coolangatta area, applied for funding through the Attorney General's Department.

Advice has now been received that the three (3) funding applications have been approved. They are \$12,400-Portable Beach Lockers, \$7,284-Sailing Adventures in Life Skills Diversionary Program, \$7,500-Domestic Abuse Awareness-Education for Youth.

These programs will be implemented over the next twelve (12) months.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

O33 [EC-OC] Proposed Change of Name - Banora Point Multi Purpose Centre

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

The Banora Point Multi Purpose Centre Committee has proposed a change of name of the premises to Banora Point Community Centre.

RECOMMENDATION:

That Council changes the name of the Banora Point Multi Purpose Centre to the Banora Point Community Centre.

REPORT:

Council has resolved to name the new community building constructed at Banora Point "The Banora Point Multi Purpose Centre". The Banora Point Multi Purpose Centre Committee has now requested that Council amend that resolution and change the name of the building to the "Banora Point Community Centre"; the reason being that St Joseph's College and St James Primary School have recently completed a building which they have called the Banora Point Multi Purpose Centre. This has caused some local confusion.

While Council's building has been completed, final signage has not been provided and thus any change of name will not have any financial implications in relation to signage change.

There appears no strong reason to not change the name as suggested.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

SCHEDULE OF OUTSTANDING RESOLUTIONS

Schedule of Outstanding Resolutions

FOR COUNCILLOR'S INFORMATION:

12 APRIL 2006

OPERATIONS COMMITTEE

O16 [EC-OC] Tweed Surf Life Saving Strategy 2020

O 76 COMMITTEE DECISION:

Administrator Turnbull

Administrator Boyd

RECOMMENDED that Council:

.... (1, 2, 3)

4. Council officers to report to Council on the per unit cost for a single lifeguard patrol service.

Current Status: Report to be prepared.

ORDERS OF THE DAY

1 [NOM] Tugun Bypass Project

74 COUNCIL DECISION:

Administrator Boyd

Administrator Payne

RESOLVED that Council requests Ecograph to provide a report on the impacts on the existing native vegetation adjacent to the proposed C4 Tugun Bypass Project based upon the work done by Ecograph in the development of the Tweed Shire Vegetation Management Plan.

Current Status: Report being sought.

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ADMINISTRATOR'S MINUTE

[AM] Signing of Documents by Administrators

Documents signed by Administrators since 23 May 2006

Administrator Boyd

23 May	Closure of Temporary Road - Lot 900 DP 1062853 - Casuarina Way, Kingscliff
23 May	Easement Lot 71 DP 819194 Loders Road, Duranbah
23 May	Release of Restriction - Lot 3 DP 847641, Kyogle Road, Dum Dum
26 May	Proposed Road Closure - Bloodwood Place, Nunderi
26 May	Release of Easement - Myrtle Street, Murwillumbah
26 May	Land Acquisition for Road and Compensation Purposes, Numinbah Road, North Arm
26 May	Creation of Easement to Permit Encroaching Structure to Remain - Marie Street, Tweed Heads
29 May	Easement - Lot 1 DP 552159 - Buchanan Street, Murwillumbah

RECOMMENDATION:

That the information be received and noted.

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ORDINARY ITEMS FOR CONSIDERATION

REPORTS FROM THE DIRECTOR GOVERNANCE & CORPORATE SERVICES

1 [GC-CM] 2006/2009 Draft Management Plan incorporating Council's 7 Year Infrastructure and Services Plan and 2006/2007 Draft Budget

ORIGIN:

Director Governance & Corporate Services

SUMMARY OF REPORT:

Council's 2006/2009 Draft Management Plan has been on public exhibition for 28 days from Tuesday, 9 May 2006 to Wednesday, 7 June 2006. The Draft Management Plan includes the Strategic and Operating Objectives and the 7 Year Infrastructure and Services Plan for 2006/2013, as well as the 2006/2007 Draft Budget, Draft Revenue Policy and Draft Fees and Charges. The Minister for Local Government has set a limit of 3.6% for increase in General Purpose income for the rating year commencing 1 July 2006.

The Draft Management Plan contains a proposal under Section 508A of the Local Government Act 1993 to make application to the Minister for Local Government for a special variation to general income in:

2006/2007	7.6%
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and for the period 2007/2008 to 2012/2013 a structured special variation in:

2007/2008	5%
2008/2009	6%
2009/2010	6%
2010/2011	5%
2011/2012	4%
2012/2013	4%

which is above the yearly approved Minister's specified percentage variation increase, for the purpose of funding expenditure contained in Council's 7 Year Infrastructure and Services Plan.

RECOMMENDATION:

That:-

- 1. Council's 2006/2009 Draft Management Plan including the 7 year Infrastructure and Services Plan for the period 2006/2013, 2006/2007 Draft Budget, 2006/2007 Draft Revenue Policy and 2006/2007 Draft Fees and Charges be adopted.**

- 2. An application be made under Section 508A of the Local Government Act 1993 to the Minister for Local Government for a special variation to General Income in:**

2006/2007 7.6%

and for the period 2007/2008 to 2012/2013 a structured special variation in:

2007/2008 5%
2008/2009 6%
2009/2010 6%
2010/2011 5%
2011/2012 4%
2012/2013 4%

which is above the yearly approved Minister's specified percentage variation increase, for the purpose of funding expenditure contained in Council's 7 Year Infrastructure and Services Plan.

REPORT:

BACKGROUND

The Management Plan is the core corporate and strategic document that Council applies in determining its resourcing priorities and therefore is an important document in the systematic evaluation of service levels, objectives and performance achievement.

Meeting community needs is a major challenge facing Council. This year's Draft Management Plan has a focus on delivering Council's 7 Year Infrastructure and Services Plan as well as continuing to ensure that Council's essential services and assets are maintained at appropriate levels. In relative terms, the Tweed Shire has continued to grow at a steady rate, which brings with it many challenges, placing increased demands on the resources of Council.

Council's Draft 2006/2009 Management Plan has been on public exhibition for 28 days from Tuesday, 9 May 2006 to Wednesday, 7 June 2006. The Draft Plan includes the Draft Revenue Policy, Fees and Charges and Budget of 2006/2007. The Minister for Local Government has set a limit of 3.6% for increase in General Purpose income for rating year commencing 1 July 2006.

VARIATION TO GENERAL INCOME FOR 2006/2007

The Draft Management Plan contains a proposal to make application under Section 508A of the Local Government Act, to the Minister for Local Government for a special variation to General Income based on varying structured increases for the financial years 2006/2007 to 2012/2013 to fund expenditure on the projects contained in Council's 7 Year Infrastructure and Services Plan.

MANAGEMENT PLAN

The Management Plan contains a proposal to make application under Section 508A of the Local Government Act, to the Minister for Local Government for a special variation to General Income based on varying structured increases for the financial years 2006/2007 to 2012/2013 to fund expenditure on the projects contained in Council's 7 Year Infrastructure and Services Plan.

The Plan contained a large number of projects and programs which were the result of action plans that evolved from planning work which have been developed in close consultation with the community over the past three (3) years.

Council at its meeting of 2 May 2006, following the completion of a specified period of community consultation considered a report on the proposed 7 Year Infrastructure and Services Plan. In view of the high level of responses to the community consultation, programs contained within the Plan were reviewed and reduced from \$133 million to \$118 million.

The revised 7 Year Infrastructure and Services Plan for 2006/2013 follows:

Facilities supporting Community Life	\$17,577,000
Programs supporting Cultural Development	\$4,549,000
Programs supporting Social Development	\$1,240,000
Transport & Roads Programs	\$14,895,200
Parks & Recreation Programs	\$36,130,000
Community Safety & Protection Programs	\$3,526,400
Projects supporting Economic Development & Tourism	\$4,255,000
Projects protecting the Environment	\$21,648,700
Leadership & Governance	\$13,398,140
Planning for Sustainable Living	\$1,342,900
TOTAL	\$118,562,340

MANAGEMENT PLAN

The Management Plan provides a three (3) year program aimed at effectively meeting the expected needs of the community. The Plan clearly states Council's vision and mission, the core values and prioritised principal activities providing a clear indication of Council's intention for the coming 12 months and the following two (2) years.

The Management Plan is structured to describe what Council will be undertaking this year, its performance targets and how it will measure its level of performance. Statutory performance indicators requirements are supported by an additional range of management performance measures. These will form the basis of the General Manager's quarterly management performance reports and the annual report to the community. The three (3) year Plan is a complete document and therefore needs to be read in its totality to appreciate the strategic direction and priorities.

PUBLIC CONSULTATION

In accordance with Section 405 of the Local Government Act 1993, Council must give public notice of its Draft Management Plan.

The Draft Management Plan went on public display on Tuesday, 9 May 2006 and it is due to close on Wednesday, 7 June 2006, with the Management Plan consultation process involving seeking comments from the ratepayer / community of the Tweed as to their expectation of the Plan. To facilitate this approach, Council has placed copies of the Draft Management Plan and supplementary documents on public display at the Civic Centres, libraries and Council's internet site. Furthermore, the Draft Management Plan has been advertised in the Tweed Link, and ratepayers were invited to attend a community meeting at Tweed Heads Civic Centre on Monday, 22 May 2006.

PUBLIC COMMENTS RECEIVED

Comments made at the Public Meeting of 22 May 2006 and submissions made by the public during the Draft Management Plan exhibition period are as follows:-

1. Public Meeting - Tweed Heads Civic Centre, 22 May 2006

Attendance: 65 residents + 2 Administrators + 5 Council Officers
20 speakers raised a number of issues during this meeting:-

Summary

- 2 speakers for the proposed rate increase
- 3 speakers suggested a number of programs be reinstated into the 7 Year Plan
- 9 speakers outlined their views on capacity of residential and business ratepayers to pay the proposed rate increases
- 6 remaining speakers discussed matters relating to the redevelopment of the Jack Evans Boat Harbour, why is the plan progressing when 57% of the independent survey were against the plan, plan contained limited information to make an informed decision on the plan, Council should take notice of the public, developer contribution program for Cudgen Creek Bridge and why is money being spent on the Kingscliff Rock Wall

Individual Issues

- Concerned that the proposed increase in business rate will drive business out of the Shire, what is the plan for business rates after next year?
- Revised 7 Year Plan deletes \$210,000 from dog pound additions - should be reinstated, additions adds value to services provided by the Friends of the Pound.
- Revised 7 Year Plan deletes \$2,000,000 from Murwillumbah Library - should be reinstated, concern was expressed at the current facility and level of book stock. Murwillumbah has a need for increased size and book stock. Murwillumbah and Tweed Heads Museums have been retained and Murwillumbah Library should have a higher priority.
- Jack Evans Boat harbour - concern was expressed at the proposed reclaiming of the eastern side, native title issues and sale of the reclaimed land. What are the proposed works for the project?
- Tweed Heads residential values have increased, places difficulty on the capacity to pay rates especially by pensioners, will impact on rents.
- Independent survey - 57% against 7 Year Plan, why are Administrators still progressing with plan?
- Oxley Cove Community Group not against funds being spent on worthwhile projects, has concerns at the capacity of ratepayers to pay the proposed increase in rates, concerned that very important decisions are required to be made on limited information.
- Council should ensure that developers provide infrastructure at a higher standard. Tweed Shire is not a wealthy community, low income and pensioners, proposed rate increase will impact on ratepayers capacity to pay, have the Administrators considered this issue? Kingscliff Rock Wall was not recommended by a consultant, why is it still proceeding?
- Considers that pensioners will be able to pay the proposed increase in rates, as pensions rise each year.
- Old caravan site on Jack Evans Boat harbour - 7 Year Plan does not indicate how the project is to be funded, does it involve sales of crown land or other sources such as Council, State Government or developers?

- Concerned that \$2,000,000 has been deleted from the Transport & Roads Program, whilst \$500,000 has been deleted from Parks/Recreation. Transport & Roads has the highest rating for spending from the 7 Year Plan.
- Concern that the full information on funding information has not been made available to the public.
- 7 Year Plan document is misleading, information incorrect on rises in respect of residential rates and business rates, compounding not specifically raised in the document, Tweed businesses unique, unable to compete against Queensland businesses due to lower taxation over the border, Albury/Woodonga not in the same situation, pensioners cannot afford the proposed increases.
- Agree to pay more for a better Tweed - concerned that the proposed rate increase will not be coming off at the end of the period.
- 57% of the independent survey said no, need for another survey to be carried out before a final decision is made.
- Concerned that more money is being spent on the environment instead of roads & transport.
- Concerned that with other rising costs such as fuel, the ratepayers will not be able to pay the proposed rate increases.
- Council should take notice of the public, a greater majority were either against or undecided.
- Why do we need an extensive wish list, the Jack Evans Boat harbour redevelopment should have been funded from Greenbank Island profits, there should be a developer contribution program for Cudgen Creek Bridge and other facilities. Kingscliff Rock Wall - why spend money on something that might not happen, what is the median rate for the Shire?
- Concerned that community consultation attachment has not been made public, has not been able to view survey results, wishes to view confidential attachment, is of the opinion of being taxed out due to increased valuations and proposed rates.

2. Submissions

Council has received 26 submissions from the public, during the period from Tuesday 9 May 2006 to Wednesday 7 June 2006, when the 2006/2009 Draft Management Plan and 2006/2007 Budget documents were placed on public exhibition.

Summary of submissions received:

- 4 letters were for the proposed rate increase.
- 3 letters stating not opposed to an increase in rates, provided ratepayer is receiving value for money and making suggestions for reallocation of budget funds.
- 5 letters suggested a number of programmes be reinstated into or funding increased in the 7 Year Plan.
- 9 letters were against the proposed rate increase.
- 2 letter contained general comment.
- 1 letter suggesting a commercial aspect at the Jack Evans Boat Harbour to fund Stage 1 of the redevelopment plan.

- 1 letter advising that Stage 1 of the Jack Evans Boat Harbour addresses the community aspect of the redevelopment and making other suggestions and comments.
- 1 letter contained general comment on matters of consideration of the 7 Year Infrastructure and Services Plan.

Individual Submissions

- Will have to sell property, unable to afford further increases in rates.
- Disappointed survey sample was conducted from a mere 350 residents out of 35,143 rateable properties, this is too narrow a sample, request reinstatement of the following projects:-
 - Maintenance community buildings,
 - Footpaths rehabilitation,
 - Open Space Land Purchase,
 - Stormwater Drainage Rehabilitation,
 - Floodplain Management.

Provided details how to fund the reinstatement of the projects.

- Totally against every aspect of the plan, will not benefit from any of it, pay too much in rates, Council must have excess funds due to higher rates being paid as a result of increased valuations.
- Congratulate all involved with the planning, survey and presentation of detail in the Tweed Link brochure; suggest that Flood Plain Management and Urban Stormwater Quality Management Plan be reinstated.
- Based upon the financial information provided, the yearly percentage appears reasonable.
- Requesting that the Public Toilets in Queen Street Murwillumbah be included in the 7 Year Plan.
- Fully support Council's efforts to upgrade Jack Evans Boat Harbour and the increase in rates to help fund the exciting plan.
- Proposed rate increases are not warranted and vehemently oppose any increase in Council rates, people are struggling and the fee increase now is unfair and unjustified.
- Very strongly object to the proposed rate increases, landlords cannot keep absorbing running costs and rents will have to increase.
- Strongly object to increased rates above the government pegged rate of 3.6%, Council should keep its budget down to a reasonable level.
- Do not object to paying more rates, particularly if it is of some benefit to us in Riverside Drive.
- Express my total rejection of policies made by Administrators and office personnel of the Council and ask that you put on hold all changes until a new Council is elected and they are then accountable for their decisions democratically.
- Disappointed to see so many proposals deleted and sincerely hope postponement only is proposed, of particular concern is expenditure to conserve and preserve the coast-line, extra car parking in Kingscliff is agreed to be necessary and deletion of funding for upgrade of street lighting in Kingscliff.
- Proposed rate rise in the near future is acceptable, if we have a liveable town house.

- Concerned at the axing of the \$2 million for Murwillumbah Library from the 7 Year Plan, particularly as several extravagant projects have survived and request restore the upgrading of this valuable community resource. Murwillumbah and Tweed Heads Museums have had their funding retained, but they would not attain anywhere near the customer usage of the library.
- Concerned that three Administrators not elected by the people of the Shire can make such medium to long term decisions that will affect the majority of its citizens in such a big financial way. Council should engage the developers in more dialogue with a view to allowing more controlled development to take place, as development should occur and surely there must be a common ground to be attained.
- Council rates are too high in comparison to Gold Coast City and Caloundra City Councils rates, especially Caloundra which has a very wide range of amenities and services.
- Provided views on the process for the development of the Draft Management Plan and as a result its poor content and concerned at the reduced amount of funding in the 7 Year Plan for roadworks, given the very positive response from the seven year plan survey, particular mention made of Tyalgum Road and Chillingham – Crystal Creek Road.
- Stage 1 of the Jack Evans Boat Harbour should include a visitor tourist information /cultural /entertainment/exhibition centre with a residential aspect to provide Council with funds to redevelop Stage 1 rather than what is proposed in Stage 2.
- 2 letters stating not opposed to an increase in rates, provided ratepayer is receiving value for money and making suggestions for reallocation of budget funds including:
 - increase in community services to residents of Kunghur and Mt Burrell is required – playground, mobile library and picnic/toilet facilities;
 - funding for Murwillumbah Library should not be completely cut , suggesting an amount of \$ 861,941 should be reallocated in the Plan for the Murwillumbah Library;
 - direct funds for the appointment of a Sports Development Officer to the Murwillumbah Library or the Fingal River Foreshore project;
 - suggesting that Corporate Planning should be cut and direct half to the Murwillumbah Library and delete any increase in funding in the management plan.
- Stage 1 of the Jack Evans Boat Harbour redevelopment addresses a number of the community requirements, suggesting that a boardwalk, enlarging the present beach, construction of a sharknet enclosure, concerned at the proposed cost of 15 million, expenditure should be prioritised, concerned at the proposed sale by the State Government to sell off public use crown land, although State Government should actively contribute to the redevelopment.
- Does not think Administrators should be overseeing major policy changes, almost two thirds of independent surveys were against an increase to fund these projects. Council's decision flies in the face of the "true will" of the people.
- General comment - matters for consideration in the 2006/2009 Draft Management Plan.
 - In favour of the improvement of the Jack Evans Boat Harbour precinct but strongly recommends more community input towards the final decision of this precinct.

- Future sewage infrastructure for Tweed Heads and utilisation of reclaimed wastewater should be a priority in the 2006/2009 Draft Management Plan.
- Council should maximise the reuse of all sewage wastewater as a priority in the 2006/2009 Draft Management Plan.
- Why is the second Tweed Airport in the 2006 Budget.
- Coastline Management Plan should be further examined after all submission have been fully assessed for funding opportunities other than rates and the viability of the proposed rock wall.
- When Council has such a backlog of major infrastructure such as sewage and roads, then items for regional swimming pool and car park, and Vegetation Management Plan should be audited for their priority.
- General Comment - matters for consideration in the 7 Infrastructure and Services Plan
 - A new district centre at Chinderah.
 - Development of West Kingscliff - flood and drainage issues.

BUDGET / REVENUE POLICY

Council has the option at this meeting to amend the Draft Management Plan and Budget as well as vary the Fees and Charges.

COUNCIL'S FINANCIAL POSITION (2006/2007) - BUDGET

The Budget as presented is balanced. If any surplus funds become available from operations during the year, these should be applied to increase the level of accumulated funds so that Council has a sound financial platform on which it can build.

Program Budgeting used in the Plan provides both a financial and management analysis of the individual programs and services offered by Council and in conjunction with the various program objectives and performance measures allows an ongoing review of services related back to the individual program objective. Extensive use of activity based costing is used to support this process.

The objectives of the 2006/2007 Budget are:-

- To maintain a balanced budget;
- To maximise income from all sources, subject to the stated policies of Council;
- To provide works and services at levels commensurate with budget allocation;
- To restrain expenditure, wherever possible;
- To achieve economy of operation; and
- To optimise the return on funds and investments.

DRAFT BUDGET FOR 2006/2007

General Fund	\$86,415,866
Water Fund	\$38,878,371
Sewerage Fund	\$51,144,922
Total	\$176,439,159

Objectives

As part of the analysis of the purpose of the plan a number of objectives were identified in an attempt to determine if on present trends there is sufficient revenue to:

- Maintain or expand existing services;
- Replace infrastructure, both existing and future;
- Undertake new projects, in line with Council's strategic direction; and
- Ensure long-term financial sustainability.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

2006/2009 Draft Management Plan
2006/2007 Draft Budget
2006/2007 Draft Revenue Policy
2006/2007 Draft Fees and Charges

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

2 [SUB-AAC) Minutes of the Aboriginal Advisory Committee held Friday, 7 April 2006

ORIGIN:

Environment & Health

SUMMARY OF REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 7 April 2006 are attached to this Agenda for the information of Administrators.

The Committee has made recommendations for consideration. In reviewing these recommendations in line with Council's Policies, Management Plan and Budget, amendments may be made by the responsible Director. Reasons for any amendments are listed at the end of the Minutes document under the heading "Director's Comments" with the relevant amendment being reflected under the heading "Director's Recommendations". The Committee's recommendations, including Director's amendments, are referred for Council's adoption.

RECOMMENDATION:

That:-

- A. The Minutes of the Aboriginal Advisory Committee Meeting held Friday 7 April 2006 be received and noted; and
- B. The recommendations be adopted as follows:-

Item from Meeting held 1 July 2006 and 5 August 2005

4. Upgrade of Old Border Caravan Park - Indigenous Public Placemaking Project

That the resolution:

"That Council advises its intention to name the park identified in this project "Goorimahbah" be advised for public exhibition and comment.

be referred to Council's Recreation Services Unit for advertising as per Council's Naming Policy and report back to Council

REPORT:

Minutes of the Aboriginal Advisory Committee held Friday, 7 April 2006

VENUE:

HACC Activities Room, Heffron Street, Tweed Heads South

TIME:

10 a.m.

PRESENT:

Lesley Mye (Tweed Shire Council), Kathleen Lena (Elder/TBLALC), Dr Glenda Nalder (TSC Cultural Development Advisory Committee), Maureen Logan (TBLALC), Administrator Max Boyd (Tweed Shire Council), Jackie McDonald (Tweed Wollumbin AECG), Rob Slookee (TBLALC), Geoff Togo (Tweed Police Service), Georgina Wright (Tweed Shire Council), Lesley Buckley (Tweed Shire Council), Chris Morgan (Tweed River High AEA/Tweed Wollumbin AECG), Dot Holdom (Community member), Lulu Hamilton (Community), Barbara Oliver (Community), Joyce Summers (Community), Lyn Vermeesch (Community) Clare Lena-Gray (Community member), Ruth Conlan (Ngarakwal/Ngandawal) and Patricia Tully (Ngarakwal/Ngandawal).

APOLOGIES:

Kyle Slabb, Russell Logan, Geoff Edwards & Rebecca Couch

The Chair was declared vacant and nominations were called. Administrator Boyd was nominated and unanimously elected to Chair the meeting.

Administrator Boyd opened the meeting with a welcome to all present and paid respect to Elders past and present.

MINUTES OF PREVIOUS MEETING:

Moved: Kathleen Lena

Seconded: Rob Slookee

RESOLVED that the Minutes of the Tweed Shire Council Aboriginal Advisory Committee meeting held Friday 3 February 2006 be accepted as a true and accurate record of the proceedings of that meeting.

Carried unanimously

Administrator Boyd and the Committee members welcomed Patricia Tully, Lulu Hamilton, Barbara Oliver and Ruth Conlan. The Committee gave a brief update on what the Committee and Councils have been consulting.

BUSINESS ARISING:

Item from Meetings held 6 May 2005 and 7 October 2005

2. Leticia Spit Road

Lesley Mye has not received any feedback after the Summit, which was held on Wednesday 15 February 2006. Administrator Boyd suggested that the area be fenced. He also suggested that community should put their concerns in writing and advise Council.

Administrator Boyd suggested work with the new Superintendent Michael Kenny Tweed/Byron Local Area Command Tweed Heads Police Station. Other members of the committee suggested:

- boom gates
- meeting with the major stake holders of the area.

Item from Meetings held 1 July 2005 and 5 August 2005

3. Gift to Tweed Shire Council from the Indigenous Community

Ms Lena-Gray gave an update informing that work on the gift was advancing.

Item from Meeting held 1 July 2006 and 5 August 2005

4. Upgrade of Old Border Caravan Park - Indigenous Public Placemaking Project

Lesley Buckley, Tweed Shire Council's Cultural Development Officer gave an update on how this project was seeded under the umbrella of the City of the Arts. Consultation has taken place with the Aboriginal Advisory Committee and Council for four years. A sub committee was formed from the AAC as a steering committee, which was consulted before any decisions were made concerning the Indigenous Gardens

Dr Glenda Nalder, member of Tweed Shire Council's Community Cultural Development Advisory Committee and City of the Arts Shaping a Distinctive Environment Project Manager, addressed the Committee and gave a brief update on the project.

Georgina Wright Tweed Shire Council's Tweed Heads Master Plan Project Officer advised the Committee that the official launch will be held on Saturday 29 April 2006 on site at the old Border Caravan Park – 11am followed by a BBQ lunch. The design will be on display for a 2-week period for community consultation and feedback. Nominations were called for Indigenous Dancers to perform on the day. The following people were nominated Slabb Family, Ginibi Dancers, Tweed River High School. Joyce Summers to make contact with the dances that perform the "Pippy Dance".

Moved: Kathleen Lena

Seconded: Dot Holdom

RESOLVED that Lesley Mye formally approach the younger and more senior dance groups. After which she will inform Ms Wright of the outcome.

Carried unanimously

Ms Wright also advised the Committee that Ms Rhonda Billett would like to hand over her art work to Council. Ms Buckley advised the Committee before that happens an agreement should be worked out between the parties regarding Copyright and Intellectual Property.

Kathleen Lena was nominated to open the proceeding.

Moved: Lesley Mye

Seconded: Jackie McDonald

RESOLVED that Kathleen Lena open the proceedings with a "Welcome to Country".

Carried unanimously

Ms Wright asked for nomination from local community members, who have become celebrities to attend the launch of the Indigenous Gardens as special guests. Nominated were Aunty Sue Follent, Neville Bonner's descendants, Lester Bostock, Athol Crompton and Sol Belleair.

Moved: Kathleen Lena

Seconded: Dot Holdom

RESOLVED that Sue Follent to represent community on the day as the local celebrity, and if unable to do so, the descendants of Neville Bonner to be approached

Carried

Moved: Jackie McDonald

Seconded: Dot Holdom

RESOLVED that Lester Bostock be invited to the Launch of the Indigenous Gardens Concept Design on the 29/4/06.

Carried unanimously

Ms Lyn Vermeesch advised the committee that she and Mark Damen Noter Browning were not totally satisfied with how the project was carried out. Ms Buckley advised Ms Vermeesch that all guidelines and decisions were made with full consultation with the sub-committee.

Ms Mye tabled survey feedback regarding the naming of the Indigenous Gardens. Barbara Oliver and Lulu Hamilton also suggested "Gowonda Place". The name most excepted by community was "Goorimbahbah".

Moved: Dot Holdom
Seconded: Kathleen Lena

RECOMMENDATION:

That Council advises its intention to name the park identified in this project "Goorimahbah" be advised for public exhibition and comment.

Carried unanimously

Item from Meeting held 3 September 2004

4. Terms of Reference

Draft copy of the Terms of Reference to be sent out to committee members so they may be ratified at the next meeting.

Item from Meeting held 2 December 2005

2. Hastings Point Rock Platform

Moved: Joyce Summers
Seconded: Dot Holdom

RESOLVED that the Hastings Point Aboriginal Heritage Information be sent out to Community for comment

Item from Meeting held 1 April 2005

3. Tugun Bypass

Ms McDonald advised the committee that Save Our Lakes and Heritage (SALAH) group are now assisting the newly formed Tugun & Cobaki Alliance.

Administrator Boyd congratulated Ms McDonald on the work she has done regarding the C4 proposal and he also suggested that at the next Aboriginal Advisory Committee meeting that the documentary that Brian & Magali McDuffie regarding the C4 proposal be shown.

Item from Meeting held 5 August 2005

5. Indigenous Fishing Strategy

Mr Slockee updated the Committee regarding the Indigenous Fishing Strategy.

Administrator Boyd asked how the Committee could assist. It was suggested by the Committee that a letter go out to both the Minister of Aboriginal Affairs and Mr Warren Mundine, CEO NSW Native Title Services Limited/National President of Australian Labour Party, to ask for a meeting towards the end of the month with Mr Slockee.

GENERAL BUSINESS

1. Mooball National Park Draft Management Plan

Resent information out to members so people can respond before May & June 2006.

2. NSW Local Government Aboriginal Network Gunnedah Conference

Nomination where called from committee for 2 people to attend this years conference which is in October 15 – 17 2006. Nominated where Lesley Mye and Clare Lena Gray to attend.

Moved: Administrator Boyd

Seconded: Joyce Summers

RESOLVED that Lesley Mye and Clare Lena Gray attend the NSW Local Government Aboriginal Network Gunnedah Conference.

Carried unanimously

Moved: Dot Holdom

Seconded: Jackie McDonald

RESOLVED that the Committee recommends to Council that 2 people attend from the Aboriginal Community also attends the NSW Local Government Aboriginal Network Gunnedah Conference.

Carried unanimously

3. Correspondence

The Committee discussed correspondence from Ms Stella Wheildon relating matters of interest to the Aboriginal community. General discussion followed.

Ms Lyn Vermeesch correspondence received and noted.

NEXT MEETING:

The next meeting of Aboriginal Advisory Committee will be held on Friday 2 June 2006, at 10.00 am in the Activities Room, HACC Centre, Heffron Street, Tweed Heads South

The meeting closed at 1 p.m.

DIRECTOR'S COMMENTS:

2. NSW Local Government Aboriginal Network Gunnedah Conference

This matter of attendance at the NSW Local Government Aboriginal Network Gunnedah Conference is further dealt with in the Committee's meeting minutes held 5 May 2006.

DIRECTOR'S RECOMMENDATIONS:

Item from Meeting held 1 July 2006 and 5 August 2005

4. Upgrade of Old Border Caravan Park - Indigenous Public Placemaking Project

That the resolution:

"That Council advises its intention to name the park identified in this project "Goorimahbah" be advised for public exhibition and comment.

be referred to Council's Recreation Services Unit for advertising as per Council's Naming Policy and report back to Council

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3 [SUB-AAC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 5 May 2006

ORIGIN:

Environment & Health

SUMMARY OF REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 5 May 2006 are attached to this Agenda for the information of Administrators.

The Committee has made recommendations for consideration. In reviewing these recommendations in line with Council's Policies, Management Plan and Budget, amendments may be made by the responsible Director. Reasons for any amendments are listed at the end of the Minutes document under the heading "Director's Comments" with the relevant amendment being reflected under the heading "Director's Recommendations". The Committee's recommendations, including Director's amendments, are referred for Council's adoption.

RECOMMENDATION:

That:-

- A. The Minutes of the Aboriginal Advisory Committee Meeting held Friday 5 May 2006 be received and noted; and**
- B. The recommendations be adopted as follows:-**

Item from Meeting held 5 August 2005

- 4. Upgrade of the Old Border Caravan Park – Indigenous Public Placemaking Project**

"That Council writes a letter of apology to Mr Lester Bostock and/or other community members, dignitaries and sponsors, and other persons identified by Lesley Mye as persons who should have received an invitation to the Indigenous Public Placemaking Project."

Item from Meeting 7 April 2006

2. NSW Local Government Aboriginal Network Gunnedah Conference

"That Council endorses the attendance of Ms Clare Lena-Gray, Ms Lesley Mye and Mr Rob Slookee at the NSW Local Government Aboriginal Network Conference to be held in Gunnedah in October 2006 and with the costs to be met by Council."

REPORT:

Minutes of the Aboriginal Advisory Committee Meeting held Friday 5 May 2006

Aboriginal Matters

Venue:

Tweed Heads Civic Centre Meeting Room

Time:

10.00am

Present:

Lesley Mye (Tweed Shire Council), Kathleen Lena (Elder/TBLALC), Dr Glenda Nalder (TSC Cultural Development Advisory Committee), Maureen Logan (TBLALC), Rob Slockee (TBLALC), Geoff Edwards (Tweed Shire Council), Georgina Wright (Tweed Shire Council), Dot Holdom (Community member), Clare Lena-Gray (Community member), Russell Logan (Centrelink/TBLALC), Val Mye (community member), Lewena Williams (TBLALC), Des Williams (TBLALC), Deidre Currie (community member), Clarence Phillips (TBLALC), Joyce Summers (community member), Dale Williams (community member), Garth Lena (community member), Paula Combo (community member), Susan Rose (City Of the Arts Village Art Timber Trail) & Phil Connor (City Of the Arts Village Timber Trail) .

Apologies:

Lesley Buckley, Jackie McDonald, Geoff Togo, Administrator Max Boyd & Ruth Colan.

Moved: Clare Lena Gray

Second: Dot Holdom

RESOLVED that the apologies be accepted.

Carried unanimously

The Chair was declared vacant and nominations were called. Mr Des Williams was nominated and unanimously elected to Chair the meeting.

Mr Williams opened the meeting with a welcome to all present and paid respect to Elders past and present.

Minutes of Previous Meeting:

Moved: Dot Holdom

Seconded: Maureen Logan

RESOLVED that the Minutes of the Tweed Shire Council Aboriginal Advisory Committee meeting held Friday 7 April 2006 be accepted as a true and accurate record of the proceedings of that meeting with the following amendments:

"Business Arising:

3. *Tugun Bypass
(SALAH) should read (SOLAH)*

The date advised for the next meeting of the Committee should read Friday 5 May 2006."

BUSINESS ARISING:

Item from Meeting held 1 April 2005

2. Tugun Bypass

Jackie McDonald would like to see the committee write to Ms Yodi Batzke, Indigenous Consultant Gold Coast Airport Pty Ltd viewing their concerns regarding the C4 Bypass.

Moved: Russell Logan

Seconded: Clare Lena-Gray

RESOLVED that the Aboriginal Advisory Committee extend and invitation to Ms Yodi Batzke, Indigenous Consultant Gold Coast Airport Pty Ltd to the next Aboriginal Advisory Committee Meeting to discuss the C4.

Carried unanimously

Item from Meeting held 7 October 2005

2. Letitia Spit Road

Mr Geoff Edwards advised the committee that a report is in progress with the Engineering & Operations Division of Council. The Engineering & Operation Division is compiling all the information and issues, which came from the February Summit for consideration & further action by Council.

Mr Williams asked how many stakeholders involved with these issues. Mr Edwards advised the committee that until the report is finalised he is unable to comment but assured the committee that all stakeholders involved will have more consultation.

Ms Clare Lena-Gray asked if the Tweed Byron Local Aboriginal Land Council could be forwarded a copy of the report.

Item from Meeting held 3 September 2004

5. Terms of Reference

Deferred to General Business

Item from Meeting held 5 August 2005

4. Upgrade of the Old Border Caravan Park – Indigenous Public Placemaking Project

Mr Williams advised committee that Mr Warren Mundine does not represent the Bundjalung Nation and should not have been advised in the Tweed Link as so. Ms Mye advised the Committee that Mr Mundine was here as the CEO of Native Title NSW and the National President of the Australia Labour Party and that a retraction will be in the next issue of the Tweed Link.

Mr Williams advised that it should be stated that Rhonda Billett is a local Artist but not originally from this area.

Dot Holdom advised committee that it was unfortunate that Aboriginal Protocol had not been followed on this occasion.

Mrs Joyce Summers advised the committee that it is important for the Aboriginal community to retain ownership over this project.

Mrs Kathleen Lena also advised the committee on her concerns that a large number of community members reported they had not received an invitation.

Moved: Russell Logan
Second: Clarence Phillips

RECOMMENDATION:

That Council writes a letter of apology to Lester Bostock and/or all other community members, dignitaries and sponsors and any other person/s that should have received an official invitation

Carried unanimously

Mr Williams advised the committee that he would like to see all issues concerning the Indigenous Community be given to Ms Mye for comment and/or advice. Mr Williams suggested that staff of Tweed Shire Council may benefit from Indigenous Cultural Awareness Training.

It was also stated in general discussion that the direct descendants of Neville Bonner where in town on the day of the Launch. They were to be invited but the committee is unsure if they received an invitation.

Ms Wright apologised to the committee on the information provided to the Tweed Link, which advised that Mr Warren Mundine was here to represent the Bundjalung Nation and that a retraction will be published in the Tweed Link.

Ms Wright advised the committee that the concept design was not finalised and that changes could still be made concerning the Indigenous Gardens Concept Design.

Dr Nalder suggested that Ms Wright meet with the IPPP Sub-Committee. Ms Mye will liaise with Lesley Buckley concerning this. Dr Nalder also suggested that the Concept Design of the Indigenous Gardens be forwarded to both Minjungbal Museum and Tweed Byron Local Aboriginal Land Council.

Item from Meeting held 5 August 2005

4. Indigenous Fishing Strategy

Rob Slockee tabled correspondence, which was received and noted

Item from Meeting 7 April 2006

3. Correspondence from Ms Stella Wheildon

The Committee discussed issues raised by Ms Wheildon in correspondence addressed to Tweed Shire Council. Mr Williams advised the committee that Ms Wheildon is not acknowledged by the Aboriginal community as a representative of the community.

Mr Logan suggested that the Aboriginal Advisory Committee should deal with the correspondence from Ms Wheildon not Tweed Shire Council.

Dr Nalder suggested she could advise Tweed Shire Council regarding issues raised by Ms Wheildon.

Moved: Leweena Williams

Seconded: Dot Holdom

RESOLVED that an official invitation to be forwarded to Ms Stella Wheildon and the organisation that she represents to attend the next Aboriginal Advisory Committee meeting to discuss the claims she has made concerning the Aboriginal Advisory Committee and the Community.

Carried unanimously

Item from Meeting 7 April 2006

2. NSW Local Government Aboriginal Network Gunnedah Conference

Rob Slockee advised the committee that he would like to attend the conference to table a presentation on the Commercial Fishing Licence Buy Back Scheme. Ms Dot Holdom notified the committee that she would also like to attend. The committee agreed that it would be good for both to attend.

Moved: Russell Logan

Seconded: Dot Holdom

RECOMMENDATION:

That Council also endorses the nomination by this Committee of Mr Slockee to attend the NSW Local Government Aboriginal Network conference to be held in

Gunnedah in October 2006, along with the Committee's previous nomination of Ms Clare Lena-Gray, and that funds be made available to meet the cost of the attendance of both Committee nominations along with Ms Lesley Mye.

Carried unanimously

Moved: Russell Logan

Seconded: Dot Holdom

RESOLVED that Business Arising has been dealt with.

Carried unanimously

GENERAL BUSINESS:

1. City of the Arts 2003-2005 SADE Project Village Timber Art Trail – Burringbar Village Project

Susan Rose & Phil Conner tabled information concerning the Burringbar Village Project. The committee was informed that an Indigenous artist and local school children would help work on the project. Mr Garth Lena has been approached to carve the Indigenous themes.

Mr Williams advised that the Black Goanna Totem they wish to use would not be appropriate as it is not the overall totem of the Bundjalung Nation. Mr Williams will contact the Bundjalung Elders and Mr Ian Fox to clarify which totem is for the Burringbar area, the dialect used and clan names.

The committee agreed that the Warrior story was appropriate to use but the source of the information should be acknowledged. Mr Williams suggested that the Warrior Story be placed on a plaque next to the artwork. They were informed by the committee not to use the word dreaming anywhere in this project as it is a non-Indigenous word. Also they were advised that Burringbar means "place of striking Boomerang". They were advised to make contact with Kai Farrar, Aboriginal Liaison Officer, Department of Education and Training.

-
2. City of the Arts 2003-2005 SADE Project Village Timber Art Trail – Mooball Village Project

Ms Rose and Mr Connor tabled information concerning this project. Again, a local Indigenous artist and school children once again will work on this project. They were advised by the committee that hand painted artwork was fine to use but to remember that "dot" artwork did not come from this area and the people are saltwater people not desert people. Mr Williams advised them not to use the word Totem, as it is a South American word. The following wording is more appropriate: "that these trees were widely used by

Indigenous people of this area". The Warrior Story is appropriate to use as long as they keep to the story and display the source.

NEXT MEETING:

The next meeting of Aboriginal Advisory Committee will be held on Friday 2 June 2006, at 10.00 am in the Activities Room, HACC Centre, Heffron Street, Tweed Heads South.

The meeting closed at 1pm

DIRECTOR'S COMMENTS:

Item from Meeting 7 April 2006

2. NSW Local Government Aboriginal Network Gunnedah Conference

The attendance of Lesley Mye at the NSW Local Government Aboriginal Network Conference will be approved to under delegated authority.

The cost of the 3 attendees can be met from Council's budget.

DIRECTOR'S RECOMMENDATIONS:

Item from Meeting held 5 August 2005

4. Upgrade of the Old Border Caravan Park – Indigenous Public Placemaking Project

"That Council writes a letter of apology to Mr Lester Bostock and/or other community members, dignitaries and sponsors, and other persons identified by Lesley Mye as persons who should have received an invitation to the Indigenous Public Placemaking Project."

Item from Meeting 7 April 2006

2. NSW Local Government Aboriginal Network Gunnedah Conference

"That Council endorses the attendance of Ms Clare Lena-Gray, Ms Lesley Mye and Mr Rob Slockee at the NSW Local Government Aboriginal Network Conference to be held in Gunnedah in October 2006 and with the costs to be met by Council."

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

4 [SUB-ACC] Minutes of the Aboriginal Advisory Committee Meeting held Friday 2 June 2006

ORIGIN:

Environment & Health

SUMMARY OF REPORT:

The Minutes of the Aboriginal Advisory Committee Meeting held Friday 2 June 2006 are attached to this Agenda for the information of Administrators.

The Committee has made recommendations for consideration. In reviewing these recommendations in line with Council's Policies, Management Plan and Budget, amendments may be made by the responsible Director. Reasons for any amendments are listed at the end of the Minutes document under the heading "Director's Comments" with the relevant amendment being reflected under the heading "Director's Recommendations". The Committee's recommendations, including Director's amendments, are referred for Council's adoption.

RECOMMENDATION:

That:-

- A. The Minutes of the Aboriginal Advisory Committee Meeting held Friday 2 June 2006 be received and noted; and**
- B. The recommendations be adopted as follows:-**
 - 3. Indigenous Fishing Strategy**

As per the Committee's recommendation being:

"That Council sends letters of support to Mr Ian McDonald, Minister of Primary Industries and Ms Dianne Watkins, Manager of Commercial Fisheries on behalf of Mr Slockee."

- 2. NSW Local Government Aboriginal Network Gunnedah Conference**

"That Council having resolved to send Ms Clare Lena-Gray, Ms Lesley Mye and Mr Rob Slockee from the Aboriginal Advisory Committee to the Aboriginal Network Conference in Gunnedah and advise the Committee that funding would be available to send a third person."

REPORT:

Minutes of the Aboriginal Advisory Committee Meeting held Friday 2 June 2006
Aboriginal Matters

VENUE:

HACC Activities Room, Heffron Street, Tweed Heads South

TIME:

10am

PRESENT:

Lesley Mye (Tweed Shire Council), Kathleen Lena (Elder/TBLALC), Maureen Logan (TBLALC), Rob Slockee (TBLALC), Geoff Edwards (Tweed Shire Council), Dot Holdom (Community member), Clare Lena-Gray (Community member), Russell Logan (Centrelink/TBLALC), Val Mye (community member), Leweena Williams (TBLALC), Deidre Currie (community member), Des Currie (community member), Administrator Boyd (TSC), Patricia Tully (community member), Ruth Colan (community member), Mayo Hooper (Medicare Australia), Florence Lloyd (Medicare Australia), Janette Sanuders (community member), Leigh Abernethy (TSC) Jackie McDonald (Tweed Wollumbin AECG), Zeta Grealay (Taste of Tweed)

APOLOGIES:

Des Williams, Joyce Summers, Chris Morgan, Stella Wheildon & Yodi Batzke

Moved: Dot Holdom

Seconded: Kathleen Lena

RESOLVED that the apologies be accepted.

Carried unanimously

The Chair was declared vacant and nominations were called. Mr Russell Logan was nominated and unanimously elected to Chair the meeting.

Mr Logan opened the meeting with a welcome to all present and paid respect to Elders past and present.

MINUTES OF PREVIOUS MEETING:

Moved: Maureen Logan

Seconded: Administrator Boyd

RESOLVED that the Minutes of the Tweed Shire Council Aboriginal Advisory Committee meeting held Friday 5 May 2006 be accepted as a true and accurate record of the proceedings of that meeting with the following amendments:

Amendment to Friday 5 May 2006 Aboriginal Advisory Committee Meeting minutes
Item 2 Tugun Bypass should read Gold Coast Runway Project not the C4.

Carried unanimously

BUSINESS ARISING:

Item from Meeting held 1 April 2005

2. Tugun Bypass

Jackie McDonald would like to see the committee write to Ms Yodi Batzke, Indigenous Consultant Gold Coast Airport Pty Ltd raising their concerns regarding the Gold Coast Airport Runway Extension Project (GCARE).

Moved: Jackie McDonald

Seconded: Des Currie

RESOLVED: That the Aboriginal Advisory Committee extend and invitation to Ms Yodi Batzke, Indigenous Consultant Gold Coast Airport Pty Ltd to the next Aboriginal Advisory Committee Meeting to discuss the Gold Coast Airport Runway Extension Project (GCARE).

Carried unanimously

Item from Meeting held 7 October 2005

2. Letitia Spit Road

Administrator Boyd advised that fencing the Letitia Spit area is worth exploring and that Council would investigate what funding is available.

Mr Geoff Edwards advised the committee that the report from the Summit would be presented at the Council meeting on 13 June 2006. A copy of the report will be sent out with the minutes.

Item from Meeting held 7 April 2006

3. Ms Stella Wheildon

Ms Mye to liaise with Ms Wheildon to set a date for an Extraordinary Meeting to address all issues and concerns relating to the community and committee. The committee would like copies of all correspondence that Council has received from Ms. Wheildon so that it may be tabled at the Extraordinary Meeting.

Moved: Maureen Logan
Seconded: Kathleen Lena

MOTION: Extraordinary meeting to be called to deal with claims by the Ngarraakwal/Ngandowal Aboriginal Corporation

Carried unanimously

Mr. Edwards advised the Committee that Council would assist in the provision of a venue for this meeting.

Item from Meeting held 5 August 2005

3. Indigenous Fishing Strategy

Mr Slockee tabled information regarding to this issue. Mr Slockee asked for letters of support from the Aboriginal Advisory Committee and Tweed Shire Council to be sent to Ms Dianne Watkins, Manager of Commercial Fisheries & Mr Ian McDonald, Minister of Primary Industries.

Moved: Russell Logan
Seconded: Kathleen Lena

MOTION: Support letters from the Aboriginal Advisory Committee to be forwarded to Mr Ian McDonald, Minister of Primary Industries and Ms Dianne Watkins, Manager of Commercial Fisheries.

Carried unanimously

Moved: Des Currie
Seconded: Ruth Tully
RECOMMENDATION:

That Council sends letters of support to Mr Ian McDonald, Minister of Primary Industries and Ms Dianne Watkins, Manager of Commercial Fisheries on behalf of Mr Slockee.

Carried unanimously

- Administrator Boyd suggested that all relevant information relating to this matter be forward to the Administrators.
 - Mr Slockee to attend a Community access meeting.
 - Ms Mye to liaise with Neil Baldwin to organise Mr Slockee's address to the Council.
-

Item from Meeting 7 April 2006

2. NSW Local Government Aboriginal Network Gunnedah Conference

- Lesley Mye will attend the NSW Local Government Aboriginal Network Gunnedah Conference on behalf of Tweed Shire Council.
-

- Mr Slockee and Ms Lena-Gray will have their attendance confirmed by Tweed Shire Council on 13 June 2006.
- Dot Holdom will be attending at her own expense.

Item from Meeting held 5 August 2005

2. Upgrade of the Old Border Caravan Park – Indigenous Public Placemaking Project.

Ms Mye advised the committee that the sub-committee had signed off on the Indigenous Gardens design at a meeting held Thursday 1 June 2006.

Item from Meeting 5 May 2006

1. City of the Arts 2003-2005 SADE Project Village Timber Art Trail Burringbah Village Project

Des Williams will confirm information relating to this project with the Bundjalung Elders. Ms Mye will forward the information onto Ms Rose and Mr Conner via Lesley Buckley.

Moved: Dot Holdom
Seconded: Maureen Logan
RESOLVED that Business Arising has been dealt with.

Carried unanimously

GENERAL BUSINESS:

1. Zeta Grealy – Taste The Tweed

Ms Grealy tabled information concerning “Taste The Tweed” which will be held 8 September 2006. Ms Grealy would like to see local indigenous people present their indigenous food. Ms Mye will liaise with community and committee and forward suggestions/nominations to Ms Grealy.

Ms Grealy asked for an Elder to perform “Welcome to Country”, Kathleen Lena was nominated.

Moved: Lesley Mye
Seconded: Dot Holdom

Carried unanimously

2. Medicare Australia – Indigenous Access Unit

Ms Florence Lloyd & Ms Mayo Hooper from the Indigenous Access Unit tabled information concerning the Indigenous Access Unit. The unit provides a better understanding on how Medicare works. A toll free number for easy access is now available 1800 556 955.

3. Tweed Shire Council Landscape Architect Leigh Abernethy

Ms Abernethy tabled information relating to the coastline from Fingal down to Pottsville. Ms Abernethy asked for a sub-committee to be formed to work with this project. Nominated were Ms Mye, Maureen Logan, Russell Logan, Deidre Currie, Des Williams, Kyle Slabb, Jackie McDonald & Ian Fox. Ms Mye will liaise with the nominated people and finalise sub-committee members with Ms Abernethy.

Ms Leweena Williams suggest that Ms Abernethy meet with Tweed Byron Local Aboriginal Land Council.

Ms McDonald advised that not every Aboriginal Site has been documented in the local area.

Ms Abernethy asked the committee if anyone had old photos of where Cudgen Creek used to run so that they can be used in relation to this project.

Administrator Boyd advised the committee that the process of this project would be slow so that nothing will be over looked.

4. Tweed River Art Gallery – Donation of Artwork by NGA

Ms Mye tabled information to the committee from Gary Corbett Museum & Gallery Coordinator.

Miss Leweena Williams & Ms Clare Lena - Gray would like it noted that we have to be cautious of accepting any artwork from other areas because of any spiritual significance that could be attached to it.

Moved: Deidre Currie

Seconded: Patrick Tully

MOTION: After discussion the committee agreed that the Tweed River Art Gallery accepts the artwork being Jundal Gianga (woman powerful) from the National Gallery of Australia.

Carried unanimously

5. Mt Warning/Wollumbin dual naming

Ms McDonald advised committee that the dual naming of Mt Warning/Wollumbin was formally gazetted by the Geographic Names Board in January 2006.

6. NAIDOC 2006

Ms McDonald suggested that the Council formally acknowledge and notify community in the Tweed Link regarding NAIDOC Week Celebrations.

Dates for NAIDOC are Sunday 2 July until Friday 7 July 2006.

NEXT MEETING:

The next meeting of Aboriginal Advisory Committee will be held on Friday 14 July 2006, at 10.00 am in the Activities Room, HACC Centre, Heffron Street, Tweed Heads South.

The meeting closed at 1.00pm

DIRECTOR'S COMMENTS:

Item from Meeting held 5 August 2005

3. Indigenous Fishing Strategy

Arrangements are being made for Mr Rob Slockee to address Council on this matter.

Item from Meeting 7 April 2006

2. NSW Local Government Aboriginal Network Gunnedah Conference

The Committee at its meeting held 7 May 2006 requested Council to:

Item from Meeting 7 April 2006

2. NSW Local Government Aboriginal Network Gunnedah Conference

"That Council endorses the attendance of Ms Clare Lena-Gray, Ms Lesley Mye and Mr Rob Slockee at the NSW Local Government Aboriginal Network Conference to be held in Gunnedah in October 2006 and with the costs to be met by Council."

Given this resolution it is advised that as Council has resolved to send two members of this Committee to the Aboriginal Network Conference in Gunnedah, funding would be available to send a third person.

DIRECTOR'S RECOMMENDATIONS:

Item from Meeting held 5 August 2005

3. Indigenous Fishing Strategy

As per the Committee's recommendation being:

"That Council sends letters of support to Mr Ian McDonald, Minister of Primary Industries and Ms Dianne Watkins, Manager of Commercial Fisheries on behalf of Mr Slockee."

2. NSW Local Government Aboriginal Network Gunnedah Conference

"That Council having resolved to send Ms Clare Lena-Gray, Ms Lesley Mye and Mr Rob Slockee from the Aboriginal Advisory Committee to the Aboriginal Network Conference in Gunnedah and advise the Committee that funding would be available to send a third person."

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

5 [SUB-TDAC] Minutes of the Tweed Shire Council Disability Access Committee Meeting held Thursday 20 April 2006

ORIGIN:

Environment & Health

SUMMARY OF REPORT:

The Minutes of the Tweed Shire Council Disability Access Committee Meeting held Thursday 20 April 2006 are attached to this Agenda for the information of Administrators.

The Committee has made recommendations for consideration. In reviewing these recommendations in line with Council's Policies, Management Plan and Budget, amendments may be made by the responsible Director. Reasons for any amendments are listed at the end of the Minutes document under the heading "Director's Comments" with the relevant amendment being reflected under the heading "Director's Recommendations". The Committee's recommendations, including Director's amendments, are referred for Council's adoption.

RECOMMENDATION:

That:-

- A. The Minutes of the Tweed Shire Council Disability Access Committee Meeting held Thursday 20 April 2006 be received and noted; and**
- B. The recommendations be adopted as follows:-**

General Business:

- 4. Sunnyside Mall, Murwillumbah**

"That Council discusses with Centre Management the Lift Cleaning policy at Sunnyside Mall, with a view to ensure equity of access."

REPORT:

Minutes of the Tweed Shire Council Disability Access Committee Meeting held Thursday 20 April 2006

File No: Disability Access

Venue:

Buchanan Room, Buchanan Street, Murwillumbah

Time:

2.00 pm

Present:

Administrator Max Boyd, Ross Cameron, Ray Clark, Ron Douglas, Maggie Groff, Julie Lewin, Milena Morrow, Stephen Pollitt, Paige Ridgeway, Graham Williams, Vic Sparks, Stefan Zak

Apologies:

Una Cowdroy, Barbara Carroll

Pursuant to the election for office-bearers conducted at the meeting held on 16 February 2006, Milena Morrow has advised her acceptance of the nomination as Vice Chair

Minutes of Previous Meeting:

Moved: Stephen Pollitt

Seconded: Julie Lewin

RESOLVED that the Minutes of the Tweed Shire Council Disability Access meeting held Thursday 16 February 2006 be accepted as a true and accurate record of the proceedings of that meeting.

Carried unanimously

Business Arising:

Item from Meeting held 17 February 2005

9. Mobility Map

No quotes have been received. Ms Groff advised that the map is able to be completed utilising Council resources with the Committee's assistance. The Committee were in agreement with this. Discussion was held on map format, i.e. indexed street maps or maps with aerial photo layers. Ms Groff will meet with the Manager Recreation Services to discuss project. Further map examples to be presented at next meeting

Item from Meeting held 17 February 2005

7. Footpath Access – Kennedy Drive

Mr Clark advised that the embankment behind the pole cannot be excavated. Relocation of the pole is problematic as people may be able to touch the pole on passing, given the lack of space. A possible solution would be to widen the footpath. This widening is currently being designed by Council. A suggestion was made to put a guard around the post.

Item from Meeting held 21 April 2005

5. Powell Street Pedestrian Crossing, Tweed Heads

Mr Clark advised a ramp has been constructed, with tactile indicators in place.

Item from Meeting held 16 June 2005

2. ‘Missed Business’ - How to attract more customers by providing better access to your business”

Discussion held on content. The Committee will gather comments from local business proprietors for inclusion in the document. Council Officers will photograph examples of desired access for premises for inclusion in the document. The intention is to launch the document to coincide with the Disability Access Awards late in 2006.

Item from Meeting held 16 June 2005

6. Murwillumbah Bowls & Sports Club

Correspondence has been forwarded to Club Management from Mr Cameron, Manager Building Services. Mr Cameron also advised that an inspection has been conducted and advice regarding accessible toilet facilities has been provided. Mr Cameron will report on progress at the next meeting.

Item from Meeting held 18 August 2005

7. Disability Access Awards - Tweed Shire

The Working Party will now comprise Mr Douglas, Ms Lewin, Mr Pollitt, Ms Morrow and Mrs Cowdroy. The Party have met and commenced deliberation on format of Awards. Ms Ridgeway will provide information from neighbouring Councils to assist the Working Party.

Item from Meeting held 20 October 2005

4. Pram Ramps, intersection Florence Street and Wharf Street, Tweed Heads

Mr Clark advised the pram ramps are still to be done.

Items from Meeting held 15 December 2005

1. Lupino's Hair Salon - Tweed City Shopping Centre

The accessibility sign is due to be installed as soon as practicable. The issue has been resolved.

Item from Meeting Held 15 December 2005

2. Disability Access Budget

Ms Groff advised the current status of the budget. Ms Groff was requested to advise costing for the projects proposed by the Committee (Mobility Map, Missed Business and Disability Access Awards).

Item from Meeting Held 16 February 2006

4. Disability Action Plan

Ms Groff is to meet with Director Environment and Community Services to discuss the matter.

Item from Meeting Held 16 February 2006

5. Disability Parking

Poles and signs have been erected at the two disability parking spaces on the access ramp at the Civic and Cultural Centre, Murwillumbah. This matter is now resolved.

Item from Meeting Held 16 February 2006

6. Footpath Access - Tweed Valley Way, Murwillumbah South

Ms Groff and Mr Clark have inspected the area north of Greenhills Lodge. Establishing a footpath in this area is problematic due to the terrain. Mr Clark will inspect the rear of houses on the eastern side of Tweed Valley Way, adjacent to cane field, for possible access.

Ms Morrow and Ms Ridgeway left the meeting at 4.00 p.m.

Item from Meeting Held 16 February 2006

6. Uki Resident's Association - Public Meeting on Access

Ms Lewin advised she attended the meeting held in Uki. Ms Lewin also advised that she has prepared a disability access survey of the Uki village and personally arranged for the distribution of this document via the Uki Resident's Association newsletter. Ms Lewin will report back to the Committee.

Ms Lewin raised concerns regarding the lack of footpaths in Uki village area. Mr Clark will meet with Ms Lewin on site for inspection.

General Business:

1. Regional Access Committee Report – Paige Ridgeway

Ms Ridgeway to provide report.

2. Intersection of Tweed Valley Way and Prospero Street, Murwillumbah South

Administrator Boyd advised there is no footpath on the western side of Tweed Valley Way south of Prospero Street. Mr Clark will conduct an inspection.

3. Minjungbal Drive, Tweed Head South – Obstruction to Bus Shelter

Mr Pollitt advised he had requested the relocation of a Waste Bin on Minjungbal Drive, north of Rivendell Drive, to prevent obstruction to the Bus Shelter. Ms Groff advised that Council will relocate the Bin to the other side of the Shelter, closer to the road.

4. Sunnyside Mall, Murwillumbah

Ms Lewin raised a concern regarding the lift cleaning policy at Sunnyside Mall, Murwillumbah. Ms Lewin reported a personal incident involving the inaccessibility of the lift in order to exit the complex after 8 p.m. The lift is locked at this time for cleaning. Ms Lewin advised she will be preparing documentation on this matter.

Moved: Administrator Boyd

Seconded: Julie Lewin

RECOMMENDATION:

That Council discuss with Centre Management the Lift Cleaning policy at Sunnyside Mall, with a view to ensure equity of access.

Carried unanimously

Correspondence:

1. Vision Australia

Information flyer entitled "Teens and Parents – Have Your Say" – copy distributed to the Committee

2. Bill McKennarley

Notification that final report on Human Rights and Equal Opportunity Commission National Enquiry into Employment and Disability has been tabled in Federal Parliament. The report can be viewed at www.hreoc.gov.au/disability_rights/employment_inquiry/final/toc.htm

3. Doreen Eaton, Environment and Health Co-ordinator, Tweed Shire Council

Notification of forthcoming upgrades to disability facilities in the Shire.

Next Meeting:

The next meeting of Tweed Shire Council Disability Access Committee will be held on 15 June 2006 in the Activities Room, HACC Centre, Heffron Street, Tweed Heads South at 2.00 p.m.

The meeting closed at 4.35 p.m.

DIRECTOR'S COMMENTS:

DIRECTOR'S RECOMMENDATIONS:

General Business:

4. Sunnyside Mall, Murwillumbah

As per the Committee's recommendation being:

"That Council discusses with Centre Management the Lift Cleaning policy at Sunnyside Mall, with a view to ensure equity of access."

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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6 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 18 May 2006

ORIGIN:

Works

SUMMARY OF REPORT:

The Minutes of the Local Traffic Committee Meeting held Thursday 18 May 2006 are attached to this Agenda for the information of Administrators.

The Committee has made recommendations for consideration. In reviewing these recommendations in line with Council's Policies, Management Plan and Budget, amendments may be made by the responsible Director. Reasons for any amendments are listed at the end of the Minutes document under the heading "Director's Comments" with the relevant amendment being reflected under the heading "Director's Recommendations". The Committee's recommendations, including Director's amendments, are referred for Council's adoption.

RECOMMENDATION:

That:-

- A. The Minutes of the Local Traffic Committee Meeting held Thursday 18 May 2006 be received and noted; and**
- B. The recommendations be adopted as follows:-**

GENERAL BUSINESS:

PART A

- 1. Car Park - Tweed Heads Pool Complex/South Tweed Hall and HACC Centre**

That:-

- 1. 3 hour restricted parking incorporating Business Parking Permits be installed in the car park at the Tweed Heads Pool Complex/South Tweed Hall and HACC Centre.***
- 2. Staff parking at the Centre and Pool be issued with parking permits only.'***

2. Stuart Street and Navigation Lane, Tweed Heads

"That temporary closure of the footpath on Stuart Street from Whitehall Lodge up to Navigation Lane is approved and temporary car parking facilities be allocated to construction activities along Stuart Street, subject to payment of Council's applicable fees and charges."

6. McLeod Street, Condong

"That temporary road closure of McLeod Street, Condong (during construction) as per Traffic Control Plan B05032 between the hours of 9:00am and 2:30pm weekdays and 8:00am to 1:00pm Saturdays is approved."

7. Plantation Road, Cudgen

"That Council writes to the operator of the heavy vehicle depot on Plantation Road asking them to ensure that their drivers are driving safely on Plantation Road and negotiating the Tweed Coast Road intersection in a safe and cautious manner."

REPORT:

Minutes of the Local Traffic Committee Meeting held Thursday 18 May 2006

VENUE:

Peter Border Room

TIME:

Commencing at 9.00am.

PRESENT:

Committee Members: Mike Baldwin, Roads and Traffic Authority; Jason Thrupp, NSW Police; Mr Neville Newell, MP, Member for Tweed.

Informal: Chairman: Mr Paul Morgan, Mr Ray Clark and Judith Finch Tweed Shire Council.

APOLOGIES:

Mr Don Page MP, Member for Ballina.

MINUTES OF PREVIOUS MEETING:

RESOLVED that the Minutes of the Local Traffic Committee Meeting held Thursday 13 April 2006 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

SCHEDULE OF OUTSTANDING LOCAL TRAFFIC COMMITTEE ITEMS

Item from Meeting Held 16/3/06:

3. Bakers Road, Murwillumbah
R0280 Pt1; DW1346133; Street - Sign; Traffic - Parking Zones; New Art Gallery

"Request received in relation to parked vehicles at the art gallery. The parked vehicles are making it difficult for persons at 41 Bakers Road to exit their property.

This item deferred until the extensions to the Art Gallery are complete as extra on-site car parking should be provided.

To be brought forward to the Local Traffic Committee meeting in September 2006.

For Council's information."

Current Status: To be brought forward to the LTC for meeting in September 2006.

Item from Meeting held 19/5/05

4. Pottsville / Mooball Road, Pottsville

R4420 Pt3; DW1195084; Traffic - Speed Zones; Safety

"Request received for a reduction in the speed limit from 100kph to 80ph on the section of Pottsville Mooball Road from where the 100kph commences to Mooball to take in all the winding areas.

It was noted that speed counts have been performed in the past and this location will be reviewed once the reconstruction of Cudgera Creek Road is completed.

To be brought forward to the meeting of June 2006.

For Council's information."

Current Status: To be brought forward to the LTC for meeting in June 2006.

For Council's information.

Current Status: To be brought forward to the LTC for meeting in December 2005.

Item From Meeting held 15/12/05

"The Committee noted that road works are not yet completed. To be brought forward to the LTC meeting in March 2006.

For Council's information."

Current Status: To be brought forward to the LTC for meeting in March 2006.

Item From Meeting held 16/3/06

"To be brought forward to the Local Traffic Committee for meeting in April 2006.

For Council's information."

Item From Meeting held 14/4/06

The Committee noted that the roadworks are not yet finished. Decided that speed counts are to be performed prior to the June 2006 meeting. To be brought forward to the Local Traffic Committee meeting of June 2006.

For Council's information.

Current Status: To be brought forward to the LTC for meeting in June 2006.

BUSINESS ARISING:

Item from Meeting held 16/3/06

12. Machinery Drive, Greenway Drive and Tierney Place, Tweed Heads South

R3250 Pt4; R2315 Pt1; R5485 Pt1; DW1360073; Traffic - Weight of Vehicles (inc B-Doubles)

"Request received for an extension to the B-Double route from the end of Machinery Drive to the entrance gate at the Tweed Heads Motor Registry, Greenway Drive, South Tweed Heads.

This is to allow roadworthiness inspections to be conducted on B-Doubles at the Tweed Heads Motor Registry. The Motor Registry is drive through and the exit is on Tierney's Place, South Tweed Heads, and an existing B-Double route.

Concern was raised with what impact the inspection of B-doubles may have on Machinery Drive and how the vehicles would be managed on-site.

To be brought forward to the April 2006 meeting.

For Council's information."

Item From Meeting held 14/4/06

"To be brought forward to the meeting of 18 May 2006 for the Police Representative to be in attendance as he has had discussions with RTA inspectors regarding the matter.

For Council's information."

Item From Meeting held 18/5/06

The Roads & Traffic Authority have responded to Council (DW1382670) as follows:-

"Machinery Drive is an approved BDouble route, the request is to extend the route for less than 100 metres along Greenway Drive to the Motor Registry entrance gate. The number of combinations using this route would be minimal so there would be no additional impact on Machinery Drive and very little impact to Greenway Drive.

The B Doubles would use the entrance gate, drive through the inspection area at the rear of the Motor Registry and use the exit gate onto Tierneys Place another existing approved BDouble route."

Item from Meeting Held 18/4/06:

The Chairman advised that Council has not received enough detail in relation to this request. It was also noted that the RTA form for a b-double application has not been received. Also Local RTA Inspectors have advised that it is considered that a b-double vehicle would be unable to negotiate the site. Evidence is also required that there will not be a great impact on already congested intersections such as Machinery Drive.

The RTA Representative undertook to get further information and report back to the next LTC meeting.

To be brought forward to the LTC meeting in June 2006.

Item from Meeting held 13/4/06:

3. Kingscliff Street, Orient Street, Sutherland Street, Kingscliff
R3960 Pt1; Kingscliff Street, Sutherland Street; DW1354964; Kingscliff Public School;
Traffic - Safety; Traffic - School Zones; Traffic - Pedestrian Crossing

"Request received for review of the following sites in relation to school safety:-

- 1. 5 way roundabout connecting Kingscliff Street and Sutherland Street. Concerns have been raised in relation to safety of student when crossing at this location on their way to and from school.*
- 2. The location of the school crossing in Orient Street. Concern has been raised as to the close proximity to the corner, access, vision, slope of roadway and safer crossing options further up the street closer to the school.*

The Committee commented as follows:-

- 1. That crossing points on all legs of the roundabout are provided and comply with relevant standards. It is suggested that the school raises the issue with parents and jointly educate the students to cross roads at the appropriate locations. The School should also be advised that Roads & Traffic Authority research shows that children under the age of 10 should be accompanied by an adult in a traffic environment.*
- 2. In relation to the location of the school crossing the previous Principal of the school had requested that the school crossing be located in its current position. A condition of the crossing being placed was that the school agreed to display the 'crossing flags' in the morning and afternoon. The Road Safety Officer undertook to meet the Principal on site to explain site constraints.*

For Council's information."

Item from Meeting Held 18/4/06:

The Chairman advised that the Road Safety Officer had met with the School Principal in relation to moving the location of the school crossing and placement of flags. It was noted that the School had yet to sign documentation in relation to placement of flags.

To be brought forward to the June 2006 meeting.

GENERAL BUSINESS:

PART A

1. Car Park - Tweed Heads Pool Complex/South Tweed Hall and HACC Centre
DW1370456 ; DW1393032 - Traffic - Parking Zones; Traffic - Committee; Car Parks -
Tweed Heads; Pool - Tweed Heads Indoor; Hall - South Tweed Community Centre

Request received for 2 hour restricted parking in the Tweed Heads Pool Complex/South Tweed Hall and HACC Centre.

It is reported that the car park is increasingly being used by students and staff of the adjoining Tweed River High School to such an extent that pool patrons and those wishing to access the hall and/or HACC Centre staff cannot find car parking.

It is suggested that parking should be restricted to two hours, and to cater for pool staff and HACC officer staff that a permit system be provided to allow the fulltime parking of their vehicles.

Mr McKennarney's comments (DW1393032) were noted by the Committee in relation to 3 hour parking.

The Committee was advised that the Manager Environment & Health does not have a problem with a 3 hour time limit as it still meets his aim of preventing all day parking by adjoining users that do not provide adequate parking.

RECOMMENDATION:

That:-

1. 3 hour restricted parking incorporating Business Parking Permits be installed in the car park at the Tweed Heads Pool Complex/South Tweed Hall and HACC Centre.
 2. Staff parking at the Centre and Pool be issued with parking permits only.
-

2. Stuart Street and Navigation Lane, Tweed Heads
PF0680/215 Pt 10; R5270 Pt1; DA04/0016 Pt3; DW1383131, DW1381120; Parking Zones

Request received for the following up until 30 December 2006 at which time revised plans will be submitted:-

1. Temporary closure of the footpath on Stuart Street from Whitehall Lodge up to Navigation Lane for construction activities.
2. Temporary car parking facilities be allocated to construction activities along Stuart Street.

The application effectively closes the footpath and car parking along the frontage of the Ultima site on Stuart Street. The Committee noted that the application is the same as the traffic control measures used for the Twin Towns Tower and agreed to the request for the duration of construction as it improves safety for pedestrians and vehicles.

RECOMMENDATION:

That temporary closure of the footpath on Stuart Street from Whitehall Lodge up to Navigation Lane is approved and temporary car parking facilities be allocated to construction activities along Stuart Street, subject to payment of Council's applicable fees and charges.

-
3. Prince Street - Children's Crossing
School, Fingal Head; Traffic Safety; Pedestrian Crossings, Walkway/Boardwalk; School - Fingal Head; R4439 Pt 1; DW 1387251

Request received for a children's crossing at the intersection on Prince Street and Letitia Spit Road.

The appropriate investigations to be undertaken by the Road Safety Officer and to meet on site with the School to identify the best locations.

To be brought forward to the June 2006 meeting.

For Council's information.

-
4. Rowlands Creek Road
Traffic - Speed Zones; R4800 Pt 2; DW1356483;

Request received for the speed limit on Rowlands Creek Road to be reduced to 60-70kph.

Traffic count data and crash records to be updated. To be brought forward to the meeting in June 2006.

For Council's information.

5. Cudgera Creek Interchange (Cudgera Creek Road and Pacific Highway)
Traffic - Local Area Traffic Management; R1470 Pt 5; R4031 Pt20; DW1393842;

Request received for a 'Stop' sign on the southbound off ramp at Cudgera Creek Road. The Police Representative agreed and thought the northbound off ramp was just as bad.

The RTA Representative undertook to check the intersection on both of the off ramps at Cudgera Creek Road and ensure any necessary adjustments are made.

For Council's information.

6. McLeod Street, Condong
R3220 Pt1; DA3220/260 Pt5; DW1395438; Traffic - Safety; Energy - Electricity Works;
Sewerage - Cogeneration Condong Mill; Road Closures - Temporary; Pty: 9731; Signs

Late Agenda item. Request received for temporary road closure of McLeod Street (during construction) as per Traffic Control Plan B05032. The Committee noted the extent of the conflict due to having to cross McLeod Street every 3 minutes with heavy machinery. The restricted hours are designed to not obstruct school bus services and parents collecting children. Given the above the Committee supported the application.

RECOMMENDATION:

That temporary road closure of McLeod Street, Condong (during construction) as per Traffic Control Plan B05032 between the hours of 9:00am and 2:30pm weekdays and 8:00am to 1:00pm Saturdays is approved.

7. Plantation Road, Cudgen
R4350 Pt1; DW1395715; Traffic - Safety; Weight of Vehicles

Late Agenda item. Request received in relation to the large number of heavy vehicles using Plantation Road and taking up the whole roadway.

The Committee noted that the intersection of Plantation Road with Tweed Coast Road is a better intersection than Cudgen Road and is the preferred route for semi trailers. It was also noted that the Tweed Coast Road and Plantation Roads are not approved B-double truck routes and such vehicles using these roads would be doing so illegally. It was suggested that Council collect traffic data on Plantation Road to determine the volume of heavy vehicles and write to Lindsay Brothers or the current operators of the

Depot on Plantation Road asking them to advise the drivers to drive in an appropriate manner whilst on Plantation Road.

RECOMMENDATION:

That Council writes to the operator of the heavy vehicle depot on Plantation Road asking them to ensure that their drivers are driving safely on Plantation Road and negotiating the Tweed Coast Road intersection in a safe and cautious manner.

PART B

1. Motorcycle Facility - Lot 503 DP1000612 Eviron Road, Duranbah
DA06/0225 Pt 2; R1960; DW1388368; Proclaim - Development Applications; Pty:
42255

Request received for Local Traffic Committee advice in relation to Development Application DA06/0225 Schedule 2 of SEPP No. 11 Items h and q as below:-

(h) tourist facilities, recreation facilities, showgrounds or sportsgrounds, in each case having accommodation for 50 or more motor vehicles or the enlargement or extension of any existing tourist facilities, recreation facilities, showgrounds or sportsgrounds where that enlargement or extension includes accommodation for 50 or more motor vehicles

(q) areas used exclusively for parking or any other development, in each case having ancillary accommodation for 50 or more motor vehicles, or the enlargement or extension of a parking area where the enlargement or extension accommodates 50 or more motor vehicles.

Comments are sought from the Local Traffic Committee.

The Committee noted that 208 trips per day are stated to be generated each day over the 4 operating days of the facility. 52 car parks are to be provided. It was noted that peak hour assessment of the local roads had not been provided for the most direct routes to the facility. The Committee listed the following issues:-

- 52 car parks appear to be inadequate as it is unclear if the same 80 riders remain all day
- The method of determining the trip generation needs to be explained in greater detail, e.g. there may only be 80 riders on the track at one time but are there another 80 waiting
- The intersection of Duranbah Road and Eviron Road needs to be assessed for peak hour performance
- The activity needs to be screened from the Highway to prevent highway driver distraction
- Concern of dust generation impact on Highway safety
- Any signs to the site should not be facing Highway traffic.

It is suggested that Council should ask the applicant to address the above issues.

For Council's information.

-
2. Staged Seniors Living Development - Lot 1 DP 786570 No. 87 - 89 Tweed Coast Road, Hastings Point
DA06/0413; DW1391474; R1181 Pt 15; Proclaim - Development Applications; Pty:
25651

Request received for the Local Traffic Committee advice in relation to Development Application DA06/0413 Schedule 2 of SEPP11 item q.

(q) "areas used exclusively for parking or any other development, in each case having ancillary accommodation for 50 or more motor vehicles, or the enlargement or extension of a parking area where the enlargement or extension accommodates 50 or more motor vehicles".

It was noted that the development will house a high number of units. The Traffic Committee comments as follows:-

1. Having a service access as well as a main access off the Coast Road is unacceptable. The service access needs to be designed to connect to the main access.
2. The car parking on the main access driveway is unacceptable as it is too close to the Coast Road and will potentially cause queuing on to the Coast Road as vehicles move into and out of the parking spaces.
3. A protected right turn lane off the Coast Road into the site is required and a corresponding left turn lane and all associated road widening provided to accommodate the above turn lanes.
4. The applicant needs to address how pedestrians will safely cross the Coast Road to access the beach.
5. The car parking would appear inadequate with the size of the development, which could result in a demand for parking on the Coast Road which is unacceptable and will be prohibited with 'No Stopping' signage if required.

For Council's information.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 15 June 2006 in the Peter Border Room commencing at 9.00am.

The meeting closed at 10:45am.

DIRECTOR'S COMMENTS:

Nil.

DIRECTOR'S RECOMMENDATIONS:

GENERAL BUSINESS:

PART A

1. Car Park - Tweed Heads Pool Complex/South Tweed Hall and HACC Centre
DW1370456 ; DW1393032 - Traffic - Parking Zones; Traffic - Committee;
Car Parks - Tweed Heads; Pool - Tweed Heads Indoor;
Hall - South Tweed Community Centre

As per Committee's recommendations being:

"That:-

1. *3 hour restricted parking incorporating Business Parking Permits be installed in the car park at the Tweed Heads Pool Complex/South Tweed Hall and HACC Centre.*
2. *Staff parking at the Centre and Pool be issued with parking permits only.'*

-
2. Stuart Street and Navigation Lane, Tweed Heads
PF0680/215 Pt 10; R5270 Pt1; DA04/0016 Pt3; DW1383131, DW1381120;
Parking Zones

As per Committee's recommendations being:

"That temporary closure of the footpath on Stuart Street from Whitehall Lodge up to Navigation Lane is approved and temporary car parking facilities be allocated to construction activities along Stuart Street, subject to payment of Council's applicable fees and charges."

6. McLeod Street, Condong

R3220 Pt1; DA3220/260 Pt5; DW1395438; Traffic - Safety;
Energy - Electricity Works; Sewerage - Cogeneration Condong Mill;
Road Closures - Temporary; Ppty: 9731; Signs

As per Committee's recommendations being:

"That temporary road closure of McLeod Street, Condong (during construction) as per Traffic Control Plan B05032 between the hours of 9:00am and 2:30pm weekdays and 8:00am to 1:00pm Saturdays is approved."

7. Plantation Road, Cudgen

R4350 Pt1; DW1395715; Traffic - Safety; Weight of Vehicles

As per Committee's recommendations being:

"That Council writes to the operator of the heavy vehicle depot on Plantation Road asking them to ensure that their drivers are driving safely on Plantation Road and negotiating the Tweed Coast Road intersection in a safe and cautious manner."

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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7 [SUB-PTWG] Minutes of the Public Transport Working Group Committee Meeting held Tuesday 30 May 2006

GT1/41 Pt3

VENUE:

Tweed Heads Civic Centre

TIME:

11.00am

PRESENT:

Committee Members: Don Stubbs

Informal: Robin Spragg (TSC), Linda Lomman (PTDP), Robert Lake (MoT) (Chair), Debbie McIlveen (Community Health).

APOLOGIES:

Garry McDougal (Surfside), Penny Baldwin (TBBCT), Bill McKenniarey.

MINUTES OF PREVIOUS MEETING:

Moved: Robert Lake

Seconded: Debra McIlveen

RESOLVED that the Minutes of the Public Transport Working Group Committee meeting held Tuesday 18 April 2006 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

It was noted that the Transport Forum issues relating to TAFE students, discussed at the April meeting, are being progressed by Rob Lake.

1. Major Development Review

a) Outstanding Applications List, Selected Developments, 19 May.

Martial Arts Centre, Buchanan Street, Murwillumbah
Restaurant fitout, Elizabeth Street, Pottsville
Dentist and Doctor's Surgery, Overall Drive, Pottsville
Public Market, Seagulls, on Sundays
Residential Aged Care, Myleston Circle, Pottsville (150 beds)
6 storey apartments, Boundary Road, Tweed Heads
14 multi-dwellings, Kingscliff Street, Kingscliff
15 multi-dwellings, Beech Lane, Casuarina
Allied Health Clinic, Machinery Drive, Tweed Heads South
Additions to Tweed City Shopping Centre, Tweed Heads South
Shopping Centre, Botanical Circuit, Banora Point (approved, 9/5/06)

Extension to Supermarket and new retail space, Banora Point
Shopping Centre, Banora Point
Supermarket and seven shops (Norco), Murwillumbah
Seniors Living Development (84 independent units, 94 supported units, 67 high care beds), Coast Road, Hastings Point.

RECOMMENDATION:

That Council holds the intended Integrated Land Use/Transport Planning Workshop in the latter half of 2006, in order to improve integration processes between transport systems and developments.

b) Kingscliff TAFE Bus Terminal

The CPTIGS application for funding has been resubmitted following discussion with the CPTIGS Administrator, and a response is expected in a short time.

c) Bay Street Coach Stop

A CPTIGS application was submitted on 22 May for facilities for a relocated Coach Stop in Wharf Street adjacent to the proposed Visitor Centre in the Chris Cunningham Park, as part of the park upgrading proposals.

d) Sexton's Hill Proposals - public transport

The letter to the RTA last November has not been answered, and is to be followed up for response before proposals become firm.

2. Policy Document Review

a) Social Plan Review 2006

Some actions proposed in the draft report to Council need to be adjusted. The proposed Network Development Plan is not a role for Council as it involves operator contracts. The Pedestrian Access Management Plan may need to be included, and CPTIGS funding cannot be used for footpath 'blackspots'. The actions will be adjusted and reviewed next meeting.

b) Review of Private Vehicle Conveyance Scheme

The subsidy scheme for private transport to schools is being reviewed. A discussion paper is expected in May, and comment will be invited.

3. Studies, Inquiries and Promotions

a) Murwillumbah Transport Forum

Continuing issues are being progressed by Rob Lake, as noted above.

b) Byron Bay Transport Forum

The Council Forum held at Bangalow on 19 May explored sustainable transport options for the region. Issues discussed included historical development of transport in the region, transport strategies for the region, restoration of rail services and effects of highway upgrading. Outcomes are awaited.

c) Tweed Coast-Murwillumbah Bus Service Proposals

Discussions are being undertaken with Surfside and TAFE.

d) Surfside Timetable Review

Rob Lake will invite Surfside to discuss the Review at next month's meeting.

e) Seniors Transport Planning

The first seniors transport promotion has been postponed until Seniors Expo is finished. The MoT grant has not yet been confirmed, but is imminent, and detailed arrangements will be put in place in June.

f) Youth Transport Needs/Funding

A sub-group of Debra, Penny and Robert is progressing proposals for a youth transport scheme, and will report shortly.

g) Access Guide Update

Some improvements were made to the brochure in time for the Seniors Expo. In discussion, more changes were identified and will be included. Major changes to routes will be required when the Surfside Timetable Change is finalised, and a major promotion of the Access Guide is planned then.

GENERAL BUSINESS:

4. Murwillumbah Bus Co - West Murwillumbah Subdivision

It was agreed to discuss this next meeting, if John Parsons is available.

5. EOs for Committee Membership

A report recommending 3 new appointments to the Committee is being considered for approval.

6. Bus Stop Issues

Requests for shelters at Baker Street, Murwillumbah, Sunset Boulevard, West Tweed, and Lorien Way, Kingscliff have been referred to operators, and will be followed up with them.

7. Access to Aged Care Facilities

With reference to a current DA for a Residential Aged Care Building (Pacific Renaissance Corp Pty Ltd) at Seabreeze Estate, Pottsville, the proposed provision of a private minibus service for residents was discussed. Although this would transport residents as far as Tweed City, it was considered it would provide more limited access than the public bus service, which it would also duplicate.

RECOMMENDATION:

That Council require the Socio-Economic Impact Assessment to be amended so that, in addition to the private service, access to the public service be facilitated by negotiations between the developer and the operator.

8. Taxi Subsidy Scheme Brochure

Robert circulated for comment a draft brochure to promote the NSW Government Scheme.

NEXT MEETING:

The next meeting of Public Transport Working Group Committee will be held on Monday, 26 June 2006 at 1.00pm at the Murwillumbah Civic Centre (after a Seniors Transport Meeting at 11.00am).

The meeting closed at 12.45pm.

DIRECTOR'S COMMENTS:

Nil

DIRECTOR'S RECOMMENDATIONS:

1. Major Development Review

As per Committee's recommendation being:

That Council holds the intended Integrated Land Use/Transport Planning Workshop in the latter half of 2006, in order to improve integration processes between transport systems and developments.

b) Kingscliff TAFE Bus Terminal

The CPTIGS application for funding has been resubmitted following discussion with the CPTIGS Administrator, and a response is expected in a short time.

c) Bay Street Coach Stop

A CPTIGS application was submitted on 22 May for facilities for a relocated Coach Stop in Wharf Street adjacent to the proposed Visitor Centre in the Chris Cunningham Park, as part of the park upgrading proposals.

d) Sexton's Hill Proposals - public transport

The letter to the RTA last November has not been answered, and is to be followed up for response before proposals become firm.

7. Access to Aged Care Facilities

As per Committee's recommendation being:

That Council requires the Socio-Economic Impact Assessment to be amended so that, in addition to the private service, access to the public service be facilitated by negotiations between the developer and the operator.

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ORDERS OF THE DAY

[NOM] Kingscliff Shopping Village - DA4170/100

NOTICE OF MOTION:

Administrator Boyd moves:

That a report be provided on the progress on the Stage 2 development for the Kingscliff Shopping Village on the corner of Turnock and Pearl Streets that included deck car park facilities.

The report is to also investigate the option of directing Section 94 contributions for car parking to assist in facilitating the second stage to provide additional car parking in Kingscliff. Such assistance would only be on the basis of a surplus of car parking being available on the site over and above the demand created by the shopping centre.

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CONFIDENTIAL ITEMS FOR CONSIDERATION

PLANNING COMMITTEE IN COMMITTEE

PC1 [PD-PC] Development Application D95/0320 for Construction of a Shopping Village in 6 Stages at Lot 1 DP 848875, Terranora Road, Terranora

REASON FOR CONFIDENTIALITY:

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

- (a) personnel matters concerning particular individuals (other than councillors)

REPORTS FROM THE ACTING DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

1 [EO-CM] Acquisition of Land for Road Purposes - Tweed Coast Road, Chinderah

REASON FOR CONFIDENTIALITY:

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

- (a) personnel matters concerning particular individuals (other than councillors)

2 [EO-CM] Land Acquisition for Road Purposes - Reserve Creek Road, Reserve Creek

REASON FOR CONFIDENTIALITY:

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

- (a) personnel matters concerning particular individuals (other than councillors)

**3 [EO-CM] March 2006 - Quarterly Variation Report Contract EC2005-033
Construction of Kingscliff Sewage Treatment Plant**

REASON FOR CONFIDENTIALITY:

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

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

4 [EO-CM] Deeds of Call & Put Option Agreements - Tweed Coast Road, Chinderah

REASON FOR CONFIDENTIALITY:

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

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

REPORTS FROM THE DIRECTOR ENVIRONMENT & COMMUNITY SERVICES IN COMMITTEE

5 [EC-CM] Tweed River Regional Art Gallery - Stage 2 Naming Rights

REASON FOR CONFIDENTIALITY:

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

- (a) personnel matters concerning particular individuals (other than councillors)

