



AGENDA

PLANNING COMMITTEE MEETING

Tuesday 19 June 2007

Chairman: Mr Max Boyd AM

**Administrators: Mr Max Boyd AM
Mr Garry Payne AM
Mr Frank Willan**



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ITEMS FOR CONSIDERATION OF THE COMMITTEE:

ITEM	PRECIS	PAGE
	REPORTS FROM DIRECTOR PLANNING & REGULATION	5
P1	[PR-PC] Development Application DA06/1469 for a Proposed Boundary Alteration and Erection of a Dual Occupancy at Lot 6, 7 Section 26 DP 8950, No. 44 Riverview Street Murwillumbah	7
P2	[PR-PC] Development Application DA06/0225 for a Motorcycle Riding Facility at Lot 503 DP 1000612, No. 11 Donalyn Court, Duranbah	45
P3	[PR-PC] Development Application DA06/1315 for the Erection of a Golf Pro-Shop Buggy Storage Shed and Pedestrian Bridge at Lot 2 DP 1040576, Leisure Drive Banora Point	81
P4	[PR-PC] Land and Environment Court Appeal - DA03/1038 6 Lot Subdivision at Lot 121 DP 755701 Chinderah Bay Drive, Chinderah	See Planning Agenda (2)
P5	[PR-PC] Development Application DA06/0627 for a Staged Development for a Rural Land Sharing Community Comprising 14 Dwellings at Lot 1 DP 783885; Lot 6 DP 614304, Cobaki Road Cobaki	See Planning Agenda (2)
P6	[PR-PC] Development Application DA07/0022 for Multi-Dwelling Housing Comprising 7 Units at Lot 9 DP 14141, No 21 Tweed Coast Road, Hastings Point	See Planning Agenda (2)



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REPORTS FROM DIRECTOR PLANNING & REGULATION

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 [PR-PC] Development Application DA06/1469 for a Proposed Boundary Alteration and Erection of a Dual Occupancy at Lot 6, 7 Section 26 DP 8950, No. 44 Riverview Street Murwillumbah

ORIGIN:

Development Assessment

FILE NO: DA06/1469 Pt1

SUMMARY OF REPORT:

Council is in receipt of an application for a boundary alteration and a dual occupancy at 44 Riverview Street, Murwillumbah.

The boundary adjustment between the two allotments proposes to move the common boundary from an east-west orientation to a north-south orientation, with proposed Lot 2 having a battle-axe configuration allowing dual access to Riverview Street and Nullum Lane.

Proposed Lot 1 has an existing single storey brick dwelling located upon it. The building component of the application consists of two detached two storey dual occupancy dwellings located upon proposed Lot 2. The design of the buildings has been guided by a need to be sympathetic to the heritage values of the existing dwelling, as well as site constraints such as being flood liable land. Each new dwelling consists of a ground floor double garage, laundry and entry; as well as 3 x first floor bedrooms, living / dining area and veranda.

The land is zoned 2(b) Medium Density Residential under Tweed Local Environmental Plan 2000 and is identified under the Draft Murwillumbah Locality Plan and the Draft Tweed LEP2007 as a Medium Density Residential precinct.

The application proposes minor encroachments into the building envelope with minor overshadowing to adjacent properties to the south, and has raised privacy concerns for residents. However, despite these issues the application is recommended for approval having regard to the medium-density land-use controls in this area.

The application attracted 4 public submissions.

RECOMMENDATION:

That Development Application DA06/1469 for a proposed boundary alteration and erection of a dual occupancy at Lot 6 & 7 Section 26 DP 8950, No. 44 Riverview Street Murwillumbah 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 1534/06 – 01 and 02 (as amended in red) prepared by Ian Webb Building Design and dated December 2006, as well as the Plan of Proposed Subdivision (Dwg 2646BA/2) prepared by N.C. White & Associates and dated 30 April 2007, 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. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils adopted Development Design and Construction Specifications.
[GEN0125]
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. The proposed demolition of the existing timber garage and outhouse on the subject site is not covered by this approval and is subject to separate development consent.
[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. **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)	\$1,936
Sector9_4	
(b) Open Space (Structured): S94 Plan No. 5	\$240
(c) Open Space (Casual): S94 Plan No. 5	\$51
(d) Shirewide Library Facilities: S94 Plan No. 11	\$212
(e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$49
(f) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$62
(g) Extensions to Council Administration Offices & Technical Support Facilities	\$614.22
S94 Plan No. 18	
(h) Cycleways S94 Plan No. 22	\$108
(i) Regional Open Space (Structured) S94 Plan No. 26	\$715
(j) Regional Open Space (Casual) S94 Plan No. 26	\$263

[PCC0215]

7. 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 DSP2:	1 ET @ \$4598	\$4,598
Sewer Murwillumbah:	1 ET @ \$2863	\$2,863



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

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.

[PCC0265]

8. 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]

9. 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) Vehicular access to Riverview Street and Nullum Lane.

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]

10. 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/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 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]

11. 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]

12. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
 - * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.

- (e) Runoff is to be pre-treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

13. 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

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.

Where Council is requested to issue a construction certificate for civil works associated with this consent, the abovementioned works can be incorporated as part of the cc application, to enable one single approval to be issued. Separate approval under section 68 of the LG Act will then NOT be required.

[PCC1145]

14. 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

15. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its

location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

16. 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]

17. 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]

18. 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]
19. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) 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]
20. 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]
21. 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]

22. Civil work in accordance with a development consent must not be commenced until:-

- (a) a construction certificate for the civil 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 (SWAC) in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:

B1: Accredited Certifier – Subdivision certificate

C3: Accredited Certifier – Stormwater Management and facilities design compliance

C4: Accredited Certifier – Stormwater management facilities construction compliance

C5: Subdivision works and building works (location of works as constructed) compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

The SWAC shall provide documentary evidence to Council demonstrating current accreditation with the Building Professionals Board prior to approval and issue of any Construction Certificate, and

- (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
- (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, 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 civil work.
- [PCW0815]
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.
- 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]

DURING CONSTRUCTION

25. Building materials used below Council's minimum floor level of RL 7.5m AHD shall be flood compatible.
- [DUR1405]
26. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.
- [DUR0005]
27. 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]

28. 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]
29. 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]

30. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment

on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

31. 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]

32. All work associated with this approval is to be carried out so as not to impact on neighbourhood, adjacent premises or 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]

33. Landscaping of the site shall be carried out and maintained in accordance with the submitted/approved landscaping plans.

[DUR1045]

34. A certificate is to be submitted by a Registered Surveyor certifying that all habitable floor areas are constructed above 7.5metres AHD, and certifying the actual finished level of the total site. Certification of those levels by a registered surveyor must be submitted to the Principal Certifying Authority prior to proceedings past floor level to ensure that the floor is above flood level.

[DUR1365]

35. 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]

36. The habitable floor area of the building is to be at a level not less than RL 7.5m AHD.

[DUR1435]

37. 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]

38. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.

[DUR1885]



39. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains. [DUR1945]
40. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual 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]
41. 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]
42. 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]
43. 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]
44. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position. [DUR2505]
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. 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.

[DUR2555]

47. House drainage lines affected by the proposal are to be relocated to Council's satisfaction. Prior to the relocation of any plumbing and drainage lines, a plumbing permit and the relevant plumbing permit fee is to be submitted to Council. Inspection of drainage works prior to covering is required

[DUR2565]

48. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

49. During construction a "satisfactory inspection report" is required to be issued by Council for all works under Section 138 of the Roads Act, prior to backfilling. The proponent shall liaise with Council's Engineering and Operations Division to arrange a suitable inspection.

[POC0045]

50. 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]

51. 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]

52. 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]

53. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.

[POC0475]



54. 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

55. All externally mounted air conditioning units, swimming pool pumps, water tank pumps and any other mechanical plant and equipment shall be acoustically treated so as to avoid the creation of offensive, or intrusive noise to any occupant of neighbouring or adjacent premises.

[USE0235]

56. 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]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

57. Prior to issue of a subdivision certificate, all works/actions/inspections etc required by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

58. 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 (minimum \$1,000) 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]

59. 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]

60. 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, services and structures are wholly contained within the relevant 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]

- 61. 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]

- 62. 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 (but not limited to) the following:**
- (a) Easements for sewer, water supply and drainage over ALL services on private property.**
 - (b) Right of Way over proposed Lot 2 in favour of proposed Lot 1. 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]

- 63. 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]

- 64. 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]

- 65. 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 Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, 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]

- 66. 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 - Water Reticulation**
 - (c) Compliance Certificate - Sewerage Reticulation**
 - (d) Compliance Certificate - Sewerage Pump Station**
 - (e) 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]

- 67. The six (6) months Defects Liability Period commences upon the registration of the Plan of Subdivision.**

[PSC0925]

- 68. 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]

- 69. 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.**

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]

- 70. 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]

71. 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**

[PSC1185]



REPORT:

Applicant: The Piggery Pty Ltd
Owner: Mr NJ McCloy
Location: Lots 6 & 7 Section 26 DP 8950, No. 44 Riverview Street Murwillumbah
Zoning: 2(b) Medium Density Residential
Cost: \$307,000

BACKGROUND:

Council is in receipt of a development application that seeks approval for a boundary adjustment between the two subject sites and the construction of a detached dual occupancy development.

The two adjoining allotments currently have their common boundary running in an east-west orientation, providing both allotments with approximately 10m wide frontages to Riverview Street to the west and Nullum Lane to the east. The original application proposed to reposition the common boundary so that it was in a north-south orientation, leaving proposed Lot 1 with sole frontage to Riverview Street and proposed Lot 2 with sole frontage to Nullum Lane.

There is an existing single storey dwelling house located over both allotments. The boundary adjustment has been lodged with Council in an effort to allow the development of proposed Lot 2, by way of a detached dual occupancy development, whilst having regard for the existing dwelling.

After discussions with Council officers, the applicant has since amended that application so that proposed Lot 2 has a battle-axe frontage to Riverview Street as well as frontage to Nullum Lane. The existing dwelling located upon proposed Lot 1 will still enjoy frontage Riverview Street and will benefit from an easement across Lot 2, providing them with dual access to Nullum Lane.

The two allotments involved with the application are described as Lots 6 & 7 Section 26 DP8950, No. 44 Riverview Street, Murwillumbah. The total site area is 1042.62m². The development site is rectangular in shape, with a depth of approximately 51.8m and an approximate width of 20.1m. Both sites slope gently from Riverview Street down towards Nullum Lane. Existing site improvements comprise the single storey brick dwelling and separate timber garage. Vegetation on either site is limited to lawns and several scattered trees.

The immediate locality surrounding the subject sites is essentially residential in character, with a mixture of older unit developments as well as single dwellings. The properties adjoining the northern and southern boundaries consist of detached dwelling houses. On the western side of Riverview Street is a primary school.

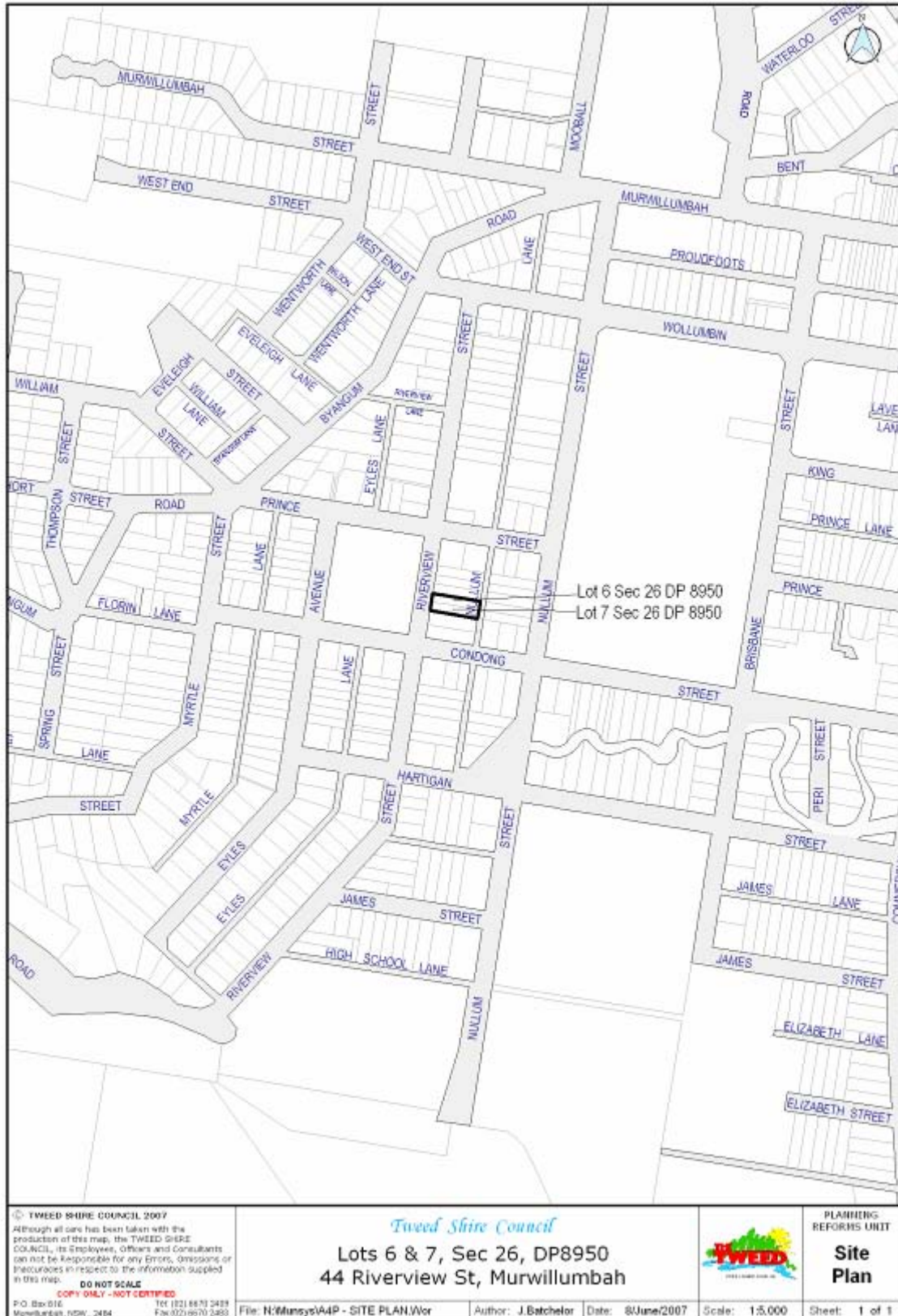
The amended subdivision plan results in proposed Lot 1 having a site area of 394m² and proposed Lot 2 a site area of 648m². The building component of the application consists of two detached two storey dual occupancy dwellings located upon proposed Lot 2. The



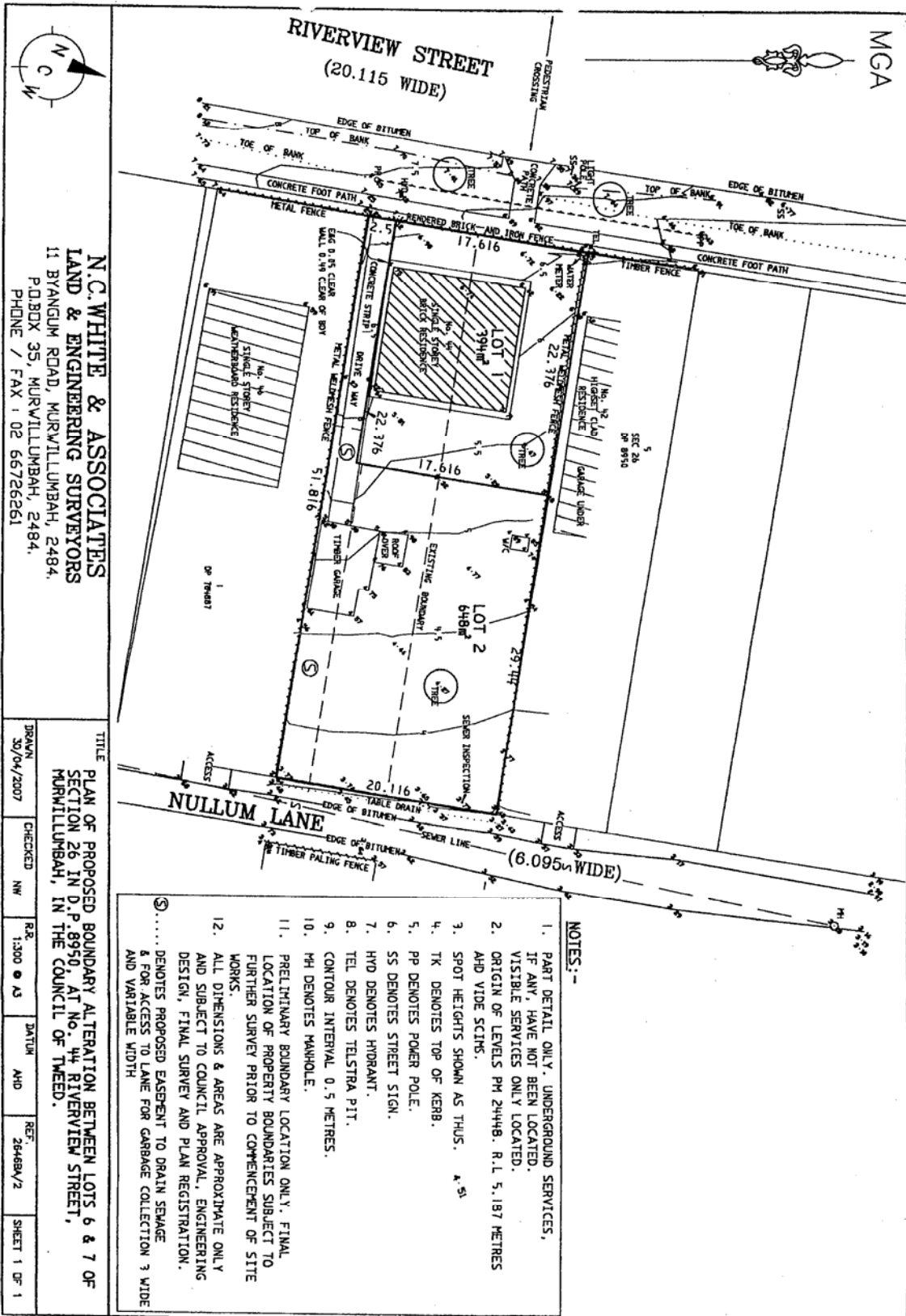
design of the buildings has been guided by a need to be sympathetic to the heritage values of the existing dwelling, as well as site constraints such as being flood liable land. Each new dwelling consists of: a ground floor double garage, laundry and entry; as well as 3 x first floor bedrooms, living / dining area and veranda. In addition, the proposal incorporates a carport to be constructed upon proposed Lot 1, between the existing dwelling and unit 2, but setback from the battleaxe handle driveway of proposed Lot 2.



SITE DIAGRAM:



SITE PLAN AND ELEVATIONS

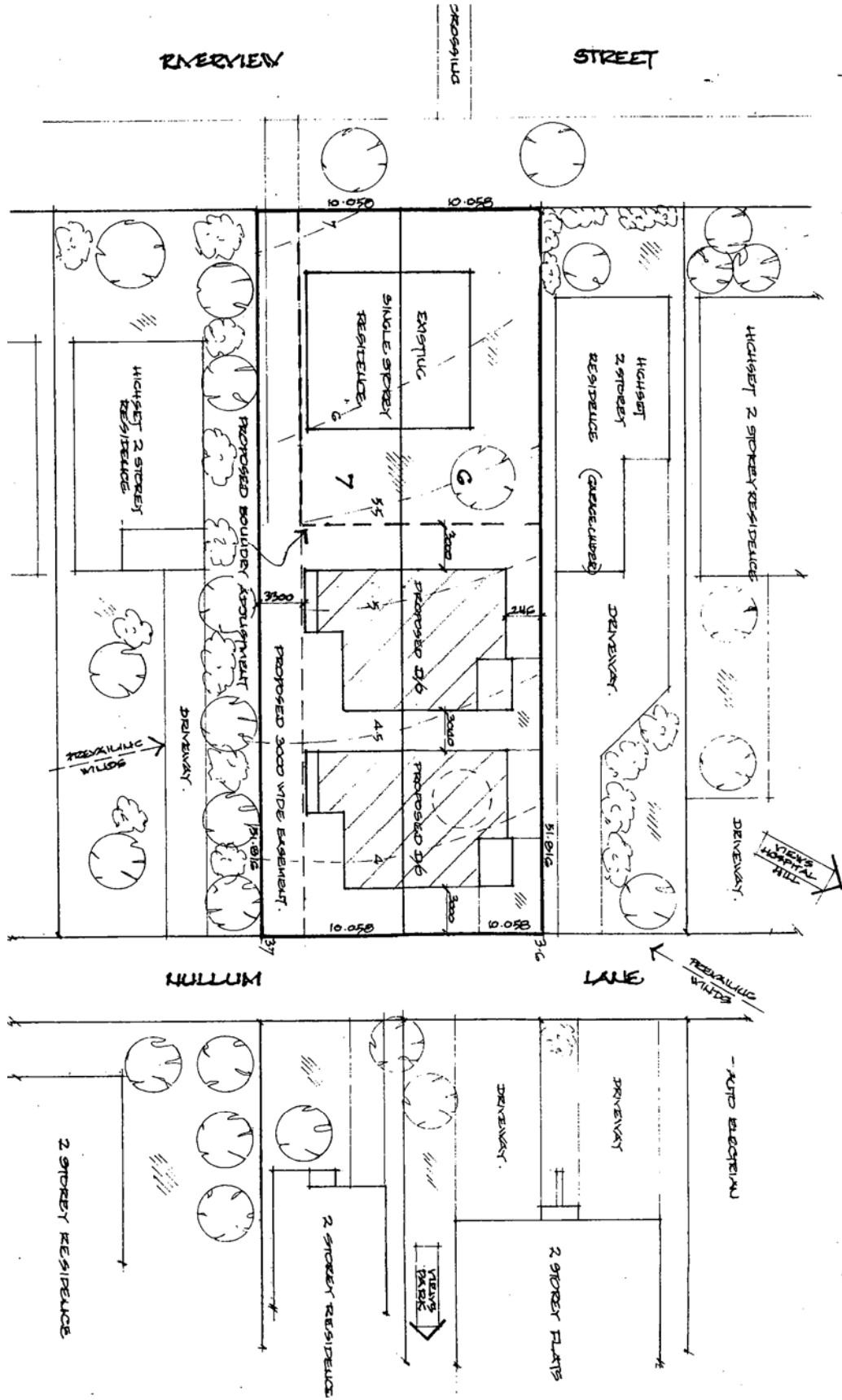


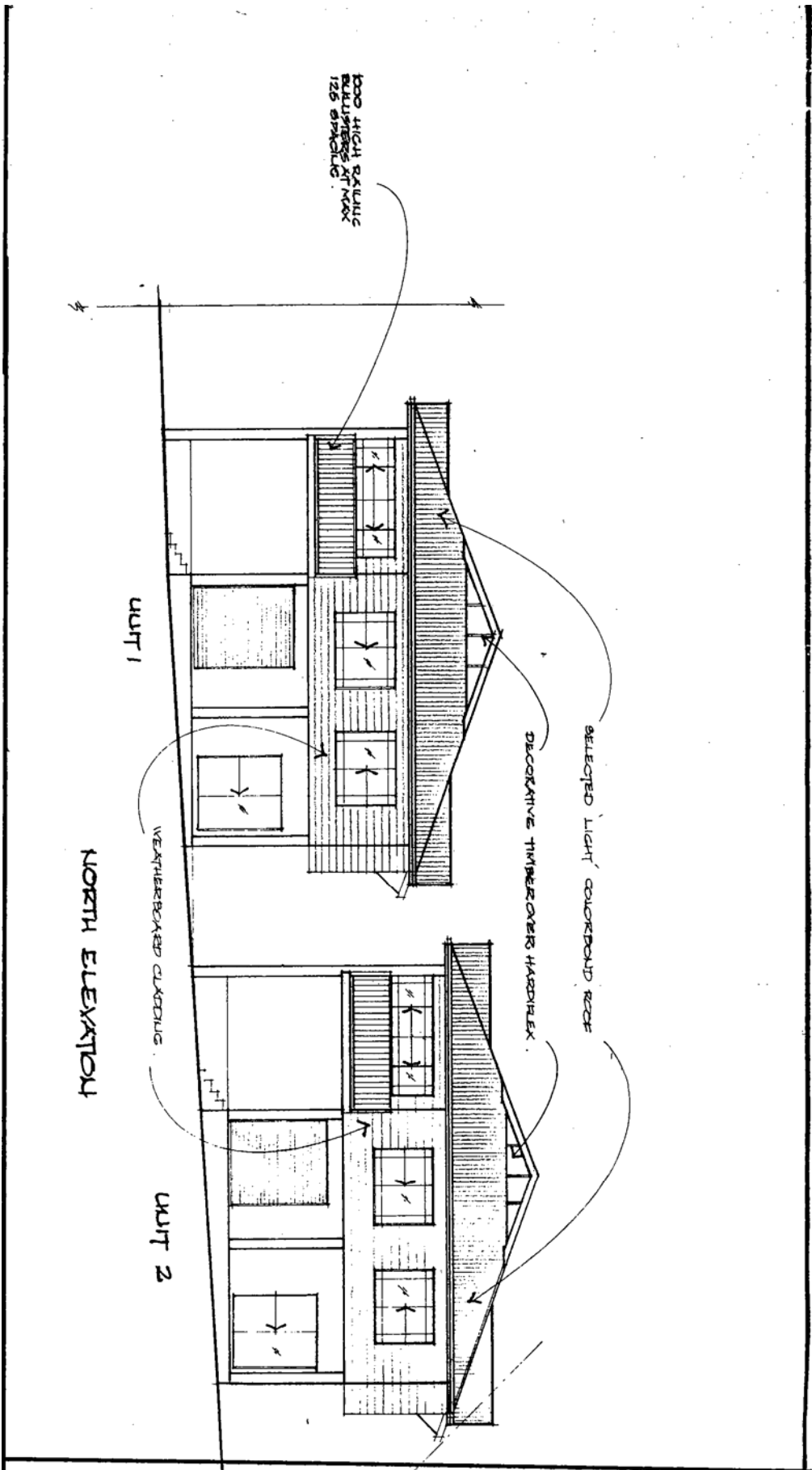
N.C. WHITE & ASSOCIATES
LAND & ENGINEERING SURVEYORS
 11 BYANGUM ROAD, MURWILLUMBAH, 2484.
 P.O. BOX 35, MURWILLUMBAH, 2484.
 PHONE / FAX : 02 66726261

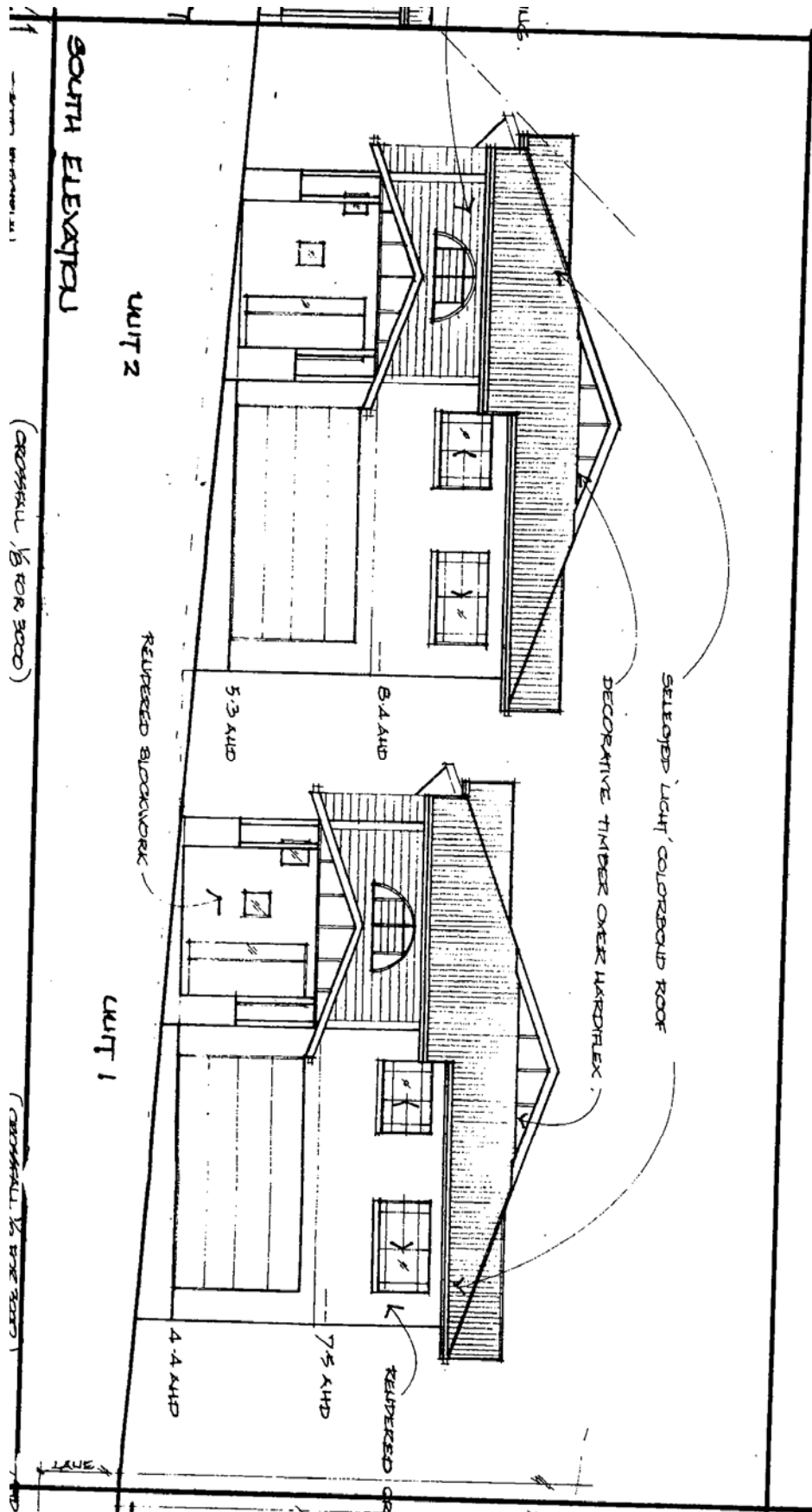
TITLE
 PLAN OF PROPOSED BOUNDARY ALTERATION BETWEEN LOTS 6 & 7 OF SECTION 26 IN D.P. 8950 AT No. 44 RIVERVIEW STREET, MURWILLUMBAH, IN THE COUNCIL OF TWEED.

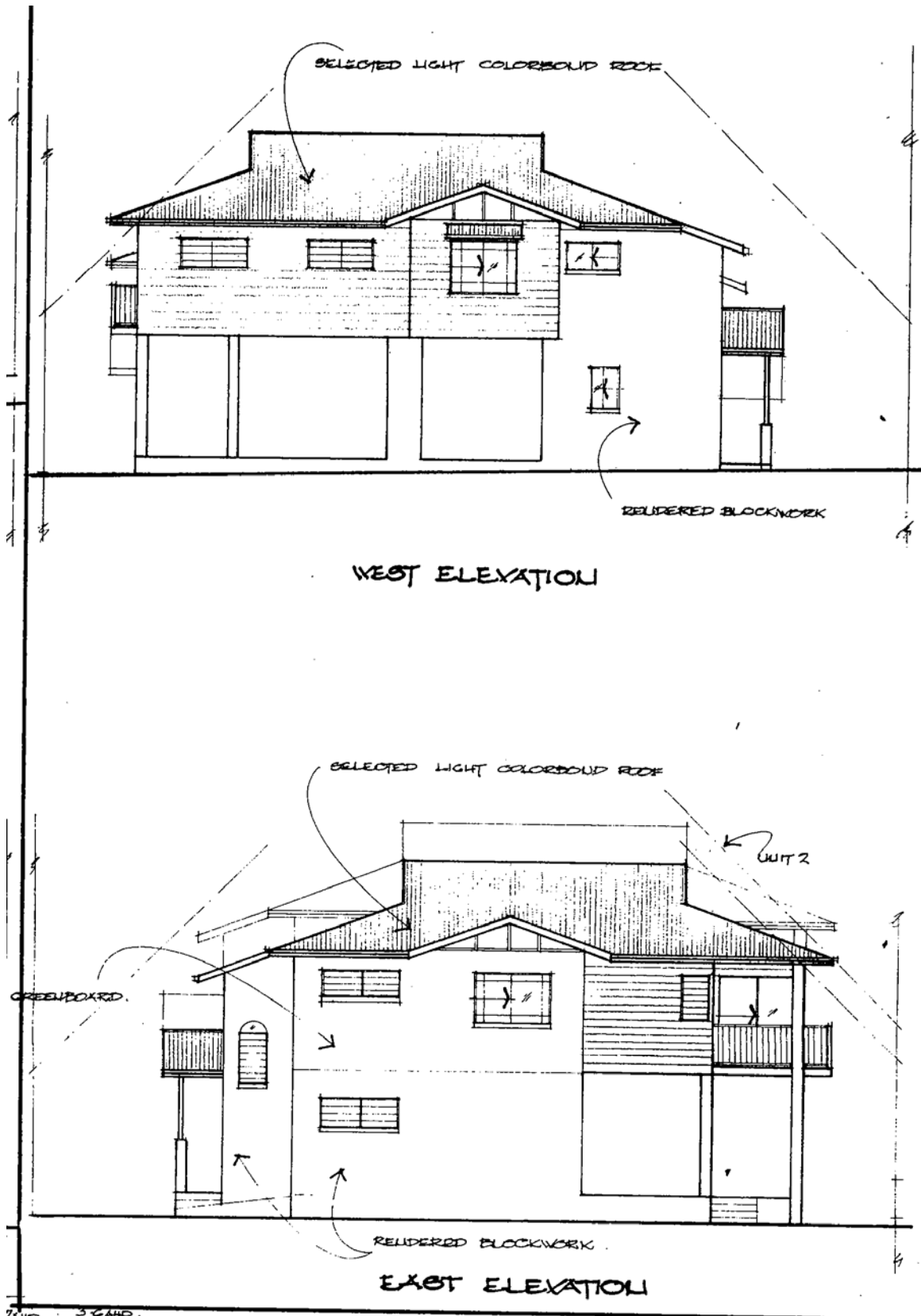
DRAWN	CHECKED	R.R.	DATE	REF.	SHEET
30/04/2007	NW	1:300 @ A3	AHD	26488V/2	1 OF 1

- NOTES:-**
- PART DETAIL ONLY. UNDERGROUND SERVICES, IF ANY, HAVE NOT BEEN LOCATED. VISIBLE SERVICES ONLY LOCATED.
 - ORIGIN OF LEVELS PM 24448. R.L. 5.187 METRES AND VIDE SCINS.
 - SPOT HEIGHTS SHOWN AS THUS. A.S.
 - TK DENOTES TOP OF KERB.
 - PP DENOTES POWER POLE.
 - SS DENOTES STREET SIGN.
 - HVD DENOTES HYDRANT.
 - TEL DENOTES TELSTRA PIT.
 - CONTOUR INTERVAL 0.5 METRES.
 - MH DENOTES MANHOLE.
 - PRELIMINARY BOUNDARY LOCATION ONLY. FINAL LOCATION OF PROPERTY BOUNDARIES SUBJECT TO FURTHER SURVEY PRIOR TO COMMENCEMENT OF SITE WORKS.
 - ALL DIMENSIONS & AREAS ARE APPROXIMATE ONLY AND SUBJECT TO COUNCIL APPROVAL, ENGINEERING DESIGN, FINAL SURVEY AND PLAN REGISTRATION.
 - Ⓢ DENOTES PROPOSED EASEMENT TO DRAIN SEWAGE & FOR ACCESS TO LANE FOR GARBAGE COLLECTION 3 WIDE AND VARIABLE WIDTH.



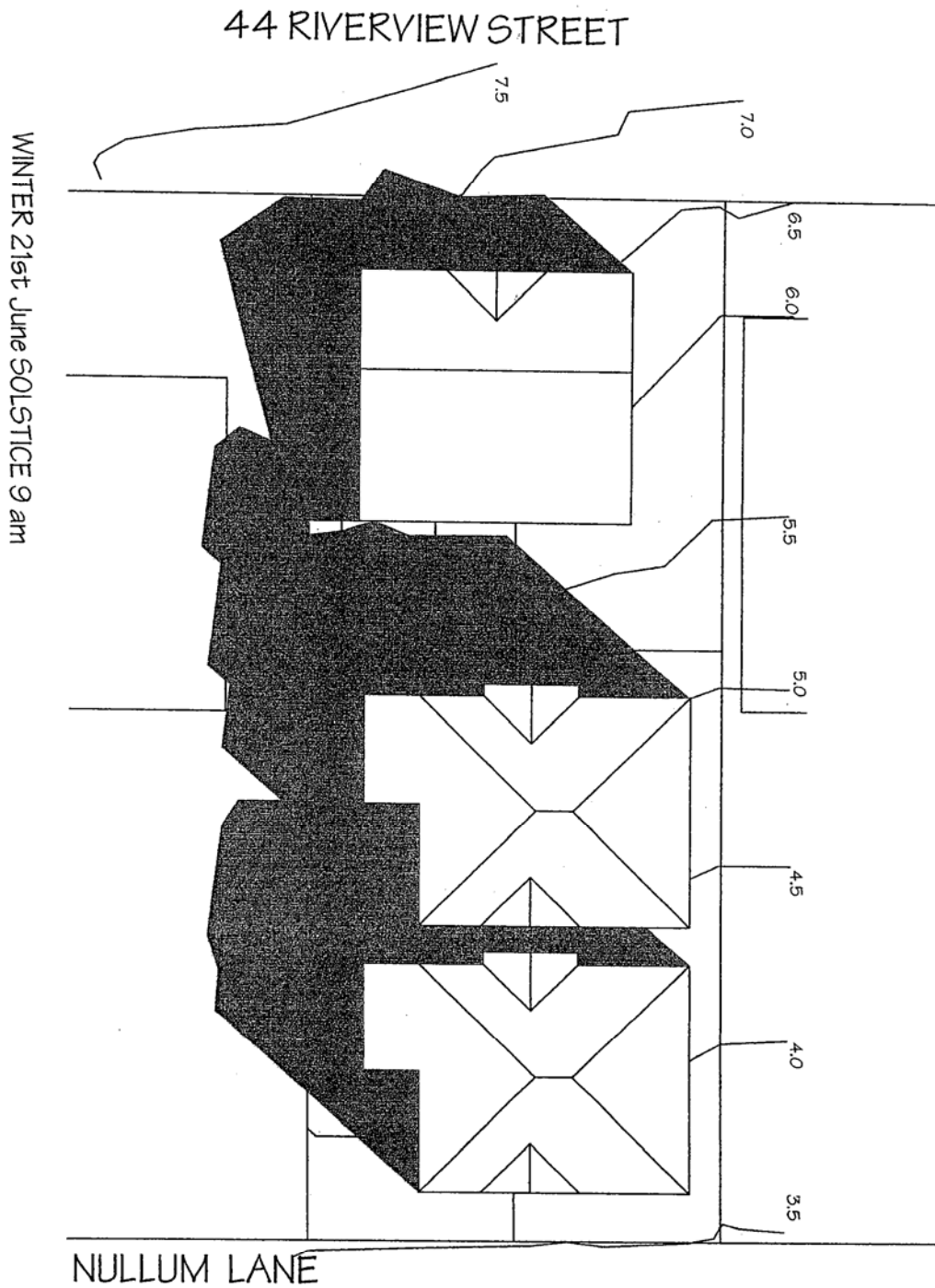




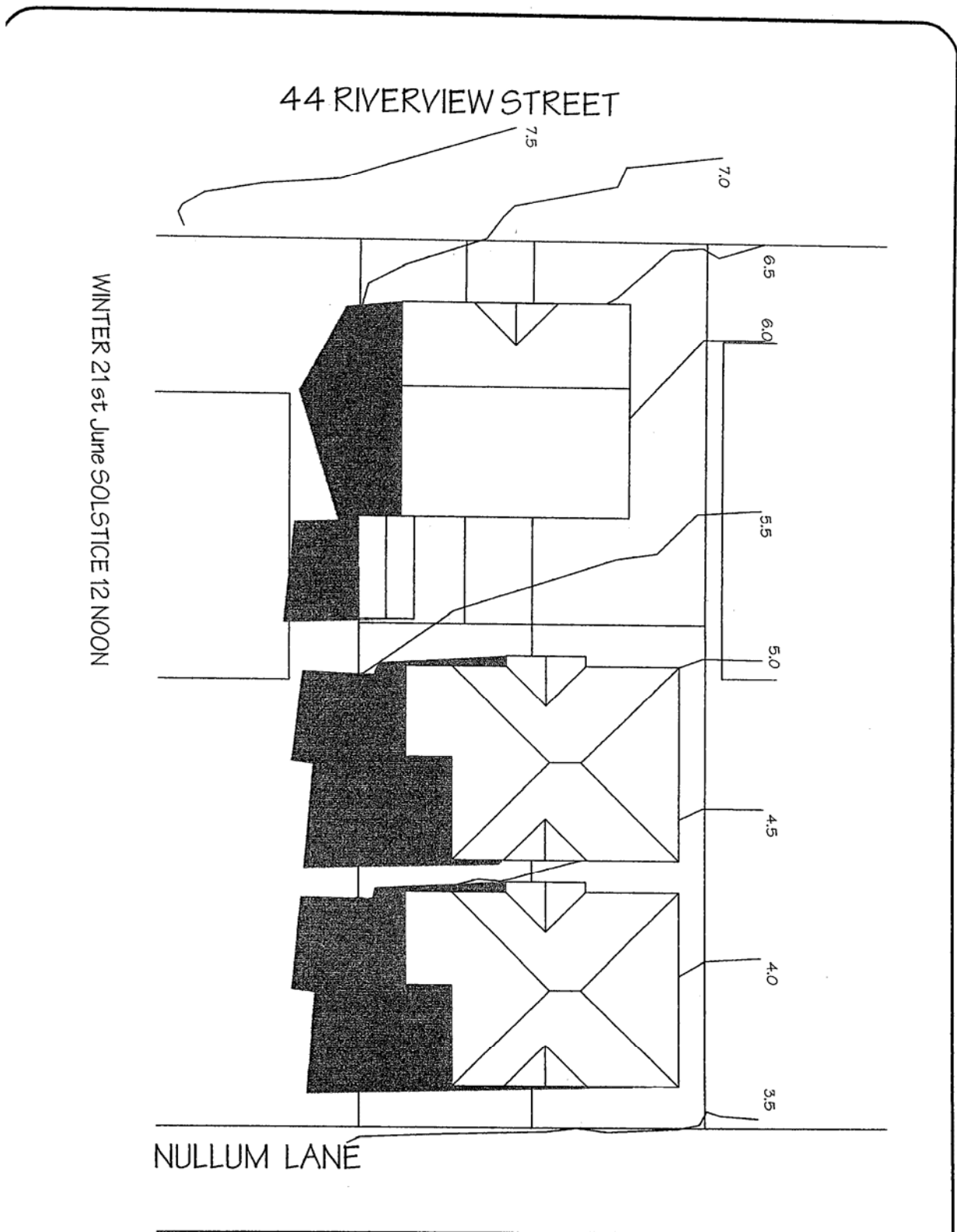



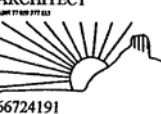


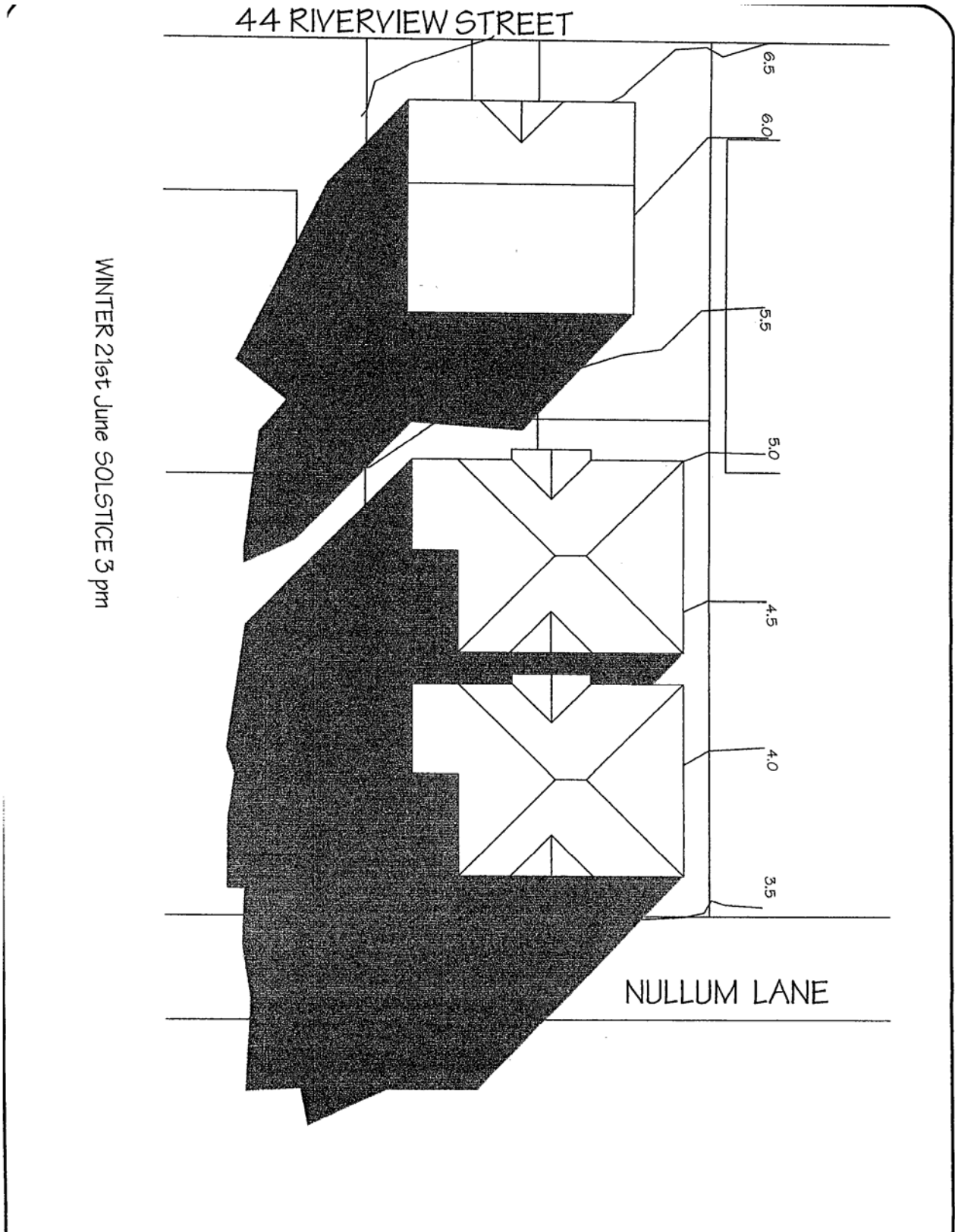
SHADOW DIAGRAMS



JOB No 470207 DRAWING No 1 OF 6	44 RIVERVIEW STREET	SCALE 1:200		AMENDMENTS	 GARY W FIDLER ARCHITECT 66724191
	FOR JIM YOUNG THE PIGGERY PTY LTD				



JOB No 470207 DRAWING No 2 OF 6	44 RIVERVIEW STREET FOR JIM YOUNG THE PIGGERY PTY LTD	SCALE 1:200 	AMENDMENTS	GARY W FIDLER ARCHITECT <small>ASHTON PTY LTD</small>  66724191
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JOB No 470207 DRAWING No 3 OF 6	44 RIVERVIEW STREET		SCALE 1:200		AMENDMENTS	GARY W FIDLER ARCHITECT ABRPT 17 628 971 512 66724191
	FOR JIM YOUNG THE PIGGERY PTY LTD					

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 under the Tweed Local Environmental Plan 2000. The primary objective is to:

- *Provide for and encourage development for the purpose of medium density housing that achieves good urban design outcomes..*

A secondary objective is to:

- *To discourage the under-utilization of land for residential purposes.*

The proposed development is Permissible with Consent in the 2(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. Being within an established residential area, the subject land has all essential services available.

Clause 16 of the LEP refers to height of buildings, with the subject site having a maximum building height limit of 3 stories. The proposed development complies with Clause 16.

Clause 17 of the LEP requires social impact assessments for multi dwelling housing development when more than 50 units are proposed. As the application incorporates only 2 dwellings, a Social Impact Assessment is not required. Potential impacts arising from the proposal are considered in detail later in this report.

Clause 34 of the LEP refers to flooding. Although the subject site is flood liable, the proposed development has been designed to meet Council requirements in this regard. Flooding issues are discussed in greater detail later in this report.

(a) (ii) The Provisions of any Draft Environmental Planning InstrumentsDraft LEP Amendment No. 76 (Heritage Study)

Amendment No. 76 incorporates an amendment to Schedule 2 'Heritage Items' of the Tweed LEP 2000, to update the list of items in the LEP as significant to the physical and cultural heritage of the Tweed Shire. The draft amendment was placed on exhibition from 31 January 2007 to 14 March 2007. The existing dwelling on the subject site was included in the list of items on exhibition. Council's Planning Reforms Unit is currently assessing all of the submissions received in relation to the heritage items. It was noted that

the owners of the subject site submitted a letter of objection to the existing dwelling being placed on the draft heritage item list. It is not known at this stage as to whether or not the existing dwelling will ultimately be placed upon the Schedule 2 Heritage Items list.

The applicant and their planning consultant met with Council's Development Assessment Panel prior to the lodgement of this development application. It was at this meeting that Council officers noted that the draft LEP Amendment No 76 was to be placed on exhibition and advised the applicant that they...*'should have regard to the draft document and any new buildings will need to be designed in sympathy with the existing dwelling house'*.

The applicant has provided a Heritage Assessment Overview of the proposed development, prepared by Gary W Fidler (Conservation Architect), which concludes that...*'it is considered that the proposal is sympathetic and doesn't detract from the heritage values of the existing building and will meet the requirements of any possible future listing of the existing building if that eventuates'*.

Draft Tweed LEP 2007

The Draft LEP 2007 nominates the subject site as zone R3 Medium Density Residential, with a building height of 13.6m and a maximum Floor Space Ratio of 2.0:1. The proposed development meets these provisions of the Draft LEP.

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

Consolidated Development Control Plan

Part A1 – Multi-Dwelling Housing & Tourist Accommodation

The following table details the compliance of the proposed development with the applicable residential design elements contained within Part A1:

Standard	Requirement	Variation/complies
Floor Space Ratio	0.5:1 (324m ²)	The floor space ratio is 0.41:1 (276m ²). Therefore the proposal complies.
Landscaped Area	30% site area (194.4 m ²)	The proposed development provides approximately 198m ² of landscaped area (31% site area) and therefore complies.
Setbacks from boundary	Main Street frontage 6m Secondary street frontage 3m	The battle-axe shape of proposed Lot 2 results in both new dwellings being well setback from the Riverview Street frontage. Complies. Unit 1 of the proposed dual occupancy is sited a minimum of 3m from the Nullum Lane frontage. Complies

Standard	Requirement	Variation/complies
	900mm from side	Both dwellings comply with this requirement
Streetscape	The maximum width of the garages should be 50% of the frontage width.	The garage components of the dual occupancy dwellings do not front Riverview Street or Nullum Lane. Therefore, the proposal is considered to comply.
Streetscape	Garages should be setback behind the front façade of the building.	The proposal is considered satisfactory in this regard.
Building Envelope	45° from 3.5m high at the boundary	There are minor encroachments of the Building Envelope. Refer to assessment below
Private Open Space	20% of site area (130m ² = 65m ² per dwelling) with minimum dimension of 3m One part 25m ² with min dimension of 4m directly accessible from living area	The proposed development is considered to meet the minimum private open space requirements. Each unit incorporates in excess of 25m ² at ground level, as well as a deck off the main living area on the upper level.
Car Wash Areas	One car wash area per 10 dwelling units	The original proposal did comply. The amended proposal does meet this requirement. Refer to assessment below.

Building Envelope

The encroachments appear to be mainly minor encroachments of the roof eaves on the eastern and western boundaries. They are largely a result of the need for the development to be raised to a level above the design flood level for this locality.

The applicant has noted that the proposed development substantially complies with the building envelope provisions and that...*'encroachments are generally consistent with A2 and are of no planning consequence'*.

As noted above, Clause A2 - *Allowable encroachments to envelope* has provision for encroachment of eaves up to 0.6m. Although the proposed development encroaches the envelope by up to 1m in some instances, this is considered acceptable as they do not result in any significant impact upon the surrounding properties, such as overshadowing.



Car Wash Areas

As noted above, the original proposal did incorporate a formal car wash area adjacent to the entrance/garage of Unit 2. However, this area is required to be kept clear as a Right of Way for proposed Lot 1. Although there have been no other formal car wash areas nominated by the applicant, there is opportunity for the residents of the proposed dual occupancy to wash their vehicles on the turfed areas adjacent to each unit. It is not considered necessary to nominate a defined car wash bay area and a variation to this component of the DCP is considered acceptable in this instance.

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 Part A1 of the Consolidated DCP.

Part A2 – Site Access & Parking Code

Council’s Consolidated Development Control Plan came into effect on 12 April 2007, with Part A2 of the DCP being applicable for car parking requirements. The following table details the requirements for the proposed development under DCP Part A2.

Standard	Requirement	Complies/variation
On site Car Parking	2 spaces per 2 or more bed = 4 spaces plus provision of driveway parking of another vehicle Total required = 5 spaces	The amended development provides a double garage for each unit. Proposal does not meet provisions for additional driveway parking Refer assessment below.

As the proposed development was lodged with Council on 22 December 2006, 4 months prior to DCP Part A2 coming into effect, the parking provisions applicable on the day of lodgement have been applied to this application. DCP 2 requires a total of 3 spaces, inclusive of visitor spaces.

The proposed development, with a total of 4 car spaces complies with the former DCP 2 (subject to the recommended conditions of consent). It should be noted that under today’s requirements of DCP Part A2, the proposed development would not meet minimum requirements, with the new DCP requiring an additional driveway parking space. As noted elsewhere in this report, the applicant has amended their proposal to meet Council’s requirements in terms of sole access off the laneway. The amended design is considered to be an acceptable solution and meets Council’s subdivision provisions. However, the Right of Way over the driveway of proposed Lot 2 does not allow for any additional parking. It is noted that there is sufficient room for vehicles to be parked on the turfed area adjacent to each unit, if additional visitor parking is required.

As discussed above, the application has been assessed under the parking provisions in force at the time of lodgement. Therefore, the proposed 4 garaged spaces and a variation to the requirements of DCP Part A2 is considered to be acceptable in this instance.

Part A3 – Development of Flood Liable Land

The subject site is flood liable, with Council's DCP providing for a design flood level of 7.0m AHD and a minimum floor level of 7.5m AHD. Minutes from Council's Development Assessment Panel meeting held on 26 October 2006 state the following with respect to flooding issues:

'The provisions of the DCP will need to be addressed in any development application. This DCP would normally require the land to be filled to the design flood level. In this particular instance this would not be practical and the application will need to request a variation to this requirement. For this to be supported there will need to be at least pedestrian access to flood free land from the dual occupancy development.'

The applicant has request such a variation to the DCP with respect to filling of land. The original application provided the pedestrian access for occupants of the dual occupancy. However, as the amended proposal incorporates a battle axe block for proposed Lot 2, providing an escape route for tenants to higher land on Riverview Street, the right of footway is no longer required.

Clause A3.8.3 of the DCP limits in the amount of area to be totally enclosed. Providing that the enclosed space does not significantly restrict flood flows, an area of 50m² is allowed to enclose the laundry, stairway entry and double garage space. The ground level enclosed area for the proposed development has been calculated as being approximately 52.7m² for each unit.

Council's Development Assessment Engineer has assessed the proposal, with no objections to the proposed variations to the DCP in terms of filling and enclosed areas, subject to conditions of consent.

Part A5 – Subdivision Manual

The original design, having sole access for proposed Lot 2 off the rear laneway was not supported by Council's Development Assessment Engineer, as it did not meet the provisions of Council's Subdivision Manual and it was considered that an undesirable principle would be set if the application was supported in that form. The laneway, being only 6m wide with a 3.5m pavement, does not meet the minimum road standards for an access street. On meeting with the applicant, several design options were discussed in terms of compliance with the DCP. The applicant subsequently amended the proposal to incorporate a battle axe allotment for proposed Lot 2. This would allow the residents of the dual occupancy access to the site off Riverview Street, as well as Nullum Lane.

Council's Development Assessment Engineer has assessed the amended proposal with no objections, noting that the design meets the criteria set down

in the Subdivision Manual. A condition of consent has been applied requiring a Right of Way over Lot 2, providing the residents of Lot 1 dual access as well.

Part A11 – Public Notification of Development Proposals

The development application was advertised for a period of two weeks closing on 1 February 2007. During this period there were four written submissions received. The issues raised by the submissions are detailed later in this report.

Part A14 – Cut and Fill on Residential Land

The applicant has addressed the issue of Cut and Fill and has submitted a Site Water Management Plan in support of the proposed development. Council's Development Assessment Engineer has applied appropriate conditions of consent in this regard.

Draft Murwillumbah Locality Plan

The subject site is located within the study area of the draft Murwillumbah Locality Plan. It is envisaged that the draft Plan will be reported to Council at the next Planning Committee meeting and if approved, will be placed on public exhibition in the coming months.

The draft Locality Plan nominates the subject site and surrounding area as 2 – 3 storey medium density residential. The proposed development is not inconsistent with the provisions of the draft Locality Plan.

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

There are no matters considered applicable to the proposed development.

(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

Overlooking / Privacy

Adjoining neighbours to the proposed development have raised overlooking / privacy issues as potential impacts from the development. The height of the proposed dual occupancy has occurred as a result of flooding constraints in the locality. As such, the majority of dwellings in the area are high-set two storey dwellings.

The two adjoining properties have their dwellings located in the western portion of their allotments, fronting Riverview Street. The proposed dual occupancy is located in the eastern portion of proposed Lot 2, fronting Nullum Lane. Therefore, any potential overlooking / privacy impacts are not expected to be significant.

Overshadowing

The applicant has provided Shadow Diagrams for the proposed development at 9.00am, 12.00 noon and 3.00pm in June and December. The diagrams indicate that the existing dwelling to the south is shadowed by the existing 'heritage' dwelling on proposed Lot 1 at about 12.30pm. The diagrams demonstrate that midwinter shadows will have minimal impact upon the dwelling on the adjoining allotment to the south. Although there is some degree of overshadowing of the rear back yard of this property, it is well within the requirements of Council's DCP requirements in this regard. The applicant's architect has noted that the surrounding buildings are essentially two storeys as is the proposed building and that...*'it is unlikely that the shadows would reach the sill level of adjoining properties, being the area where the living space begins'*.

Access/Traffic Generation

The amended proposal allows dual access for both allotments. As Riverview Street is a Designated Road, the option of a second access point is encouraged under Council's Subdivision Manual. Similarly, the battle axe handle of proposed Lot 2 allows a second access point for the dual occupancy development. Sole access off the narrow laneway at the rear of the site would not have been supported by Council's Development Assessment Engineer. As such the amended application was lodged with Council. In terms of traffic generation, Council's Traffic & Transport Engineer has assessed the proposal, noting that the laneway is capable of accommodating any additional traffic load generated by the proposed development.

Heritage

As noted above, the existing dwelling has been placed on the draft heritage item list. Although it has not yet been determined whether the dwelling will remain on the list, the applicant has designed the proposed dual occupancy so that the heritage values are not impacted upon.

The applicant has provided a Heritage Assessment Overview of the proposed development, prepared by Gary W Fidler (Conservation Architect), which concludes that...*'it is considered that the proposal is sympathetic and doesn't detract from the heritage values of the existing building and will meet the requirements of any possible future listing of the existing building if that eventuates'*.

Loss of Views

Whilst it is acknowledged that some degree of available views may be lost as a result of the proposed development, the separation and siting of the detached dual occupancy is considered to be acceptable in providing a certain degree of view sharing within the medium density precinct.

(c) Suitability of the site for the development

Flooding

As noted above, the subject site is flood liable. Council has acknowledged that filling the site would not be practical in this instance. As such, the

proposed development has been designed so that the habitable floor area is above the design flood level, resulting in 2 high-set detached dwellings.

It is considered that the proposed development generally meets the design requirements for dual occupancy development, as provided under Section A1 of the Consolidated DCP. The proposed development is not considered to be an over development of the site, as demonstrated by the compliance with the landscaped area and private open space provisions of the DCP. Given the zoning and height limits over the site, potentially a unit development could be proposed on the same site. With this in mind, the proposed dual occupancy is considered to be an appropriate alternative development of the site, in keeping with the existing streetscape. As such, the site is generally considered to be suitable for the proposed development.

(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. Four submissions by way of objection were received.

The following table addressed the issues raised in the submissions.

OBJECTION	IMPACT ASSESSMENT
<i>Overlooking / privacy issues for adjoining residents due to height and proximity of proposal</i>	The proposed dual occupancy dwellings are well separated from the existing dwellings, which are high-set on adjoining allotments. The height of the proposed development is a result of flooding constraints on the site. The proposed dwellings are of similar height to the majority of surrounding dwellings. The proposal does not warrant refusal on this issue.
<i>Impact to heritage values of existing dwelling, especially when viewed from the laneway</i>	Although the existing dwelling has been placed on the draft Heritage Item list, it is still under review and it is not yet known as to whether the dwelling will remain as a heritage item. It appears that the main heritage features of the building relate to the front entry way, rather the rear of the dwelling. The applicant has provided a report from a conservation architect, which concludes that the... <i>'proposal is sympathetic and doesn't detract from the heritage values of the existing building'</i> . The proposal does not warrant refusal on this issue.
<i>Removal of heritage 'out house' at the rear of the existing dwelling'</i>	The applicant has confirmed that the existing toilet is proposed to be removed and in this regard Mr Gary Fidler (Conservation Architect) advises that in his opinion the structure has minimal heritage value and its retention is not essential.
<i>Traffic / safety issues from use of Nullum lane as sole access to the site.</i>	It should be noted that this issue was raised prior to the amended plans being lodged by the applicant. Council's Traffic & Transport Engineer and Development assessment Engineer have assessed the proposed development, noting that Nullum Lane is capable of accommodating the additional vehicle movements per day. The amended layout results in dual use of Riverview Street and Nullum Lane for both allotments, which is Council's preferred option. It is acknowledged that the laneway is a shared use area, with low traffic speeds. Although the laneway does not provide a footpath, the lower vehicle speeds should still allow pedestrian use without conflict. It is noted that surrounding main roads do have footpaths, allowing safe pedestrian access to the broader surrounding area. The proposal does not warrant refusal on this issue.

OBJECTION	IMPACT ASSESSMENT
<i>Loss of views</i>	The issue of loss of views has been taken into consideration in the assessment of this proposal. Although there will be some degree of view loss to the adjoining residences, the proposed development is considered acceptable in terms of view sharing. The proposal does not warrant refusal on this issue.
<i>Proposed boundary adjustment & dual occupancy not suitable for the subject site</i>	The subject site is zoned 2(b) Medium Density Residential, whereby unit development is usually encouraged in order to meet the objectives and densities of the zone. The proposed development complies with the maximum Building Height of 3 storeys. The site is located within the medium density residential precinct of the draft Murwillumbah Locality Plan. The proposal does not warrant refusal on this issue.
<i>Noise impact from additional vehicles along driveway and laneway</i>	It is expected that vehicles utilising the driveway would be travelling at low speeds and not creating unwarranted noise levels. Similarly, the speed levels of vehicles within the laneway are not expected to be high, with the noise levels correspondingly not excessive, especially in comparison to the vehicles travelling on Riverview Street. The proposal does not warrant refusal on this issue.
<i>Overshadowing of adjoining property to south during winter & loss of cool summer breezes</i>	The applicant has provided Shadow Diagrams for the proposed development, which indicate that although there is some degree of overshadowing of the adjoining property to the south, it is well within the requirements of Council's DCP requirements in this regard. In terms of loss of breezes, the high set design and separation of the proposed dual occupancy is not expected to significantly reduce through breezes. The proposal does not warrant refusal on this issue.

(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:

The proposed development generally complies with the design requirements applicable to the development. Having 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 during construction.

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.

P2 [PR-PC] Development Application DA06/0225 for a Motorcycle Riding Facility at Lot 503 DP 1000612, No. 11 Donalyn Court, Duranbah

ORIGIN:

Development Assessment

FILE NO: DA06/0225 Pt4

SUMMARY OF REPORT:

Council is in receipt of a Development Application seeking approval for a recreation area for motor cycle riders (dirt bike track), at Duranbah. The facility would comprise of three (3) motorcycle tracks, office, registration and first aid station, kiosk, toilet facilities, formal on-site car parking for fifty-two (52) cars and picnic areas. The applicant proposes to employ four (4) staff and to operate Friday, Saturday Sunday Monday and most public holidays.

The application was lodged with Council on 8 March 2006. Since its lodgement the primary concern with this application has been its potential impact on the amenity of adjoining properties as a result of noise emanating from the proposed facility. In an attempt to mitigate the potential impacts the applicant has amended their application by changing the location of the tracks and has submitted two noise impact assessments.

To ensure the potential impact of noise was appropriately considered the application has been reviewed by Council's Environmental Health Officer and two independent noise consultants on behalf of Council.

Upon review of the acoustic assessments and submissions, the proposed development is not considered suitable for the site given the potential noise impact on adjoining properties. The noise mitigation measures are not considered suitable and therefore the application is recommended for refusal.

In addition to potential noise impacts the proposed development is considered unsuitable due to the amount of cut and fill, creating visual impacts as viewed from adjoining properties and roads including the Pacific Highway, and the inadequate information regarding engineering matters.

The application was publicly advertised and notified to adjoining residents within a 2km radius. Those persons who lodged a submission were notified of the amended acoustic information for revised comments. To date Council has received 403 submissions regarding the proposal. Approximately 40% of these support the application while the other 60% oppose the development.

It is acknowledged that these types of facilities are needed to meet a community need, however it is imperative that these facilities are appropriately located. Having regard to



all of the submissions and the development as a whole, it is concluded that the subject site is not suitable for the proposed development.

RECOMMENDATION:

That Development Application DA06/0225 for a motorcycle riding facility at Lot 503 DP 1000612, No. 11 Donalyn Court, Duranbah be refused for the following reasons: -

- 1. In accordance with Section 79C(ai) of the Environmental Planning and Assessment Act 1979, the development does not comply with the Tweed Local Environmental Plan 2000 specifically having regard to Clause 4 Aims of the Plan, Clause 8 Consent Considerations, Clause 11 The Zones 1(a) and Clause 22 Development Near Designated Roads.**
- 2. In accordance with Section 79C(ai) of the Environmental Planning and Assessment Act 1979, the development is not permissible within the section of the site zoned 1(b2) Agricultural Protection and is not consistent with Clause 8(2) of the Tweed Local Environmental Plan 2000.**
- 3. In accordance with Section 79C(b) of the Environmental Planning and Assessment Act 1979, the development will have an unacceptable impact on the amenity of the area specifically as a result of noise generated by the proposal.**
- 4. In accordance with Section 79C(b) of the Environmental Planning and Assessment Act 1979, the impact of cut and fill on site cannot be established as insufficient engineering detail has been provided.**
- 5. In accordance with Section 79C(b) of the Environmental Planning and Assessment Act 1979, the development will be visually detrimental to the landscape as extensive cut and fill is necessary.**
- 6. In accordance with Section 79C(b) of the Environmental Planning and Assessment Act 1979, the development will have an unacceptable impact on the safety of motorists particularly on the Pacific Highway.**

REPORT:

Applicant: Dirty Bikes Pty Ltd
Owner: Mrs ME Gilliland and Mr JR Gilliland
Location: Lot 503 DP 1000612, No. 11 Donalyn Court, Duranbah
Zoning: 1(a) Rural
Cost: \$90,000.00

BACKGROUND:The Subject Site & Locality

The subject site has a total area of 32.14ha and has frontage to the Pacific Highway and Donalyn Court, Duranbah. However, vehicular access is only available via Donalyn Court off Eviron Road.

The subject site is presently occupied by a dwelling house and its associated buildings and a dam. The site slopes specifically in the northern and eastern sections of the allotment. This area of the site is visible from various adjoining properties and roads.

The site contains vegetation communities in the form of sclerophyll open forest dominated by Blackbutt, and sclerophyll open forest dominated by Brush Box in the east.

The site is zoned part 1(a) Rural and part 1(b2) Agricultural Protection in accordance with the Tweed Local Environmental Plan 2000.

The surrounding locality comprises:

- The Pacific Highway
- Council's records indicate there are four (4) dwelling houses within 500m of the subject site.
- The Tweed Valley Cemetery approximately 350m north of the subject site; and
- An old quarry approximately 150m west of the subject site (on the opposite side of the Pacific Highway).

The Proposed Development

The application currently before Council seeks consent for a recreation area for the purposes of a dirt bike track. The proposal includes;

- three (3) motorcycle tracks
 - office
 - registration and first aid station
 - kiosk
 - toilet facilities
 - formal on-site car parking for fifty-two (52) cars and
 - picnic areas
-



To facilitate this development the site would need extensive earthworks to create the tracks and specifically would require vegetation clearing within proposed track one. This would involve the removal of Camphor Laurel.

The applicant proposes to operate every Friday, Saturday, Sunday, Monday and public holidays excluding Christmas Day, Boxing Day and Good Friday. As a result of the amended acoustic report the revised hours of operation are:

Friday, Saturday & Monday - 9.00am – 6.00pm
Sunday & Public Holidays - 10.00am – 6.00pm

Four (4) staff are proposed to be employed in conjunction with the use.

Primary Issues for Consideration

Noise:

The development application was accompanied with a noise impact assessment prepared by Craig Hill Acoustics. This assessment was evaluated by an independent acoustic engineer, Vipac Acoustical Engineers on Council's behalf. The engineer made a number of recommendations, including additional noise logging be undertaken. As a result of the independent review, the applicant was requested to review the noise impact assessment.

The applicant submitted a revised noise impact assessment prepared by James Heddle Pty Ltd. The assessment resulted in a revised layout of the tracks. The assessment concludes satisfactory noise levels are achievable if motorcycle exhausts are not directly acoustically viewable from the receiver location. To achieve this, a number of mitigation measures are required including barrier shielding. According to the report noise would not be audible from the Tweed Valley Cemetery.

An acoustic engineer, Heggies Pty Ltd, reviewed the noise assessment prepared by Heddle Pty Ltd. The engineer advised that whilst the development application has satisfactorily addressed the necessary requirements for an acoustic assessment, the location of the barrier locations and dimensions would need to be confirmed and post construction monitoring would need to be undertaken to determine the effectiveness or otherwise of the hay bales as a noise mitigation measure or whether a barrier with more noise attenuation is required.

The assessments prepared by James Heddle Pty Ltd and Heggies Pty Ltd were reviewed by Council's Environmental Health Officer. The Officer advised Heddle's assessment is based on noise computer modelling and observations which are not considered sufficient to determine the potential noise impact upon nearby residences. The officer advised noise issues should be addressed prior to the determination of the development application and should not be reliant on conditions of consent. Post construction noise monitoring may demonstrate the desired noise goals have not been achieved. The officer further advised noise levels from the proposed Motorcycle Facility could have a significant impact upon Council's Tweed Valley Cemetery and surrounding residential dwellings.

The ambiguity in determining the appropriateness of the proposed mitigation measures forms the basis for this refusal.

Visual Implications

The tracks in part, will be visible from adjoining properties and roads including the Pacific Highway. It is unlikely landscaping will adequately screen the tracks given their location and the topography of the site.

The proposed development would be unsympathetic to the existing visual character of the area and therefore this forms one of the reasons for refusal.

Safety

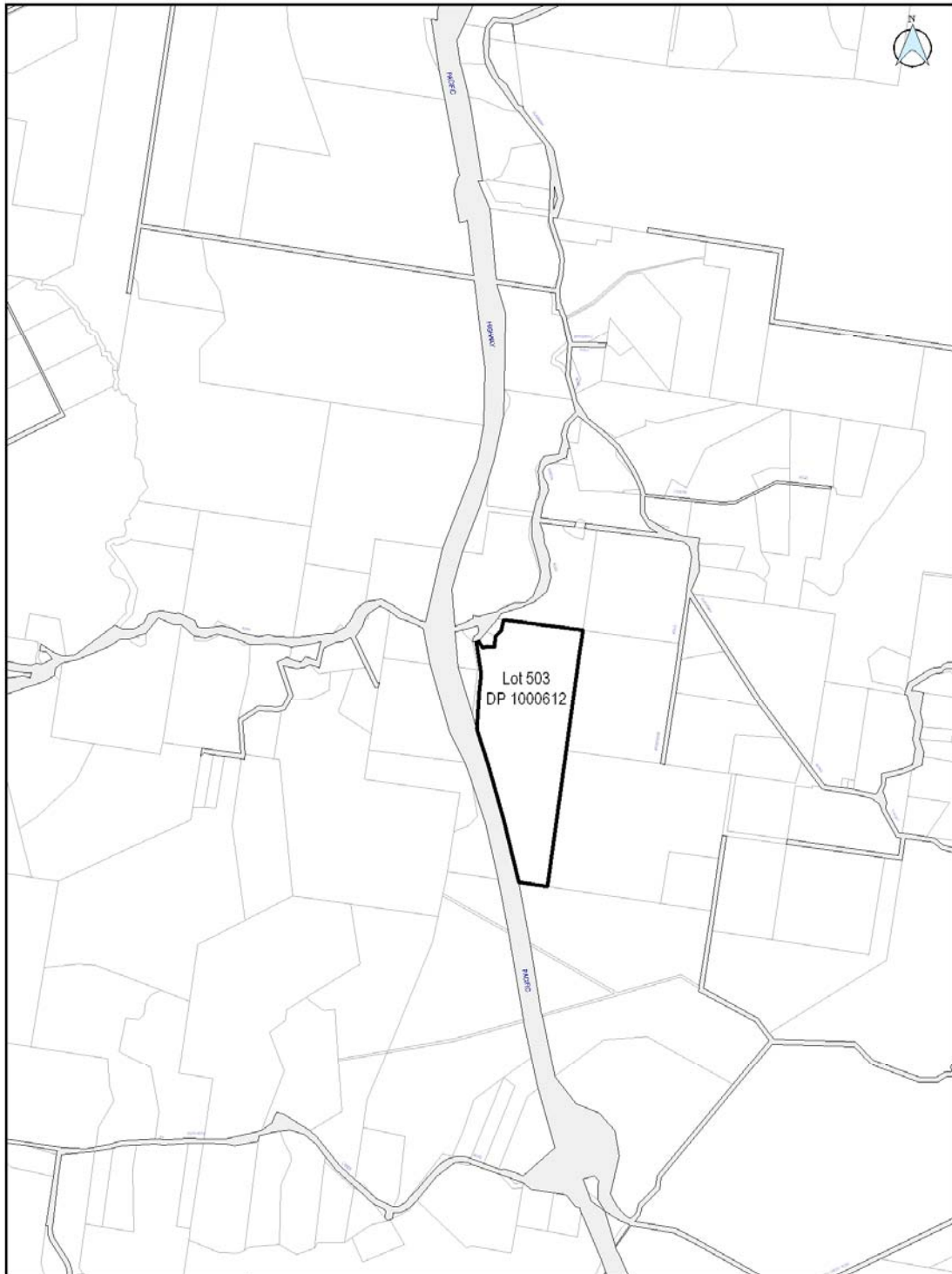
As discussed, parts of the tracks will be visible from the Highway. The activities associated with the operation of the tracks have the potential to adversely impact on Highway safety by causing unnecessary distraction to Highway motorists. This impact has also been raised as an issue by the NSW RTA.


Public Interest

To date Council has received 403 submissions relating to the proposal. Approximately 40% support the development and the remaining 60% oppose the development. It is acknowledged that these types of facilities are needed however it is essential such facilities are developed in suitable locations adjoining compatible land uses. Having regards to the issues raised in the submissions, the potential negative impacts on the immediate locality deems the site unsuitable.



SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2007 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Murwillumbah, NSW, 2484 Tel (02) 6670 2409 Fax (02) 6670 2493</p>	<p><i>Tweed Shire Council</i> Lot 503 DP 1000612 No. 11 Donalyn Court, Duranbah</p>	 <p>1998 TWEED SHIRE COUNCIL, N.S.W.</p>	<p>PLANNING REFORMS UNIT Site Plan Sheet: 1 of 1</p>
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CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

Tweed Local Environmental Plan 2000 (TLEP)

Clause 4 – Aims of this Plan

The aims of this plan are:

-(b) *to provide a legal basis for the making of a development control plan that contains more detailed local planning policies and other provisions that provide guidance for future development and land management, such as provisions recommending the following:*
 - (i) *that some or all development should be restricted to certain land within a zone,*
 - (ii) *that specific development requirements should apply to certain land in a zone or to a certain type of development,*
 - (iii) *that certain types or forms of development or activities should be encouraged by the provision of appropriate incentives, and*
-(d) *to encourage sustainable economic development of the area of Tweed compatible with the area's environmental and residential amenity qualities.*

The proposed development is not considered to satisfy b or d above. Part of the development relies upon Clause 8(2) for permissibility. Clause 8(2) in this instance cannot be satisfied. The proposed development is not sympathetic to the areas unique natural characteristics or its residential amenity qualities.

The development does not comply with the aims of this plan.

Clause 5 requires careful evaluation to avoid serious or irreversible damage to the environment. The development as proposed could be conditioned to avoid sensitive vegetation areas, however, this would require constant monitoring.

Clause 8 specifies that all developments need be assessed having regard to Clause 8(1). This requires compliance with the zone objectives, aims of the plan, and the possible cumulative impact of a development. Each of these matters are assessed individually within this report.

The proposed "recreation area" is an item 3 matter within the portion of the site zoned 1(b2) Agricultural Protection. The car parking and picnic areas of the development are positioned within the 1(b2) portion of the site. Clause

8(2) is duplicated below. The applicants comments and Council's assessment of each matter are provided below.

8(2) *The consent authority may grant consent to development specified in Item 3 of the Table to clause 11 only if the applicant demonstrates to the satisfaction of the consent authority that:*

- (a) *the development is necessary for any one of the following reasons:*
- (i) *it needs to be in the locality in which it is proposed to be carried out due to the nature, function or service catchment of the development,*
 - (ii) *it meets an identified urgent community need,*
 - (iii) *it comprises a major employment generator, and*

Applicants Comment:

1. *'A small portion of land in the 1(b2) zone will be used, it is in the flexible zone boundary which the statement of environmental effects addresses through clause 14 of the LEP. This land is part of a fill that occurred when the freeway was built. It is now unusable for any viable agricultural pursuit due to the nature of the fill which consists of gravel and clay.*
2. *The need to be in the locality is addressed in the DA by the impact studies ie. Noise assessment, traffic movements, earthworks, drainage, resource recovery, on site sewage management, habitat assessment, landscaping etc.*
3. *It meets an urgent community need due to there being no facility in the shire for our youth and adults to have somewhere to ride legally and in a safe environment. Note this will be an alcohol free facility.*
4. *It will employ local staff to run the facility eg. Office, track officials, canteen and grounds staff.*

Council Assessment

These comments are not entirely concurred with.

Claims that the land is unsuitable for agricultural pursuits are not justified as the site is presently being used for grazing purposes.

Whilst the development would be one of a kind within in the Tweed LGA the subject site must be assessed on its merits and based on the contents of this report the site is not considered suitable.

The employment of 4 people for the business is not considered to constitute major employment.

The development is not considered to satisfy Clause 8(2)(a).



- (b) *there is no other appropriate site on which the development is permitted with consent development (other than as advertised development) in reasonable proximity, and*

Applicants Comment:

As the DA shows this location has the perfect terrain for noise shielding and visual privacy.

Council Assessment

These comments are not entirely concurred with.

The proposed development is defined as a “recreation area”. A recreation area is permissible with consent in the 1(a) zone. Tweed Shire Council has extensive amounts of 1(a) zoned land. The suitability of possible sites must be undertaken in accordance with the Merit Considerations of Section 79C of the EP&A Act 1979.

The applicant has not demonstrated the consideration of any alternative sites. The merit assessment of this site warrants refusal for the reasons detailed in this report.

The development is not considered to satisfy Clause 8(2)(b).

- (c) *the development will be generally consistent with the scale and character of existing and future lawful development in the immediate area, and*

Applicants Comment:

The DA is consistent with zoning and will not effect future development on nearby adjoining properties.

Council Assessment

A dirt bike track facility is not consistent with the rural residential character of the area and will have a detrimental impact on the locality.

The development is not considered to satisfy Clause 8(2)(c).

- (d) *the development would be consistent with the aims of this plan and at least one of the objectives of the zone within which it is proposed to be located.*

Applicants Comment:

The DA is consistent with the aims of the LEP as to provide development that is not suitable in or near urban areas’.

Council Assessment

As detailed within this report the application is not considered to be consistent with Clause 4, 8 or 11 of the Tweed LEP 2000.

The development is not considered to satisfy Clause 8(2)(d).

Clause 11 relates to the zones of the Tweed LEP 2000. The subject site is zoned part 1(a) Rural and part 1(b2) Agricultural Protection. The proposed motorbike facility is best defined as a "recreation area". The development primarily occurs within the 1(a) zoned part of the site, however, the formal car parking and picnic area is located within the 1(b2) zone. A recreation area is permissible with consent in the 1(a) zone and is an item 3 matter within the 1(b2) zone requiring consideration of clause 8(2) of the Tweed LEP 2000 as detailed above.

The primary zone objectives of the 1(a) zone relates to ecologically sustainable development of the land that is suitable primarily for agricultural or natural resource utilisation purposes and associated development; and to protect rural character and amenity. The applicable secondary objective, provides for development that is not suitable in or near urban areas.

The primary zone objective of the 1(b2) zone relates to the protection of identified prime agricultural land from fragmentation and the economic pressure of competing land uses. The secondary objective relates to the provision of other development that is compatible with agricultural activities.

The proposed motorbike facility is not considered to be consistent with the primary objectives of the 1(a) zone as the development would not protect the rural character and amenity. The secondary objective provides for development that is not suitable in or near urban areas, this development would specifically satisfy this secondary objective but at the expense of the primary zone objective.

Clause 14 of the TLEP allows flexibility where detailed investigation of a site and its surrounds indicates that a land use allowed on the other side of a zone boundary would enable more logical and appropriate development of the site.

The applicant has requested Council utilise this Clause rather than Clause 8(2) for that part of the development occurring within the 1(b2) zone. This is not possible as Clause 14 requires developments to be prohibited before it is able to be used. A recreation area is not prohibited in the 1(b2) zone but rather permissible subject to compliance with Clause 8(2). Therefore Clause 14 does not apply.

Clause 15 requires Council to be satisfied the subject site has the benefit of essential services prior to issuing consent. Water and electricity are available to the site. Council's Environmental Health Officer has reviewed the



development application and advised the proposed waste management plan is satisfactory. Any waste oil will be disposed of at Stotts Creek Landfill Facility. Council's Waste management Coordinator has advised this is acceptable. Council's Environmental Health Officer has advised the proposed on-site sewage management system design and effluent land disposal area is adequate for the proposed development.

Clause 16 requires development to be carried out in accordance with the height of buildings map. The proposed development is consistent with the 3 storey limit.

Clause 22 applies to land that has frontage or access to a designated road. This clause is applicable as the site has frontage to the Pacific Highway.

The clause requires that the following applicable matters must be satisfied before any approval can be issued:

- (a) the development (because of its nature, appearance, cumulative effect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for another similar reason) is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road, and
- (b) The location, standard and design of access points, and on-site traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded, and
- (c) the development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated road, and
- (d) where the land is in Zone 1(a), 5(a), 7(a), 7(d), 7(f), or 7(l), the development is of a type that necessitates a location in proximity to the designated road for reasons other than only commercial advantage, and
- (e) The development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact, and
- (f) the development would not detract from the scenic values of the locality, particularly from the point of view of road users, and
- (g) where practicable, access to the land is provided by a road other than the designated road, and
- (h) in respect of any application for commercial or retail development near the Pacific Highway in Zone 1 (a), 7 (a), 7 (d), 7 (f) or 7 (l), the development:

- (iii) would not compromise highway safety and efficiency.

The application was referred to the NSW Roads and Traffic Authority (RTA) for comment. The RTA advised it could not support the proposal until suitable screening of onsite activities from the Pacific Highway traffic is included in the development of the site. The RTA considers onsite activities will adversely impact on Highway safety by causing unnecessary distraction to Highway motorists, unless suitable screening is provided. The RTA advised the relocation of the tracks to the hillsides overlooking the Highway may preclude vegetation as a suitable means of site screening.

Based on the assessment undertaken by the RTA and Council the proposed application is not considered to satisfy Clause 22.

Clause 24 of the TLEP controls the setback of development along designated roads. The clause requires development within the 1(a) and 1(b) zones to be setback 30m from the Pacific Highway. The development on the subject site is consistent with this clause.

Clause 35 requires an acid sulfate soils management plan be assessed where the proposed development is likely to interfere with acid sulfate soils (ASS). The subject site is identified as being land class two (2). Council's Environmental Health Officer has reviewed the proposed development and accompanying Acid Sulfate Soil Management Plan and did not object to the proposal regarding the interference with ASS.

Clause 39A relates to minimising bushfire risk and requires Council to take into consideration a number of matters during its assessment of an application. The site is identified as being bushfire prone and as such the local NSW Rural Fire Service (RFS) were consulted. The RFS did not object to the proposal with regards to bushfire matters subject to several conditions of consent. It is not considered the proposal would have a significant adverse effect on the implementation of strategies for bushfire control, the risk to human life, the ability of emergency personnel to effectively control major bushfires.

Clause 47 relates to advertising signage in the rural zones. Signage in these areas must relate to the principle use of the site and direct the travelling public to the subject site. The dimensions and overall size of the signage are to be reasonable to direct the travelling public. The applicant proposes to erect a 1.2m x 1.0m sign identifying the business, hours of operation and contact details. The sign is proposed to be situated at the entry point to the site. Should the application be approved, further information regarding the signage would be required.

North Coast Regional Environmental Plan 1988

Clause 12 of the plan requires consideration of the impact of development on adjoining or adjacent agricultural land. The application was referred to the Department of Primary Industries (DPI) for comment who advised due to the mix of agricultural land classes involved and limited areas

of what may be considered better quality agricultural land, the proposal is not likely to cause an unacceptable loss of agricultural land resources. The DPI advised the amended track design raised no notable or significant agricultural or fisheries issues.

Far North Coast Regional Strategy

The strategy provides a guide to achieve sustainable development of land across the far North Coast. The aims of the strategy includes the identification and protection of important environmental assets, landscape and cultural values and natural resources. The proposed development would result in a change to the natural landscape and would be visually prominent. This visual intrusion on the natural landscape in this locality is considered unacceptable.

State Environmental Planning Policies (SEPPs)

SEPP No 11—Traffic Generating Developments

As the proposal could accommodate 50 or more motor vehicles on-site, it was referred to the Local Traffic Committee (LTC) for consideration in accordance with Schedule 2 of the SEPP.

The committee raised 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 there are another 80 waiting.*
- *The intersection of Duranbah Road and Environ 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.*

Further to the above comments Council's Development Engineer has reviewed the proposal and recommended the application be refused as a result of insufficient information relating to earthworks. The officer has raised concern that should the tabled traffic movements in James Heddle Pty Ltd's assessment, of 80 vehicles per hour be accurate, the road network would not be able to accept the additional traffic nor would the facility be capable of complying with the requirement to limit each track to 12 motorcycles. The officer notes this rate is significantly greater than the trips outlined in the SEE which states a total of 217 traffic movements per day may be expected.

The concerns raised by the Local Traffic Committees and Council's Development Engineer contribute to the reasons for refusal.

State Environmental Planning Policy No 44—Koala Habitat Protection

The SEPP applies to the subject site as it has an area greater than 1 hectare. The SEPP requires the consent authority to establish whether or not the land is a potential koala habitat. The applicant provided an eight-part test of significance and core koala habitat identification, prepared by Ecograph. The assessment found the development area does not contain preferred koala food trees as listed in Schedule 2 of the SEPP. The assessment concludes that the development footprint does not contain potential or core koala habitat.

Council's Environmental Scientist reviewed Ecograph's assessment and advised koala feed trees, secondary koala habitat and an area of Swamp Sclerophyll Forest occurs outside the proposed development footprint and will not be impacted.

No further assessment is considered necessary in accordance with SEPP 44.

Section 5A Environmental Planning and Assessment Act 1979 - Threatened Species

The applicant's flora and fauna assessment, prepared by Ecograph advises the site does not contain any threatened species. The investigations examined the probability of regional threatened species at the site in relation to the proposal and the likelihood of any impacts. The assessment concludes:

- *The proposed development is not expected to influence the viability of any of these threatened species due to the abundance of similar vegetation and habitat features in the region and the ability of the bird and bat species to disperse to such habitat.*
- *Except for cleared areas, the proposed development site supports very minor quantities of important habitat features, several mature hollow bearing trees and a small remnant of Blackbutt dominated vegetation. Furthermore, these habitat features are not expected to be impacted by the development.*

The subject site contains endangered ecological communities and some threatened fauna. However, the development footprint does not affect these areas of significance. Council's Environmental Scientist has reviewed the development application and advised there should be no significant ecological impact from the proposal subject to suitable conditions.

The construction of Track 1 would result in the removal of Camphor Laurel. Should the application be approved, suitable conditions would be required regarding clearing activities and track construction and maintenance. The large fig (*Ficus macrophylla*) situated within Track 2 must be retained and protected. Should the application be approved, suitable conditions would be necessary to protect the tree from damage during construction and from ongoing track use.

The development will not result in the clearing of native vegetation.



The officer supports the findings of the Ecograph which details indirect impacts to threatened species are unlikely due to the nocturnal foraging habitat of most threatened species, lack of on-site roosting habitat and potential alternative habitat on the lower floodplain sections of the subject site for the Black-necked Stork. The Assessment of Significance (7 part test) was amended to include the Grey-headed Flying Fox. On the basis of the species nocturnal nature, analysis of foraging and potential roosting habitat on the property and Assessment of Significance, the development is not expected to influence the viability of this species (or the Black Flying Fox).

Therefore having regard to Section 5A the proposed development is not considered to warrant a Species Impact Statement.

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

Draft Tweed LEP 2000 (Amendment 21) is a shire wide LEP that affects the subject site. Draft Tweed LEP 2000 (Amendment 21) was exhibited from 8 December 2004 to 25 March 2005.

The Draft proposes to re-zone the subject site to part 1(a) Rural, part 1(a1) Rural (Steep Land/ Escarpment) and part 1(b2) Agricultural Protection. The Draft LEP is likely to be implemented into Tweed LEP 2007 within the next few months. However, the proposed changes only recognise the steep nature of the site and restrict development on this type of land.

As detailed in this report the subject site is not considered suitable for the proposed development due to the possible negative impacts arising from the earthworks and proposed nature of the use.

(a) (iii) Tweed Shire Development Control Plan (DCP)

Section A2 - Site Access and Parking

The development application was lodged prior to the gazettal of the Tweed Shire Development Control Plan (TSDCP) as such based on a merit the figures used in the previous plan, DCP No. 2 have been used in the assessment of the application.

The requirements for a motor track in DCP No. 2 and the TSDCP are similar, the only difference being DCP No. 2 enables a reduction in customer and staff parking.

Council's Development Engineer has reviewed the proposal and provided the assessment below.

Standard	Required	Proposed
Motor Track	Deliver, service vehicle: 1 space Staff: 0.5/staff = 2 spaces Customer parking: 1/5 participant and spectator capacity = 16 for participant 19 spaces x .08ESD = 15.2 spaces Total: 15.2 spaces	52 spaces No details given regarding spectator numbers.

The officer raised concern regarding the provision for parking for participants and spectators. The submitted engineering assessment identifies 37 spaces for car/trailer combinations within a pit area and 15 spaces for spectators. The officer recommended the formal pit area be increased to 40, the 15 spectator spaces identified within the application be provided and an informal overflow parking area be provided for a minimum of 25 vehicles. The applicant has subsequently amended the car parking layout in accordance with Council's requirements. Should the application be approved a condition requiring bicycle parking to be provided.

The existing bitumen sealed access road services the site. The applicant proposes to upgrade this road to cater for the additional traffic generated by the proposed development. The engineer raised no objection to this in principle however, requested details of the existing and finished surface levels for all earthworks. It is noted such detail was not provided.

Section A4 – Advertising Signs

The applicant has not provided details of any signage. A 1.2m x 1.0m sign is proposed at the entry to the facility. The sign would identify the business, hours of operation and contact details. Further details would be required of the applicant should the application be approved.

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

There are no matters prescribed by the regulations, which are applicable.

(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

Noise

The development application was accompanied with a noise impact assessment, prepared by Craig Hill Acoustics. The assessment was evaluated by Vipac Acoustical Engineers on Council's behalf. The engineer made a number of recommendations, including additional noise logging be

undertaken. As a result of the evaluation, the applicant was requested to review the noise impact assessment.

The applicant submitted a revised noise impact assessment prepared by James Heddle Pty Ltd and a revised layout of the tracks.

According to this assessment, satisfactory noise levels are achievable at all receiver locations if motorcycle exhausts are not directly acoustically viewable from the receiver location. The receiver locations referred to in the assessment are nearby properties; R1 (Lot 3 DP 739325, Eviron Road), R2 (10 Donalyn Court), R3 (8 Donalyn Court), R4 (7 Donalyn Court), R5 (751 Eviron Road) and R6 (52 Reardons Road).

According to Heddle's assessment satisfactory noise levels are achievable if motorcycle exhausts are not directly acoustically viewable from the receiver location. To achieve this, a number of mitigation measures are required including barrier shielding.

The assessment states in order to comply with the maximum noise level requirement, barrier shielding to the most exposed residence, R2 will be required. A barrier of a height of 1.25m or greater in the zones of Track 2, test and track access routes acoustically viewable from R2 are proposed. The engineer recommends hay bales as a suitable noise barrier.

Heddle's assessment states noise levels would be satisfactory from the residences on the western side of the Pacific Highway (751 and 726 Eviron Road) provided the exhaust pipe outlets are shielded and a total of 36 trail bikes are used at once.

The assessment advises trail bikes were not audible from the noise monitoring locations within the cemetery grounds.

The recommendations of the noise impact assessment are:-

1. *'Adopt the revised track zones to maximise available acoustic shielding provided by the terrain.*
2. *Screen trail bikes at all locations on the site viewable from receivers. This means to residential locations to the northwest and west where they have direct line of sight to the facility.*
3. *Screening to consist of soft barriers on the residential receiver side of the track (northwest or west of the track) where the trail bike exhaust may otherwise be visible to the receiver. Barriers to consist of hay bales a minimum of 1.25m in height. The precise location details for these are dependent on the preferred track layout within the designated zones.*
4. *Trail bike numbers to be limited to 12 per track unless minimum noise levels are lowered to be below 130dBA at 500mm (trail bikes used in modelling).*
5. *Vehicle access to the site not to exceed 80 vehicle movements per hour.*

6. *Bikes to be tested in accordance with the procedure given in Section 5.7.2.1 of the Manual of Motorcycle Sport 2006, Motorcycling Australia' 'except that bikes to be throttled to maximum throttle position instantaneously at least three times. Bikes exceeding a maximum level of 130 dBA to be excluded'.*

Heddle's noise impact assessment was reviewed by an independent acoustic engineer, Heggies Pty Ltd on Council's behalf. The engineer advised:-

- *The use of natural topography as acoustic shielding appears to be most effective form of noise mitigation available to the proposal. This is effective in most instances, particularly at the adjacent cemetery.*
- *Based on a limit of 12 motorcycles per track and the source levels of each bike being limited 130dBA at 500mm (107dBA at 7.5m), a satisfactory noise level is likely to be achieved. Compulsory testing of each motorcycle on site prior to access approval is an appropriate method for policing this requirement.*
- *We would recommend that confirmation of 'barrier' locations and dimensions be confirmed during the detailed design of the project or as an addendum to the development application and post construction monitoring be undertaken to determine the effectiveness (or otherwise) of the hay bales as a noise mitigation measure or whether something more appropriate is required.*

The assessment's prepared by James Heddle Pty Ltd and Heggies Pty Ltd were reviewed by Council's Environmental Health officer. The officer advised the Heddle's assessment refers to a "Trail Bike Assessment Tool" undertaken by Local Government Authorities in Queensland which recommends a site is suitable for trail bikes if a minimum distance of 300m is maintained to noise sensitive receivers. The assessment states the proposal complies with this requirement. However, council's records indicate four (4) dwellings are located within 300m of proposed Track 1.

The officer advised Heddle's assessment is based on noise computer modelling and observations which are not considered sufficient to determine the potential noise impact upon nearby residences.

In response to the advice prepared by Heggies Pty Ltd the officer advised noise issues should be addressed prior to the determination of the development application and should not be reliant on conditions of consent. Post construction noise monitoring may demonstrate the desired noise goals have not been achieved. Council would then be in a situation where development approval has been granted to a facility that can not effectively achieve desired noise goals.

The officer concludes it is anticipated that the noise levels from the proposed Motorcycle Facility will have a significant impact upon Council's Tweed Valley Cemetery and surrounding residential dwellings.

Assessment:

The use of hale bales is not considered to be an appropriate noise mitigation measure. Hay bales are subject to decay and deteriorate when in contact with moisture. Hay bales would also be insufficient as a noise barrier if damaged by impact from motorcycles. The noise assessment submitted does not nominate the dimensions of the noise barriers required, nor does it specify where the hay bales should be situated to ensure compliance. Ongoing monitoring and review indicates the unsuitable nature of the site. Based on this conclusion the proposed development would have unacceptable amenity implications for the area and is therefore recommended for refusal.

Dust

To manage dust associated with the tracks, the applicant has proposed an underground sprinkler system. The system is proposed to be situated on the outer edge of each track and will cover the entire area of the riding tracks. The applicant states a two behind water tank will also be available used as an auxiliary unit in case of irrigation failure. The applicant proposes to water the tracks and facility as required suppressing dust.

It is not considered watering the tracks would be effective in controlling dust from the site. Recent site inspections to other similar facilities demonstrates that due to the constant movement of the soil by the bikes watering is only effective for a very short period of time. The applicant has not demonstrated that the site could accommodate the amount of water required to constantly water the site. Given the proximity of the site to dwelling houses the potential for dust nuisance is unacceptable.

Traffic

The noise assessment states vehicular access to the site will not exceed 80 vehicle movements per hour. Given the operation hours proposed within the noise impact assessment prepared by James Heddle Pty Ltd this equates to 2,800 trips (Friday to Monday inclusive). This is significantly greater than the trips outlined in the Statement of Environmental Effects (SEE) which states a total of 217 traffic movements per day may be expected. Council's Development Engineer has raised concern that should the tabled traffic movements of 80 vehicles per hour be accurate, the road network would not be able to accept the additional traffic nor would the facility be capable of complying with the requirement to limit each track to 12 motorcycles.

These concerns contribute to the reason for refusal.

Visual

Parts of the bike tracks and activities associated with the use of the tracks will be visible from the Pacific Highway, surrounding roads and residences. The landscaping proposed along the boundary adjacent to the highway will not adequately screen the tracks given the location of the tracks and the

topography of the site. The tracks will result in cut and fill which is not sympathetic to the surrounding visual character of the area.

These concerns contribute to the reason for refusal.

Safety

As discussed above parts of the tracks will be visible from the Highway. The activities associated with the operation of the tracks will adversely impact on Highway safety by causing unnecessary distraction to Highway motorists. As discussed previously in this report, this visual impact has also been raised as an issue by the NSW RTA.

According to Heddle's assessment the development would operate until 6.00pm Friday to Monday. Operating until such time, particularly in winter would result in the need for lighting such as that used in sporting fields. Lights would be visible from the Pacific Highway and would represent a further distraction to motorists. Such a distraction would compromise the safety of motorists. However, the application does not request development approval for any lighting.

Insufficient Information

Consideration must be had to the amount of earthworks necessary to facilitate the construction of the tracks and associated structures.

Additional information was requested from the applicant on 11 April 2006 and 15 March 2007 regarding design details of all earthworks to be undertaken on the site. On 30 April 2007 the applicant submitted information in response to Council's request. The information was incomplete as details regarding the existing and finished surface levels and plan, longitudinal and cross sectional detail of each motorcycle track, parking or picnic areas were not submitted. As such Council's Development Engineer was unable to determine the impacts associated with cut and fill.

(c) Suitability of the site for the development

The need for constant monitoring of the site to ensure acceptable noise levels indicates there will be impacts and these impacts are considered unacceptable.

The site is not considered to be suitable for the site.

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

The development application was originally advertised and placed on public exhibition for a period of 14 days. As a result of this exhibition, 230 submissions were received, 122 in support and 108 opposed to the proposal. The issues raised in the submissions and the assessment of these issues are as follows:



Issue	Comment	Assessment
Description	The 'facility' description of the development is misleading as it will be used for a competition track.	The proposal does not seek consent for events. Should approval be granted conditions would be imposed to restrict professional competitions.
Insufficient Information	The applicant has provided insufficient information regarding the operation of the facility including how they will monitor bike noise once bikes are on the track, and what sorts of numbers would be anticipated at events as opposed to normal days of operation.	The applicant has amended the proposal since exhibition. A number of noise mitigation strategies have been proposed. Noise impacts are discussed in the impacts section of this report. Due to the need for constant monitoring and the ambiguity concerning noise mitigation measures the proposal is recommended for refusal.
Notification	The notification of the proposal was not extensive enough. The period in which the proposal was available included numerous public holidays and was unfair.	The proposed development was notified for a period of fourteen (14) days exclusive of public holidays to landowners within a two (2) kilometre radius of the subject site. The proposal was also advertised in the Tweed Link. It is noted the Tweed Link is circulated throughout the Tweed Shire. This objection does not contribute to the reasons for refusal.
Site Suitability	A motorcycle riding facility is inappropriate in a rural-residential area within close proximity to residential development. It will jeopardise the peaceful and quiet lifestyle enjoyed by the residents of this area.	This matter has been addressed previously in this report. It is considered the subject site is not suitable for the proposed development. The development would have an unacceptable impact on the locality. This matter warrants refusal of the development application.

Permissibility	<p>It is inappropriate and inconsiderate to place a motorcycle riding facility near a cemetery. The noise from the facility will affect funeral services and those wishing to pay their respects to the deceased.</p>	<p>The noise impact assessment prepared by James Heddle Pty Ltd states trail bikes would not be audible from the cemetery grounds, however Council's Environmental Health Officer disagrees with this statement.</p>
	<p>Bike riders within the immediate vicinity of the subject site have been restricted by Council as to the hours in which they can ride bikes. By placing limits on the amount of time people can ride Council is accepting that the noise made by bikes is invasive and annoying.</p>	<p>It is acknowledged the operation of the proposed facility will result in noise impacts as detailed in the impacts section of this report.</p>
	<p>This type of development is not permitted on land zoned agricultural protection as per the Tweed Local Environmental Plan. The development should not be allowed within this area of the site.</p>	<p>The proposed use is defined as a recreational area as per the Tweed Local Environmental Plan 2000, and is a permissible land use within the 1(a) zone. The use requires additional consideration in the 1(b2) zone as detailed previously in this report.</p>
	<p>The development does not comply with the objectives of the applicable zones.</p>	<p>The assessment of the objectives of the zones as previously discussed within this report indicates the development is inconsistent with the objectives</p>
Noise Impacts	<p>This kind of sport creates extreme, aggravating and invasive noise pollution above other traffic in the area. Due to the local topography this noise carries in the valley for approximately five (5) to ten (10) kilometres. This is not suitable in a residential area.</p>	<p>These matters have been addressed in the impacts section of this report. The operation of the proposed facility will result in unacceptable noise impacts.</p> <p>These matters warrants refusal of the development application.</p>
	<p>The increasing noise from the use of the Highway and from the motorbike park will make it unbearable to live nearby.</p>	
	<p>Highway traffic is at its loudest at 6pm. If the development is approved, for four (4) days a week, there will be no reprieve from vehicular noise.</p>	



	<p>The noise generated by the proposal will have a negative affect the quality of life of affected residents.</p>	
	<p>The area acts as an amphitheatre, the sound from the highway goes up and over and carries through the area. The noise from the bike track will do the same.</p>	
Impacts	<p>The established businesses in the local area which rely on the current peaceful and quite environment will be affected as a result of the noise and increased road traffic associated with the motorbike track.</p>	
	<p>There is potential for excess vehicles spilling out onto Donalyn Court, which is not equipped to safely handle street parking and increased traffic.</p>	<p>The subject site could accommodate excess vehicles on-site. As discussed in the report, Council's Development Engineer has advised the capacity of the roads is such that they can cope with the additional traffic.</p>
	<p>Watering the tracks daily to controlling dust is a ridiculous solution. No amount of watering will be able to prevent dust. Dust will affect land owners and motorists on the Highway.</p>	<p>This matter has been previously addressed within the impacts section of the report. Watering the tracks is not considered to be an appropriate mitigation measure.</p>
	<p>The quality of life of residents will be jeopardised if the track becomes operational.</p>	<p>The impact on the residential amenity of the locality has been considered in the impacts section of this report.</p> <p>This matter warrants refusal of the development application.</p>
	<p>The bikes will scar the land and cause erosion.</p>	<p>This matter has been previously addressed in the impacts section of this report. The assessment concludes the impact on the landscape is undesirable.</p> <p>This matter warrants refusal of the development application.</p>

	<p>People will start arriving to the site before 8am to use the tracks, conduct noise testing and tuning up their motorbikes.</p>	<p>The development application is being recommended for refusal, however should the application be approved the use of the facility would be restricted to specific hours.</p>
	<p>The tracks will be in direct view from our home.</p>	<p>The development would be partially visible from one dwelling house located within a 500m radius to the subject site.</p>
	<p>The tracks and riders will be visible from the Highway and will cause a distraction to motorists on the Highway.</p>	<p>The tracks will be visible from the Pacific Highway and would represent a traffic hazard.</p>
	<p>The development application has not adequately addressed the social impact of the proposal on the local community and the shire. Visitors to the facility are likely to be from outside the shire, therefore there is likely to be little economical benefit for the shire.</p>	<p>The impacts of the proposed development on the locality have been considered previously in this report. The economic implications of the proposal have not been discussed.</p>
<p>Noise Assessment</p>	<p>The noise tests carried out by the applicant were very selective and not taken under competition conditions. They were not a true reflection of the noise likely to be generated.</p>	<p>The noise impact assessment prepared by Craig Hill Acoustics which was placed on public exhibition has been superseded by James Hedde Pty Ltd's assessment. This matter is discussed in the impacts section of the report</p>
	<p>The benchmark noise levels used are based on industrial noise policy. The benchmarks should relate to residential or rural noise policy.</p>	
	<p>The dBA levels as stated in the Noise Impact Study range from 75-110dBA. The same study states later bikes on the tracks will not exceed 100dBA. These figures are substantially greater than the figures quoted by the RTA to residents regarding highway noise levels, which was stated to be 60.5dBA with an expected rise to 62dBA by 2012. To therefore suggest that the noise generated by the bikes would not create any more disturbance that that already</p>	



	<p>created by the highway would appear grossly incorrect.</p>	
	<p>The noise testing done by the applicant was based on 10 bikes, the noise level from 10 bikes is no where near the noise expected from 80 bikes.</p>	
	<p>The noise assessment does not consider the use of a loud speaker system. This should be addressed.</p>	<p>The applicant does not propose to use a speaker system.</p>
Environmental Issues	<p>Environmental issues such as land degradation and pollution including dust should be a major consideration.</p>	<p>These matters have been previously considered in the impacts section of report. The assessment concludes the proposal would have an unacceptable impact on the locality.</p>
	<p>During a flood it will be impossible to contain all sediments and nutrients from the tracks within the subject site. They will eventually end up the Cudgen Lake and Creek systems.</p>	<p>Council's records do not indicate the subject site as being flood effected.</p>
	<p>The area has an abundant variety of wildlife and even the RTA had to make provision for fauna crossing close to the subject site.</p>	<p>This matter has been addressed previously in the environmental planning instruments section of this report. Council's Environmental Scientist reviewed the proposed proposed development and raised no concern regarding the impact on the identified fauna.</p>
Support for the proposal	<p>The motorbike park will be great place for those who ride bikes, as it will be within safe and controlled environment.</p>	<p>It is acknowledged a recreation area would provide riders with a safe and controlled environment.</p>
	<p>We need a track in this area. The closest tracks are situated at Reedy Creek, Casino or Gatton.</p>	<p>It is acknowledged there is no such recreational area within the shire.</p>
	<p>A facility in this area will stop people riding illegally especially in National Parks.</p>	<p>It is acknowledged such a reaction area would enable people to ride within an approved facility.</p>
	<p>The facility will help to get kids off the streets and perhaps encourage young drivers to release their need for speed in a safe environment rather than on the roads.</p>	<p>It is acknowledged a recreation area would provide an alternative venue to ride.</p>

	The tracks will limit the damage done to the environment as it would be confined to one site.	It is acknowledged environmental damage may be restricted to one area should such a development be approved.
Increased Traffic	The development will increase traffic levels on already dangerous and narrow winding roads. There is potential for an increase in road accidents.	The information provided by the applicant indicates the proposed development would increase vehicular movements to and from the site.
	The proposal will result in alcohol related events occurring at all hours resulting in loud partying. Policing issues will result regarding the development.	The SEE states alcohol will be prohibited on-site. Issues associated with alcohol consumption are the responsibility of the police.
	The roads may be categorised by Council as being able to hold the proposed increase in traffic volume, however the roads in the area struggle to hold the existing volume of traffic.	These matters are noted. Council's Development Engineer has reviewed the proposal and raised no concern regarding the roads capacity to cater for the traffic movements detailed in the SEE.
	Duranbah Road carries a high volume of traffic due to regular funeral service and traffic being redirected as a result of accidents or flooding along the Pacific Highway. The road cannot cope with an additional 850 vehicles.	
Impact on property value	The development will have a significant negative impact on property values.	Loss of property value cannot be considered in the assessment of a development application in accordance with the Environmental Planning and Assessment Act 1979.
Parking	The proposed car parking is inadequate for the number of riders permitted.	This matter has been addressed in the car parking assessment in the DCP section of this report. The plans have been amended since the original exhibition period.
	Car parking may spill out from the subject site into the cemetery.	The application does not propose the use of any other property for car parking purposes.



Access	How will people enter the subject site, will they use Lot 510 which is a right of carriage way? If this is the case will all those benefited by the carriage way be liable for inquired persons within the lot?	The applicant proposes to use the existing driveway entry point into the subject site which is accessed via Donalyn Court.
Operational Issues	If someone illegally enters my property and inquires themselves I am liable. Opening a motorcycle track will increase the likelihood of this occurring.	Should the development application be approved, consent would be granted to the use of the subject site only.
	The hours which the facility will be used by motorbike riders will be difficult to control.	Should the development application be approved, the conditions of the consent will be restricted to specific operating times.
	The potential for the growth of the facility must be considered. The applicant has advised the facility is likely to expand to include events and camping facilities.	The development application can only be assessed on the provided. The SEE does not seek consent for events and camping.
	The applicant has not addressed the how the consumption of alcohol will be managed.	The applicant advised the proposal would not involve alcohol consumption on the premises. Should consent be granted for the proposal, a prohibition on alcohol would be necessary. Any issues arising as a result of the consumption of alcohol are the responsibility of the NSW Police.
	Riders may leave the subject site and ride within the cemetery grounds on nearby private properties. A lot of properties within the area are not gated and there are already problems with unauthorised entry and joy riding.	Should the application be approved, consent would only be given to the use of part of the subject site for motorcycle riding.

The applicant provided the comments in response to the pertinent issues raised in the submissions:-

Noise Impact

The noise impact assessment prepared by Craig Hill Acoustics has modelled the proposed development, and based on forecasts, provides a noise management strategy for the development. The noise assessment is based on a worse case scenario. The proposed noise management strategy includes a commitment for ongoing monitoring and action to provide a reasonable level of certainty that acceptable impacts would be achieved.

Increased Traffic

The traffic assessment undertaken by Blueland Engineers Pty Ltd details the existing traffic volume along Eviron Road and demonstrates that the additional traffic generated by the proposal would be well below the design threshold and would consequently be acceptable.

Impact on Local Amenity

It has been alleged in many of the public submissions that the proposal would result in the desecration of graves by riders in the Tweed Valley Cemetery. This allegation is completely without foundation and is absurd.

Motorcycles would mostly be transported to the site by trailer, although a small number of bikes which are registered, and roadworthy may be ridden on public roads to the site. There is no foundation to the suggestion that this would result in 'joy riding' on public roads.

If anything it is probable that the provision of an off road riding facility, such as proposed, would indeed reduce the incidence of irresponsible road behaviour by bike riders.

Our assessment of the proposal and submissions indicates that local amenity issues are generally limited to traffic and noise considerations. Assessments have been undertaken in respect of those issues and reports accompanying the statement of environmental effects proposed viable management measures.

The Proposal

A general misunderstanding of the proposal is evident in many objections relating to social behaviours expected to be on the increase in the locality from visitors to the site. The proposal would not involve alcohol consumption on the premises, or consequent drunken hooligan type behaviours, fighting or violence. The facility would be a family based recreational activity, and would not include any form of on-site accommodation or club venue. Our client has previously clarified those matters and accordingly seeks that the proposal be determined on its merits.

As a result of the above submissions received and as a consequence of a review undertaken by Heggies Pty Ltd, the applicant was requested to review the noise impact assessment. A further noise impact assessment was undertaken by the applicant, which resulted in an amended design of the tracks.

Those who lodged submissions to the initial proposal were consulted and provided with the amended track layout and recommendations of the revised acoustic assessment. As a result of this correspondence, 173 submissions were received, 53 in support and 120 opposed to the proposal. The residents nominated as noise receivers within James Heddle Pty Ltd's assessment, objected to the proposed development (with the exception of one resident) as have other residents within close proximity to the site. Those advising of their

support for the proposal, with the exception of one resident, do not reside within close proximity to the site.

The issues raised in the submissions are as follows:

Issue	Comment	Assessment
The site is not suitable for the proposed bike track	Even with mitigation measures and a lower number of bikes, it will generate a lot of noise.	It is acknowledged the use of the bike tracks with limited bike numbers and mitigation measures will still result in noise being generated. The assessment indicates the effectiveness of these measures may not be satisfactory.
	The times in which the bike track will operate will be when families are visiting the nearby cemetery and park. The cemetery will no longer be within a peaceful environment.	The assessment undertaken within this report identifies the proposed mitigation measures may not be satisfactory. According to the assessment prepared by James Heddle Pty Ltd, noise associated with the facility would not be audible from the cemetery. Council's Environmental Health officer disagrees with Heddle's assessment.
	The extra 800 vehicles per week will be using the local roads which already have their fair share of traffic accidents.	This issue has been discussed within this report in the impacts section of this report. Council's Development Engineer has raised concern regarding the number of vehicular movements referred to in Heddle's assessment as they are significantly greater than those referred to in the Statement of Environmental Effects.
	The bike track would be better suited in the middle of nowhere where none would be affected.	As detailed in this report, the assessment of the development indicates it is not suitable for the proposed site.
	A dirt bike facility for Tweed's rural land is inconsistent with the vision of environmentally and socially sensitive sustainable agriculture.	
	The proposal is not consistent with the zone. It is incompatible with other rural pursuits.	

	<p>It is inappropriate to have motorcycle tracks so close to the botanical gardens and cemetery.</p>	<p>This matter has been previously addressed throughout this report. The assessment indicates the proposed development is not suitable for the subject site.</p> <p>This matter warrants refusal of the development application.</p>
Impacts	<p>The bike track will result in the devaluation of property values.</p>	<p>Loss of property value cannot be considered in the assessment of a development application in accordance with the Environmental Planning and Assessment Act 1979.</p>
	<p>The use of the tracks will result in residents' health being negatively affected as a result of dust and noise.</p>	<p>The impacts of the proposal are discussed in the impacts section of this report. The assessment indicates the development is not suitable on the subject site as the impacts generated are unacceptable.</p> <p>This matter warrants refusal of the development application.</p>
	<p>The intermittent noise of 80 plus motor bikes motors screaming at variable pitches will be very invasive and stressful not only to residents and wildlife.</p>	
	<p>This bike track will devastate the tranquillity of the area and impact lifestyle and quality of life.</p>	
	<p>Eviron Road cannot cope with additional traffic. Cane and gravel trucks already use the road.</p>	<p>This issue has been discussed within this report in the impacts section of this report. Council's Development Engineer has raised concern regarding the number of vehicular movements referred to in Heddle's assessment as they are significantly greater than those referred to in the Statement of Environmental Effects.</p>
	<p>The commercial facility will only benefit one family and the remaining residents must endure the negative impacts.</p>	<p>The likely impacts of the proposal are discussed in the impacts section of this report. The assessment indicates the</p>



	<p>This is unfair.</p>	<p>development is not suitable on the subject site due to the potential impacts.</p>
	<p>The Pacific Highway has already significantly reduced the quiet rural atmosphere. This proposal will further reduce the atmosphere.</p>	<p>The noise impacts associated with the proposal have been addressed in the impacts section of this report. It is considered the impact of noise on surrounding residences would be unacceptable.</p> <p>This matter warrants refusal of the development application.</p>
Management of the facility	<p>How will Council monitor or ensure that the maximum number of vehicles to the site to be no greater than 80, the tracks will be used by a maximum of 12 bikes per track or that bikes will not exceed 130 dBA?</p>	<p>It is not appropriate to condition the proposed development when the impacts of the proposal may be unsatisfactory.</p> <p>This matter warrants refusal of the development application</p>
	<p>No consideration has been given for people waiting to use the track, activity of people generally on the site, the use of a speaker system or people tuning or revving their bikes.</p>	<p>The applicant has not provided information regarding where persons would wait prior to the site opening. The applicant has advised persons wishing to use the tracks would be required to book in advance. According to the noise impacts assessment prepared by Heddle Pty Ltd, general use of the site was a consideration. The applicant does not proposed to use a speaker system.</p>
	<p>The revised information states vehicle access to this site should not exceed 80 vehicle movements per hour. This will mean an additional 640 vehicles using Environ Road. The increased traffic flow on Environ Road will be horrendous, this is a narrow rural road network. What speed limit is going to be tolerated in this area to prevent fatal accidents from occurring?</p>	<p>Council's Development Engineer has raised concern regarding the number of vehicular movements referred to in Heddle's assessment as they are significantly greater than those referred to in the Statement of Environmental Effects. Matters regarding the allowable speed limit on roads is the responsibility of the NSW Roads and Traffic Authority.</p>

	<p>There does not appear to be sufficient on-site car parking for the number of people anticipated to visit the site. How will Council ensure that people do not park within the cemetery grounds or private property?</p>	<p>This matter has been discussed previously in the impacts section of this report. Council's Development Engineer has raised concern regarding the accuracy of the traffic movements referred to in Heddle's assessment. The proposed development does not incorporate the use of surrounding land for the purposes of car parking.</p>
	<p>What would stop alcohol being consumed on the property? How would Council monitor this?</p>	<p>The applicant has advised in response to the submissions detailed previously, the proposal would not involve alcohol consumption on the premises. Should consent be granted for the proposal, a prohibition on alcohol would be necessary. Any issues arising as a result of the consumption of alcohol are the responsibility of the NSW Police.</p>
	<p>Evidence from the Reedy Creek facility (southern Gold Coast) suggests noise associated with the use of motorbikes can be heard up to 6km from the site. Therefore given we are situated 100m from the proposed development site, it is likely we will be affected by noise associated with the operation of the facility.</p>	<p>Noise impacts have been discussed in the impacts section of this report. Council's Environmental Health Officer anticipated the noise levels from the proposed Motorcycle Facility will have a significant impact upon Council's Tweed Valley Cemetery and surrounding residential dwellings.</p>
	<p>It will be impossible to contain the sediments and nutrients washed off the bike tracks within the property boundaries. These will find their way into the Cudgen Lake and creek systems.</p>	<p>Council's Development Engineer was unable to determine the extent of sediment and erosion control necessary for the site as details regarding the extent of cut and fill were not provided.</p>
	<p>If the development is approved, they should only be able to operate for one weekend a month and entry to the site must be booked in advance.</p>	<p>The development application is recommended for refusal. Should the application be approved reduced hours than those proposed by the applicant should be considered.</p>
Noise Assessment	<p>Noise impacts cannot be suitably assessed by computer modelling.</p>	<p>This matter has been addressed previously within the impacts section of this report. Council's</p>

		Environmental Health Officer advised computer modelling and observations are not considered sufficient to determine the potential noise impact.
Support for the facility	There is no such facility within the Shire. It is a great family sport	It is acknowledged there are no Council approved motorcycle riding facilities within the Tweed Shire.
	The facility will keep riders from riding on the streets and out of the National Parks	It is acknowledged such a facility would provide an approved place in which to ride.
	The facility will have a positive impact on the local economy.	It is acknowledged such a facility may be beneficial to the local economy.
	The facility will provide a safe place for people to ride as they will be supervised.	It is acknowledged such a facility would result in the supervision of riders.

The applicant did not provide comments in relation to the matters raised in the above submissions.

(e) Public interest

The need for constant monitoring of the site to ensure acceptable noise levels means that there will be impacts which have the potential to be unacceptable.

The proposed recreation area is not considered to be in the public's interest.

OPTIONS:

1. Refuse the development application with reasons as recommended.
2. Approve the development application with conditions.

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:

There will be no policy implications arising from the application.

CONCLUSION:

Recreation facilities such as that proposed are needed within the Tweed Shire. It is imperative that these facilities are situated within proximity to compatible land uses. Having regard to the applicable environmental planning instruments, the Tweed

Development Control Plan and the matters raised in the submissions, it is considered that the subject site is not suitable for the proposed development. The proposed development would have unacceptable amenity implications for the area and is therefore recommended for refusal.

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. James Heddle Pty Ltd – Noise Impact Assessment and Design Review (DW 1521277).
 2. Heggies Pty Ltd – Review – Acoustics Motorcycle Riding Facility (DW No. 1610857).
 3. Applicant's submission which includes a review of the Acoustic Impact Assessment undertaken by CRG Traffic and Acoustical Consultants (DW No. 1596081).
 4. The Environmental Health Officer's comments dated 6 June 2007 (DW 1616036).
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P3 [PR-PC] Development Application DA06/1315 for the Erection of a Golf Pro-Shop Buggy Storage Shed and Pedestrian Bridge at Lot 2 DP 1040576, Leisure Drive Banora Point

ORIGIN:

Development Assessment

FILE NO: DA06/1315 Pt2

SUMMARY OF REPORT:

Council has received a development application for 24 golf buggy storage sheds, a golf pro shop including buggy storage and a pedestrian bridge at the existing Banora Point golf course.

The main issues associated with the proposal are the potential for loss of neighbouring residential amenity and visual impacts from the storage sheds proposed adjacent to the western boundary. It is considered that these impacts can be satisfactorily mitigated through conditions requiring setbacks of the golf buggy storage sheds, landscaping and re-orientation of the storage sheds so roller doors are facing away from adjoining residents.

Council received a total of 25 objections to the proposal (5 of which were received outside the public notification period). The main issues raised by submitters were concerns in relation to visual impacts, loss of views (across the golf course), increased noise and flooding impacts. It is considered that the recommended conditions can adequately address these concerns.

Council also received 108 letters of support for the proposal, mostly from golf club members seeking to utilise the proposed facilities.

On balance, it is considered that the proposed development is appropriate for the site and compatible with the objectives of LEP, provided conditions are imposed as recommended.

RECOMMENDATION:

That Development Application DA06/1315 for the erection of a golf pro-shop, 24 buggy storage sheds and pedestrian bridge at Lot 2 DP 1040576, Leisure Drive Banora Point be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and plans listed in the table below, except as varied by the conditions of this consent and amendments in red.**



Title	Plan No.	Sheet	Author	Date
Site Plan	G2458	1 of 2	Gavin Duffie	4/8/06
Floor Plan, Elevation and Section (Buggy Sheds)	G2458	2 of 2	Gavin Duffie	4/8/06
Site Plan (existing lake)	G2455	1 of 8	Gavin Duffie	4/8/06
Floor Plan (Pro-Shop)	G2455	2 of 8	Gavin Duffie	
Foundation Plan	G2455	3 of 8	Gavin Duffie	4/8/06
Northern and Eastern Elevation	G2455	4 of 8	Gavin Duffie	4/8/06
Southern and Western Elevation	G2455	5 of 8	Gavin Duffie	4/8/06
Section A-A	G2455	6 of 8	Gavin Duffie	4/8/06

[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. Colours and materials of the golf pro-shop shall be consistent with and complementary to the adjacent, existing club. The golf buggy storage sheds shall be earthy in colour and comprised of unobtrusive tones. Wall and roof cladding shall be non-reflective to limit nuisance caused to the occupants of buildings with direct line of sight to the proposed buildings.

[GENNS03]

5. The developer shall ensure that only electrically powered golf buggies are stored and operated within and from buggy storage sheds labelled 1 to 16 on the Site Plan (prepared by Gavin Duffie, plan number G2458, sheet 1 of 2, dated 4/8/06).

[GENNS01]

6. The developer shall install a boom gate across the existing bitumen maintenance track off Leisure Drive, located in the north-western corner of the property. The gate shall be provided within the subject property and shall restrict the use of the maintenance track to maintenance vehicles only.

The maintenance track may not be used as vehicular access by the patrons of the golf buggy sheds.

[GENNS02]

7. The golf buggy storage sheds numbered 1 to 24 on the Site Plan (prepared by Gavin Duffie, plan number G2458, sheet 1 of 2, dated 4/8/06) shall be re-orientated so that their roller doors generally face east, away from the adjoining residents.

[GENNS04]

8. The golf buggy sheds numbered 1 to 24 on the Site Plan (prepared by Gavin Duffie, plan number G2458, Sheet 1 of 2, dated 4/8/06) shall be setback a minimum of 2 metres from the maintenance track (labelled 'bitumen track' on the said plan) allowing for increased distance between the adjoining residential development and the sheds and to also allow for landscaping between the maintenance track and the sheds.

[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

9. 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]

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) Extensions to Council Administration Offices
& Technical Support Facilities | \$399.36 |
|--|----------|

S94 Plan No. 18

[PCC0215]

11. 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:	1.8 ET @ \$4598	\$8276.40
Sewer:	0.3 ET @ \$2863	\$858.90

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

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.

[PCC0265]

12. Any imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.

[PCC0465]

13. Permanent stormwater quality treatment shall be provided by incorporating water sensitive design principles in accordance with Council's Development Design Specification D7 - Stormwater Quality. A stormwater management plan (SWMP) shall be submitted with the Construction Certificate Application. The SWMP shall be prepared in accordance with Section D7.07 of Councils Development Design Specification D7 - Stormwater Quality

[PCC1105]

14. 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]

15. 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 (including the connection of a private stormwater drain to a public stormwater drain, the installation of stormwater quality

- control devices and erosion and sediment control works) prior to the issue of a construction certificate.
- [PCC1195]
16. The development is to comply with the provisions of Section A3 of Council's consolidated Tweed Development Control Plan. The buggy sheds labelled 1-24 on the Site Plan (prepared by Gavin Duffie on plan number G2458, Sheet 1 of 2, dated 4/8/06) shall be constructed with a finished floor level not less than Council's Adopted Design Flood Level (being 2.6m AHD). The pro-shop and adjacent buggy storage area shall be constructed with a finished floor level of RL3.3m and 3.2m AHD respectively, as indicated on the Floor Plan (prepared by Gavin Duffie, on plan number G2455 - Sheet 2 of 8, dated 4/8/06).
- [PCCNS02]
17. The developer shall lodge a landscaping plan which provides for screen planting between the maintenance track and golf buggy sheds no.1 to 24. Landscaping should include proposed fencing details and a range of appropriate species at varying heights, providing for:
- visual softening, as viewed from the west; and
 - variation to the horizontal roof line of the sheds.
- The landscape plan shall be prepared by a suitably qualified landscape architect and approved by the Director of Planning and Regulation prior to issue of the Construction Certificate.
- [PCCNS03]
18. A construction certificate shall not be issued for golf buggy sheds labelled 1 to 16 on the Site Plan (prepared by Gavin Duffie, plan number G2458, sheet 1 of 2, dated 4/8/06) until the applicant has submitted documentary evidence to the satisfaction of the Director of Planning and Regulation, which indicates that easement for water supply (created under DP731994) has been effectively released by way of abandonment.
- [PCCNS01]
19. 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. Applications for consent under Section 138 must be submitted on Council's standard application form, be accompanied by the required attachments and prescribed fee. Receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.

[PCC0075]

PRIOR TO COMMENCEMENT OF WORK

20. 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
 - (a) 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]
21. 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]
22. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational to the satisfaction of the Principal Certifying Authority. In addition to these measures 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.
- This sign is to remain in position for the duration of the project.
- [PCW0985]
23. 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]

DURING CONSTRUCTION

24. 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]

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

[DUR0375]

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

[DUR0815]

27. 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 Design and Construction Specifications prior to any use of the structures.

[DUR1875]

28. The works are to be completed in accordance with Tweed Shire Councils Development Control Plan, Part A5 - Subdivision Manual 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]

29. 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]

30. 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]

31. All work and operations of the use associated with this approval, shall be carried out so as not to impact on neighbourhood amenity, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- dust during filling operations and also from construction vehicles

No material shall be removed from the site by wind

[DUR1005]

32. 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]



33. The additional rainwater drains must be connected to the existing rainwater disposal system; to provide satisfactory stormwater disposal in accordance with Australian Standard AS/NZS3500.3.2.

[DUR2255]

34. The external wall and openings of the existing club house, where adjacent to the proposed Pro Shop & Buggy Storage building, shall be upgraded where necessary to comply with the provisions of part C3.4 of the Building Code of Australia.

[DURNS01]

35. 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]

36. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.

[DUR0415]

37. 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]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

38. 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]

REPORT:

Applicant: Twin Towns Services Club Ltd
Owner: Twin Towns Service Club Ltd
Location: Lot 2 DP 1040576, Leisure Drive Banora Point
Zoning: 6(b) Recreation
Cost: \$646,000.00

BACKGROUND:

The site is currently used as a golf course and has operated as such for over 20 years.

The 24 golf buggy storage sheds are proposed adjacent to an area currently used as a practice driving range.

The site has a significant history in terms of development, allowing for the establishment of the golf course and associated recreational facilities including: tennis courts, swimming pools, club house, pedestrian bridge, constructed lake, gazebo and existing pro-shop.

The Proposal

Each component of the proposal is described below.

A pedestrian foot bridge is proposed across the existing lake from the gazebo to the southern bank. It has a length of approximately 30 metres. The existing foot-bridge is not proposed to be removed.

The new pro-shop is proposed 4 metres to the south of the existing clubhouse. It includes a shop (associated with the golf club), display area, teaching area and golf buggy storage area for 10 buggies and golf buggy parking area for 7 buggies. The new pro-shop has an area of approximately 112.4m², the associated golf buggy storage has an area of approximately 170m².

The existing pro-shop located on the island in the constructed lake, is likely to be removed and replaced in the future, however at this stage that part of the premises vacated by the pro-shop is to remain vacant until such time as the island complex is re-developed. A development application will be submitted to Council for any future use.

A total of 24 golf buggy storage sheds are proposed along the western boundary, adjacent to adjoining residential development.


The golf buggy storage sheds each have an area of 25m² and can hold up to 5 buggies each. The sheds are proposed to be constructed of colourbond sheet cladding. Roller doors are located on the western side of the sheds, facing the on-site maintenance track located adjacent to residential development. The sheds have a minimum roof pitch (6.5 degrees) and a height of approximately 2.5 metres. Each shed is approximately 2.6m wide and 9.45m in length.



The golf buggy storage sheds are proposed on the outside of the existing chainwire fence.

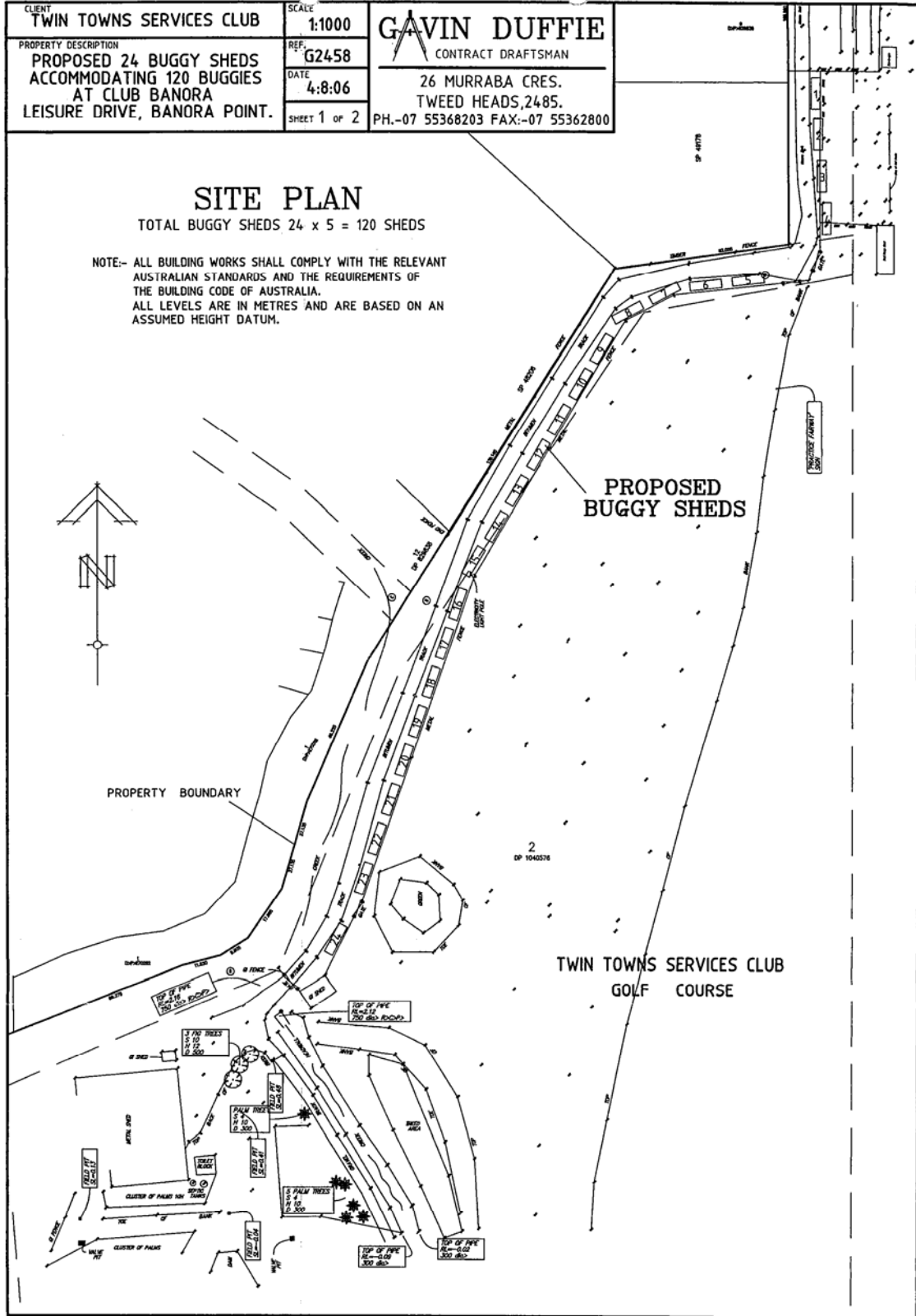
SITE DIAGRAM:



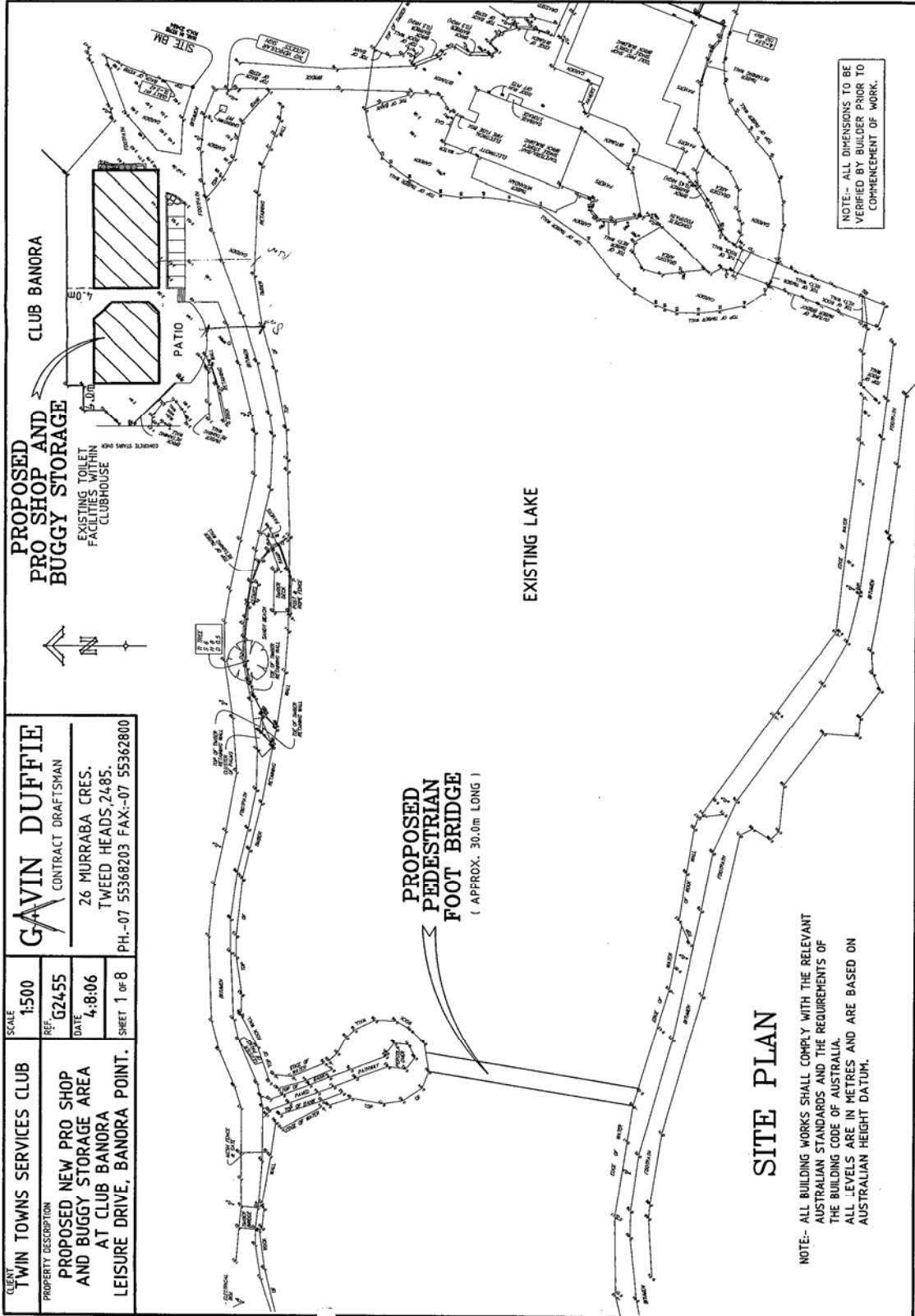
<p><small>© TWEED SHIRE COUNCIL 2007</small> <small>Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be responsible for any errors, omissions or inaccuracies in respect to the information supplied in this map.</small> DO NOT SCALE <small>COPY ONLY - NOT CERTIFIED</small> <small>P.O. Box 016 Tweed Heads NSW 2484 Tel: (02) 8633 2497 Fax: (02) 8670 2499</small></p>	<p><i>Tweed Shire Council</i> Lot 2 DP 1040576 Leisure Drive, Banora Point</p>		<p>PLANNING REFORMS UNIT Site Plan</p>		
<p>File: N:\Munsys\A4P - SITE PLAN\Wor</p>		<p>Author: J.Batchelor</p>	<p>Date: 8/June/2007</p>	<p>Scale: 1:10,000</p>	<p>Sheet: 1 of 1</p>



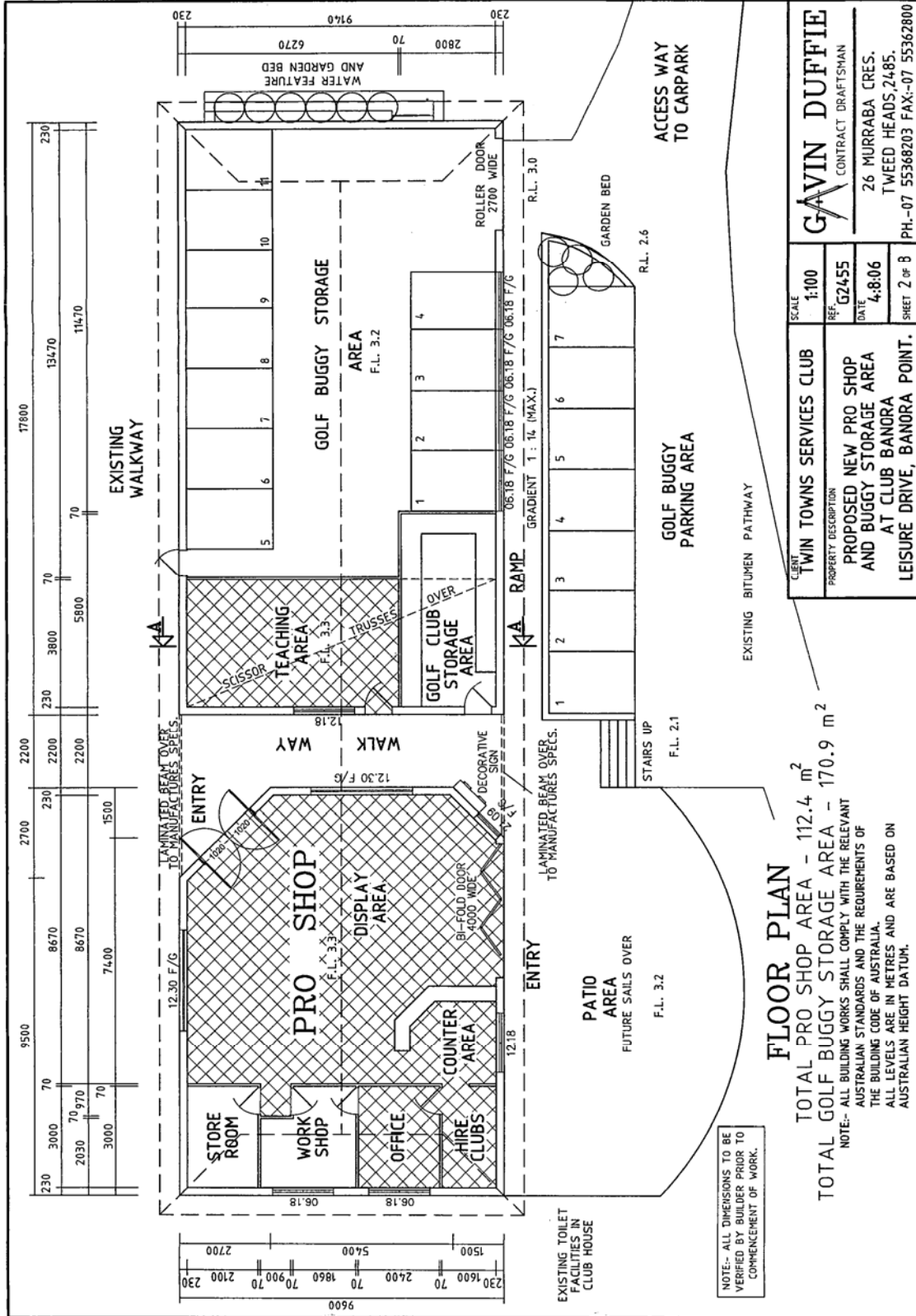
SITE PLAN - 24 BUGGY STORAGE SHEDS



SITE PLAN - LAKE & PRO-SHOP



FLOOR PLAN - PRO-SHOP





ELEVATIONS

NORTHERN ELEVATION

EASTERN ELEVATION

<p>CLIENT TWIN TOWNS SERVICES CLUB</p> <p>PROPERTY DESCRIPTION PROPOSED NEW PRO SHOP AND BUGGY STORAGE AREA AT CLUB BANORA LEISURE DRIVE, BANORA POINT.</p>	<p>SCALE 1:100</p> <p>REF. G2455</p> <p>DATE 4-8-06</p> <p>SHEET 4 OF 8</p>
<p>GAVIN DUFFIE CONTRACT DRAFTSMAN</p> <p>26 MURRABA CRES. TWEED HEADS, 2485. PH. -07 55368203 FAX. -07 55362800</p>	

	<p>SOUTHERN ELEVATION</p>		<p>WESTERN ELEVATION</p>
<p>CLIENT: TWIN TOWNS SERVICES CLUB</p>		<p>SCALE: 1:100</p>	<p>GAVIN DUFFIE CONTRACT DRAFTSMAN</p>
<p>PROPERTY DESCRIPTION: PROPOSED NEW PRO SHOP AND BUGGY STORAGE AREA AT CLUB BANORA LEISURE DRIVE, BANORA POINT.</p>		<p>REF: G2455</p>	<p>26 MURRABA CRES. TWEED HEADS 2485. PH.-07 55368203 FAX.-07 55362800</p>
		<p>DATE: 4-8-06</p>	
		<p>SHEET 5 OF 8</p>	



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

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

Tweed Local Environmental Plan 2000

The subject land is zoned 6(b) – Recreation. The proposed golf buggy storage sheds, pedestrian bridge and golf pro shop are considered ancillary to the existing club and recreation areas, which are allowed only with Consent (Item 2).

The objectives of the 6(b) zone are as follows:

Primary Objective

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

Secondary Objective

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

The proposed golf buggy storage sheds, pedestrian bridge and pro-shop are complementary to the primary recreational purpose of the zone and consistent with the zone objectives.

Clause 15 Availability of Essential Services

All essential services are currently available to the site.

Clause 16 Height of Buildings

In accordance with the Tweed LEP, the maximum building height permissible at the site is 3 storeys.

The proposed golf buggy storage sheds do not exceed 1 storey in height.

The proposed golf pro-shop contains only 1 level but is calculated as 2 storeys (given the space between the floor and the ceiling exceeds 5 metres).

The proposed buildings and structures do not exceed the maximum height limit.

Clause 17 Social Impact Assessment

Clause 17 requires consideration of a socio-economic impact statement where the consent authority considers that a proposal will have a significant social or economic impact in the locality or local government area.

In this instance, the buggy storage sheds, pro-shop and pedestrian bridge are proposed on private land in association with the existing on-site golf course and club. The development will not result in increased demand on communal or recreational facilities and a socio-economic impact study is not considered necessary.

The applicant has submitted a socio-economic checklist which indicates impacts will be positive or neutral.

Clause 31 Development Adjoining Waterbodies

Clause 31 applies to land that adjoins the mean high-water mark of a waterbody.

The pedestrian bridge is proposed over an existing lake on the southern side of the club.

The intent of Clause 31 is to ensure that the scenic quality, water quality and associated wildlife habitat is protected and enhanced. It is also intended to provide public access to waterways (where appropriate) and minimise impact from biting midges and mosquito breeding areas.

The existing habitat quality of the lake is limited given it has been constructed and is highly disturbed (through the existing pedestrian bridge and adjoining golfing activities).

Access to the lake by people other than those using the golf course or club, is not considered appropriate given it is within private land has not been designed for alternative uses. The proposal does not result in any new waterbodies or breeding areas for midge and mosquitoes.

It is considered that the proposed development is consistent with the objectives of Clause 31 in this regard.

Clause 32 Aircraft Noise

The subject site is located within the 20 – 25 ANEF contours.

Council's Environmental Health Officer has indicated that reference to AS 2021-2000 Table 2.1, commercial type buildings (including the pro-shop) are acceptable within this zone.

Clause 34 Flooding



The site is flood prone, however the Statement of Environmental Effect notes that the site has been filled.

It is proposed to impose conditions that require floor levels of the golf buggy storage sheds and the pro-shop to be constructed at or above Council's Adopted Design Flood Level (being 2.6m AHD).

The proposal will be conditioned to comply with Clause 34 in this regard.

Clause 35 Acid Sulfate Soils

The subject site is categorised as Class 2 acid sulfate soils.

Works below the ground surface and works by which the watertable is likely to be lowered requires soil assessment and management (unless the land has been lawfully filled and proposed works do not extend beneath the depth of the fill.)

In terms of the pedestrian bridge, construction involves concrete pylons and concrete slab at either end of the bridge. The concrete slab would be constructed on land that had previously been filled. The pylons would be pile driven into position. It is considered that potential acid sulphate soils would not be exposed to the air and an acid sulphate soils management plan is therefore not required.

Council's Environmental Health Officer is satisfied that Clause 35 is satisfied.

Clause 39 Remediation of Contaminated Land

Council's Environmental Health Officer has indicated that the site was previously forested and used as grazing land (prior to 1979).

It is considered that prior uses would not give rise to issues under the provisions of Clause 7 SEPP 55 and the development activities do not increase sensitivity.

North Coast Regional Environmental Plan

Clause 32B applies to land within the region to which the *NSW Coastal Policy 1997* applies. Council must take into account: the *NSW Coastal Policy 1997*; the *Coastline Management Manual*; the *North Coast: Design Guidelines*; impacts on public access to the foreshore and overshadowing of beaches or adjacent open space.

Subject to conditions (particularly in relation to erosion and sediment control and treatment of stormwater and runoff), it is considered that proposed development is unlikely to have any significant impact on water quality and will comply with the *NSW Coastal Policy 1997*.

The subject site is not adjacent to a beach, headland or waterfront open space and does not impede access to the foreshore. Overshadowing of the beach or foreshore will not be an issue given the site is a sufficient distance from the foreshore and does not include any additional height.

The proposal is consistent with the intent of Clause 32B of the North Coast Regional Environmental Plan.

State Environmental Planning Policies

SEPP 55 – Remediation of Land

As identified above, previous uses of the land are not likely to result in contaminated lands and remediation is not required.

SEPP 71 – Coastal Protection

The subject site is located within the Coastal Zone and matters under Clause 8 require consideration. These matters include provision of access to coastal foreshores, suitability of the development, overshadowing of the coastal foreshore, loss of views from a public place to the coastal foreshore, scenic qualities, impact on wildlife and habitats, heritage, coastal processes / hazards and water quality.

The proposed development is consistent with the aims of SEPP 71 and clause 8 given:

- It is not located adjacent to any coastal foreshores and will not result in any overshadowing, loss of views from public places to the coastal foreshore or prevent access to coastal foreshores;
- Conditions are proposed in relation to sediment and erosion to limit impacts on water quality; and
- The site is highly disturbed and unlikely to result in loss of habitat.

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

There are no Draft Environmental Planning provisions that relate to this application.

(a) (iii) Consolidated Development Control Plan (DCP)

Section A2 – Site Access and Parking Code

The proposed golf pro-shop (which is ancillary to the on-site golf course and club) will result in increased gross floor area of approximately 112.4m².

It is considered that additional car parking is not required for the golf pro-shop for the following reasons:

- The pro-shop is ancillary to the 'club' and 'golf course' and rates for these uses are calculated on the basis of lounge / dining area, staff and increased golfing areas. The proposal does not include these elements.
- The proposed pro-shop is relocating from another locality on-site and is unlikely to attract visitors to the site in isolation.

Similarly, additional car parking spaces are not required for the golf buggy storage sheds as they are ancillary and are intended for existing golf club members.

Notwithstanding, it is noted that the applicant had originally proposed a new car park area (for 20 spaces), however the proposal was amended to remove the car park (via applicant's correspondence dated 2 May 2007).

The proposed car parking area was removed due to concerns it would result in increased use of the maintenance track and secondary access from Leisure Drive. This matter is discussed in further detail below.

Section A3 – Development of Flood Liable Land

As identified above, the site is flood prone. The Statement of Environmental Effects notes that the site has been filled.

Conditions are imposed to ensure that the flood level of the storage sheds and the pro-shop are constructed at an RL above Council's Adopted Design Flood Level (being 2.6m AHD).

Subject to conditions, the proposal is consistent with Section A3.

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

NSW Coastal Policy 1997

The proposal is not contrary to the Coastal Policy.

Demolition

The proposal does not include any demolition.

Fire Safety and Alteration to Existing Buildings

The proposal does not include a change of use of an existing building or any alterations to existing buildings.

(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

Access, Transport and Traffic

The applicant originally proposed for access to the golf buggy sheds (and proposed car park) via the adjoining maintenance track, which has direct access from Leisure Drive (separate to the main access to Club Banora).

As identified above, the proposed car park was removed. It is proposed to limit access to the storage sheds via the main driveway and existing car park.

Conditions are imposed to ensure a boom gate is located at the access to the maintenance track, to limit access to service vehicles as originally intended.

The proposed works may result in a minor increase in traffic, however Leisure Drive is capable of accepting this additional loading. Council's Engineer is satisfied with the proposal adequately addresses car parking, traffic and transport, subject to recommended conditions.

Visual Amenity

The buggy sheds proposed near the western boundary are approximately 7 to 20 metres from the adjacent residential property boundaries. Courtyards and balconies of adjoining residences currently enjoy an outlook across the golf course.

There is concern that the proposed golf buggy sheds may have visual impact as follows:

- Impact upon views across the golf course, from adjoining residences;
- Visual impacts from the design of the sheds themselves given they are basic colourbond sheds with limited articulation and variation.

With regard to these concerns, an Information Request (dated 20 December 2007) was forwarded to the applicant, requesting:

- a visual analysis that identifies most affected views;
- identification of opportunities to reduce the impact on views through re-orientation of the sheds and amendments to the plan; and
- details on proposed landscaping, colours and materials designed to soften the visual impact of the sheds.

Views / Outlook

In response to the issue of views, the applicant provided a visual analysis.

The visual analysis identifies that residential properties at most risk of impacts on views are those within SP49178 and SP48206 (adjoining sheds 1 – 14). It is also noted that a timber paling fence of varying height has been constructed on the boundary of SP49178. The visual analysis includes a photomontage, depicting the approximate size, location and character of the sheds.

The applicant has made reference to the Land and Environment Court case of *Tenacity Consulting v Waringah* (2004) NSWLEC 140, which establishes Principles of View Sharing – Impact on Neighbours.

The principles have been considered and the applicant concludes that:

1. the views are not of a high quality (not of water or icons);
2. the views are from the rear or side boundary of adjoining residents and will be affected from courtyard and living areas;
3. the impact is considered minor given the views are not high quality and partial views will be retained; and
4. The proposal is consistent with the planning controls and the nature of development and re-orientation or re-design is not possible given the existing road and chainwire fence.

Design amendments were not proposed, however the applicant suggested that a timber paling boundary fence could be erected to screen the sheds from view.

In assessment of the above, particularly in relation to point 4, it is considered that an increased setback (to allow for landscaping) between the sheds and the adjoining residents (particularly those adjacent to sheds 1 to 14) should be provided. This will assist in reducing the impact on the views of neighbours.

Design of Sheds

With regard to limiting the visual impacts of the sheds themselves, it is considered that landscaping should be provided to soften the edge of the sheds and to break-up the horizontal roof line. Landscaping should consist of a variety of species and be located between the maintenance track and the sheds. An area of 2 metres would be required to establish such landscaping.

Conditions are proposed in this regard and will require re-location of the existing chainwire fence.

Noise

In considering noise, Council's Health and Environmental Officer has recommended a condition ensuring golf buggies utilising sheds 1 – 16 are electrically operated.

The proposed golf buggy sheds are designed so that their roller doors face the adjoining residents. To further limit potential impacts on adjoining residential amenity, a condition is recommended to ensure that the buggy shed roller doors are located away from residents.

Easement for Watersupply

Sheds 1 – 16 are proposed over an existing easement for water supply, which the applicant claims is no longer used. The applicant intends releasing the

easement by way of 'abandonment', pursuant to s49 of the Real Properties Act 1900. This matter is yet to be finalised.

A condition is therefore recommended which ensures that a construction certificate for sheds 1 – 16 is not issued until the applicant has submitted evidence demonstrating the subject easement is released.

(c) Suitability of the site for the development

Surrounding Land Uses

It is considered that the proposed land use is appropriate for the site given it is ancillary to the existing golf course.

Notwithstanding, given the land is adjoined by residential dwellings, conditions are recommended to ensure that impacts on adjoining residential amenity and views are limited (refer discussion above).

Natural Hazards

Whilst the site is flood prone, it is not constrained given it has previously been filled. Conditions are imposed to ensure compliance with Section A3 – Flood Liable Land.

The proposed development does not require the removal of any significant flora or fauna. The site is currently highly disturbed and has limited habitat value.

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

Public Submissions

Council received a total of 20 objections during the public advertising period. An additional 5 letters were received outside this period, along with 110 letters of support (also received outside the public advertising period).

The main points raised in the objections are summarised below, followed by Officer's comments in italics.

Impact on Views and Breeze

Objection is raised in relation to the proposed buggy storage sheds as they will impact upon views of adjoining residents.

This issue has been addressed above and conditions are imposed to reduce the impacts on views and improve the visual quality of the sheds through incorporation of setbacks and landscaping.

Vandals

There is concern that the sheds will be subject to vandalism and graffiti.

The proposed landscaping will limit the risk of vandalism and graffiti, however it is considered that existing casual surveillance from adjoining residential courtyards and balconies will significantly reduce the potential for vandalism and graffiti.

Noise and Residential Amenity

There is concern that the noise generated from use of the buggy sheds (particularly the roller doors) will impact upon existing residential amenity.

Council's Environmental Health Officer does not consider noise to be a significant concern (subject to a condition ensuring golf buggies utilising sheds 1 to 16 are electrically operated).

Notwithstanding, to address concerns in relation to impacts on residential amenity, a condition is imposed requiring re-orientation of the sheds so that the doors are facing away from residents.

Traffic / Access Road

Submitters note that the maintenance track is commonly used by walkers and there is concern that it will become congested through the use of golfers accessing their buggies and buggies themselves.

Conditions are imposed to reduce the use of the maintenance track by requiring that golfers park in the main car park. Re-orientation of the sheds will also discourage use of the maintenance track.

Flooding

There is concern that the area floods and the buggy sheds will increase runoff and result in loss of flood storage.

Conditions are imposed to ensure that the proposal is built above Council's Adopted Design Flood Level.

Whilst it is noted that localised pooling of water may occur on site during extreme storm events, it is considered that there is sufficient flood storage in the locality. The majority of the surrounding area has already been filled to design flood levels.

Car Parking

There is concern that the proposed car parking is insufficient (this comment relates to 20 car parking spaces originally proposed).

As identified above, the proposed car parking spaces were removed from the application. Notwithstanding, it is considered that the proposal does not generate any new car parking requirements as it is ancillary to the golf course and club. Further, the proposal is unlikely to attract visitors to the site in their own right. The removal of the proposed car parking area will alleviate residents concerns with regard to increased traffic on the maintenance track.

Advertising / Notification

Objectors raised concern that notification and advertising was not undertaken in accordance with clause 65 of the EP&A Act as it did not specifically identify the number of sheds proposed.

In response to this concern, Council Officers provided written correspondence to adjoining and affected landholders (dated 8 January 2007) clarifying the components of the application. Further, the advertising period was increased by an additional 14 days.

Insufficient information

It is considered that the application did not include sufficient information, namely: an acoustic report, adequate view impact analysis, a landscape plan, management plan (outlining operating hours and maintenance requirements etc) and a safety and security plan.

Council's information request letter dated 20 December 2006, requested a view impact analysis and details on landscaping. It is not considered that a noise report was required for the proposal, given that roller doors proposed are not dissimilar to garage doors used in residential development. It is not considered that a safety and security plan is required given adjoining residential balconies and courtyards provide for appropriate casual surveillance.

Operating Hours

There is concern that the hours of operation (including activities occurring outside standard business hours) will be excessive and impact on adjoining residential amenity.

Operation of the proposed facilities would be consistent with the golf course / club, although golfers would most likely access the golf buggy sheds 15 mins prior to the earliest tee off-time (7.00am Mon-Friday and 6.30am Saturday and Sunday). As identified above, it is not considered that the noise impacts would be any greater than adjoining residential development within an existing residential area, however conditions are proposed to ensure roller doors are located away from residents to reduce the impacts of activity on amenity.



Stormwater Management / Contaminates

There is concern that stormwater has not been sufficiently addressed in the application, with regard to the tap proposed at each shed for wash-down. There is also concern that potential pollutants are not sufficiently treated.

It is proposed that run-off from washdown will discharge to grass swales and grassland of the driving range and drain over the golf course. This outcome is acceptable and no special treatments are warranted. Standard conditions are proposed to ensure that proposed water sensitive treatment is enforced.

Public Amenities

There is concern that the applicant has not provided toilets for golfers who will be accessing the storage sheds.

This is not considered a relevant issue given there are toilets at the club and golfers accessing the storage sheds would presumably be able to drive their buggy to the club if required.

Public Authority Submissions

The Department of Water and Energy were provided with a copy of the application as Council Officer's were of the view that a licence to intercept the water table was required by the Department of Water and Energy (formally Department of Natural Resources).

The Department has indicated that given the subject waterbody is constructed, no licence is required.

(e) Public interest

The proposal is compliant with the intent of the zone and the relevant regional and local policy documents.

The proposal is not considered to be contrary to any public, government or community interests.

OPTIONS:

1. Approve the proposed development in accordance with the recommended conditions of consent.
2. Refuse the application, with reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has a right of appeal in the NSW Land and Environment Court should they be dissatisfied with the determination of the application.

POLICY IMPLICATIONS:

The proposed development has been assessed on its merits and for that reason the development does not generate a policy implication for Council.

CONCLUSION:

The proposed development is consistent with the objectives of the 6 (b) Zone and is compatible with relevant planning instruments.

Whilst the development is suitable for the site and consistent with on-site uses, conditions are recommended to limit potential impacts on adjoining residential amenity and address concerns raised by submitters.

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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