



# **AGENDA**

## **OPERATIONS COMMITTEE MEETING**

**Tuesday 16 December 2008**

**Mayor: Cr J van Lieshout**

**Councillors: Cr B Longland, Deputy Mayor  
Cr D Holdom  
Cr K Milne  
Cr W Polglase  
Cr K Skinner  
Cr P Youngblutt**



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**ITEMS FOR CONSIDERATION OF THE COMMITTEE:**

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## REPORTS THROUGH GENERAL MANAGER

### REPORTS FROM THE GENERAL MANAGER

#### 01 [GM-OC] Tweed Economic Development Corporation (TEDC) 2007/2008 Annual Report

#### ORIGIN:

**Business & Economic Development**

#### SUMMARY OF REPORT:

As required by the current Tweed Economic Development Corporation (TEDC) Agreement annual audited financial statements of the corporation are to be provided to Council. This report recommends that Council receives and notes the 2007 / 2008 Annual Report for TEDC. Due to current policy all TEDC financial information is provided as a confidential attachment due to the commercial nature of its contents.

#### RECOMMENDATION:

**That Council receives and notes the Annual Report from Tweed Economic Development Corporation for the financial year 2007/2008.**

**REPORT:**

Due to current policy all TEDC financial information is provided as a confidential attachment due to the commercial nature of its contents.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

This report presents to Council TEDC's 2007/08 Annual Report as required by their funding agreement.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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

1. **Confidential Attachment** –TEDC Annual Report 2007/2008 (DW 1945645)
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**O2 [GM-OC] Managing Local Tourism - Northern Rivers Pilot**

**ORIGIN:**

**Business & Economic Development**

**SUMMARY OF REPORT:**

The Southern Cross University and the Australian Regional Tourism Research Centre have invited Council to be involved in a Managing Local Tourism – Northern Rivers Pilot. This report recommends that Council nominate four (4) Councillors to attend.

**RECOMMENDATION:**

**That Council nominates four (4) Councillors to attend the Managing Local Tourism – Northern Rivers Pilot as detailed in the body of this report.**

## REPORT:

The Managing Local Tourism Program is a joint program of Southern Cross University and the Australian Regional Tourism Research Centre. Its objective is to work with local elected representatives and Council officers from across Council's within a region to develop tourism management capacities. The program will encourage local Councils to commit resources to running the program and subsequently share the understanding and collaborative capacities which will be developed.

The Managing Local Tourism Program is a two and one-half (2 ½ ) day program run at a regional or sub-regional level. Day 1 is a familiarization tour collaboratively organized with Councils. Day 2 is a one-day interactive workshop that explores issues and opportunities. A ½ day follow up session is generally held two weeks after the interactive workshop.

The program is presented as an opportunity to:

- Explore key issues and concepts in managing local tourism,
- Develop a shared appreciation of the tasks involved in achieving sustainable destinations,
- Develop collaborative dialogue within and between Councils and regional organisations about tourism planning and management issues,
- Identify possible strategies and actions that may be employed to improve local tourism destination management and visitor experiences.

Southern Cross University have arranged for a pilot program to be run for the Northern Rivers. In collaboration with Tweed Tourism, Council has indicated its interest in the pilot program for the Northern Rivers.

The dates for this program have been set for the 1<sup>st</sup> and 2<sup>nd</sup> February 2009. A summary of the program is detailed below. Attached to this report is a more detailed flyer outlining the programs itinerary.

- Sunday 1<sup>st</sup> February will be a familiarisation tour with Councillors / tourism managers / Council management from the Northern Rivers region leaving at 9am from the Ramada Hotel Ballina,
- Gala Dinner that night and will be open to industry stakeholders,
- Overnight stay at the Ramada, Ballina,
- Monday 2<sup>nd</sup> February commencing 9am an Interactive Workshop with speakers and facilitator with topics to be finalised shortly, day will have breaks for morning and afternoon tea and lunch,





- Will finish at 4.30pm and all to return to their shires that night,
- Follow up meeting at Ballina on Wednesday 18<sup>th</sup> February around 1pm.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Council has committed \$2,000 to this event.

**POLICY IMPLICATIONS:**

This workshop does not represent any immediate policy implications.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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1. Managing Local Tourism – Northern Rivers Pilot Flyer (DW 1944749)
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**O3 [GM-OC] Appointment of Council Nominees to Tweed Tourism Inc. and Tweed Economic Development Corporation (TEDC)**

**ORIGIN:**

**Business & Economic Development**

**SUMMARY OF REPORT:**

On 30 October Council resolved to request Tweed Economic Development Corporation (TEDC) and Tweed Tourism Inc. to allow for an additional Councillor to be nominated to their respective boards. Both boards have advised that their constitutions now allow for an additional Councillor position.

Subsequently, this report recommends that Council nominate an additional Councillor to be a representative on each respective board.

**RECOMMENDATION:**

**That Council nominates an additional Councillor to the respective boards of Tweed Economic Development Corporation and Tweed Tourism Inc.**



**REPORT:**

At the first ordinary meeting of this Council (9 October 2008) the Mayor, Cr Joan van Lieshout, was nominated to the boards of both Tweed Tourism Inc. and Tweed Economic Development Corporation (TEDC).

Additionally, each organisation's constitution allows for one representative of Council to be nominated by the General Manager of Tweed Shire Council. Currently the Director of Planning and Regulation, Vince Connell is the Council officer nominated to the TEDC Board and Manager Business and Economic Development, Richard Adams is the Council officer nominated to the Tweed Tourism Inc. Board.

At its meeting on 30 November Council resolved to request;

*Tweed Economic Development Corporation and Tweed Tourism Inc. to amend their constitutions to allow for two (2) Councillor delegates to represent Council at their meetings.*

Both organisations were contacted with this request and they have both advised that their constitutions will now allow for Council to nominate an additional Councillor onto the respective boards.

Furthermore, TEDC have advised that Cr Warren Polglase is an elected director of the TEDC Board, but does not hold this position as a nominee of Council.

It is recommended that Council nominate an additional board member onto each respective board of TEDC and Tweed Tourism Inc.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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Nil.

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**REPORTS FROM THE DIRECTOR PLANNING & REGULATION****O4 [PR-OC] Beach Vehicle Policy Review****ORIGIN:****Regulatory Services****FILE NO: Licences - Beach Vehicles; Licences - Beach Vehicle - Policy Review****SUMMARY OF REPORT:**

A request for a review of Council's Beach Vehicle policy has been received by Mr David Cranwell, a spokesperson for Ecofishers Tweed Branch, Tweed Coast Fishing Clubs Association and Pottsville Fishing Club. The last review was conducted in 2005 with Council's current policy being adopted in July of the same year. The correspondence received requests that certain aspects of the current policy be reviewed to enable greater access to beaches by Beach Vehicle Permit holders, as well as a review of the current permit fee. Given the increasing pressures upon the extent of use safety concerns and sensitivities of the Tweed Coast environments, it is considered that the requests for extended use by the local fishing groups are not justifiable and should not be supported.

**RECOMMENDATION:**

**In terms of the current Beach Vehicle Permit Policy, that Council:-**

- 1. Maintains current exclusion zones and time restrictions;**
- 2. Maintains current fees associated with Beach Vehicle Permits;**
- 3. Declines the request to approach the Department of Environment & Climate Change regarding amending their Plan of Management for Coastal Nature Reserves, enabling access to Beach Vehicle Permit Holders;**
- 4. Updates the Policy to include reference to the Director of Planning and Regulation and omit the Director of Environment and Community Services, where required.**

## **REPORT:**

A request for a review of Council's Beach Vehicle Policy has been received by Mr David Cranwell, a spokesperson for Ecofishers Tweed Branch, Tweed Coast Fishing Clubs Association and Pottsville Fishing Club. Please refer to Attachment 1. The last review was conducted in 2005 with Council's current policy being adopted in July of the same year. The correspondence received requests that certain aspects of the current policy be reviewed to enable greater access to beaches by Beach Vehicle Permit holders, as well as a review of the current permit fee.

### **Current Areas Accessible by Beach Vehicle Permit Holders**

Attachment 2 shows a map which depicts the total length of the Tweed Coast and shows the location of accessible areas, time restrictions and prohibited areas that Beach Vehicle Permit holders are subject to.

In viewing these maps, Council are requested to note:

- The location of the three National Parks and Wildlife Reserves, Cudgen, Wooyung and Billinudgel which are subject to the plan of management for each reserve and,
- The proximity of coastal villages located along the foreshore area.

Both of these factors contribute to the areas made available for 4WD access.

Council's Regulatory Services and Natural Resources Management Unit have closely reviewed the submission of Mr David Cranwell, and have formed the opinion that given the increasing pressures upon the extent of use, safety concerns, and sensitivities of the Tweed Coast environment, the requests for extended use and reduced fees by local fishing groups are not justified, and should not be supported.

The only policy change warranted at this stage is the wording to reflect the current Director (Planning and Regulation) who is responsible for the Beach Vehicle Policy.

## **CONCLUSION:**

Council has an ongoing duty to consider the use of the Shires beaches and as coastal populations increase so does the potential for conflict over beach usage. If an amendment or review of the current BVP system is undertaken Councillors need to take into account public safety and issues of liability associated with potential mishaps between general beach users and 4WD vehicles.

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

Nil.



**POLICY IMPLICATIONS:**

Council's Beach Vehicle Permit Policy will need to be updated, should changes be supported.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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1. Letter from Fishing Sustainability Ecofishers dated 8/10/2008 (DW 1935475)
  2. Total Coastline Map (DW 1947934)
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**REPORTS FROM THE DIRECTOR TECHNOLOGY & CORPORATE SERVICES**

**O5 [TCS-OC] Monthly Investment Report Period Ending 30 November 2008**

**ORIGIN:**

**Financial Services**

**SUMMARY OF REPORT:**

This report is provided to Council to advise details of monies Council has invested in accordance with Section 625 of the Local Government Act 1993.

**RECOMMENDATION:**

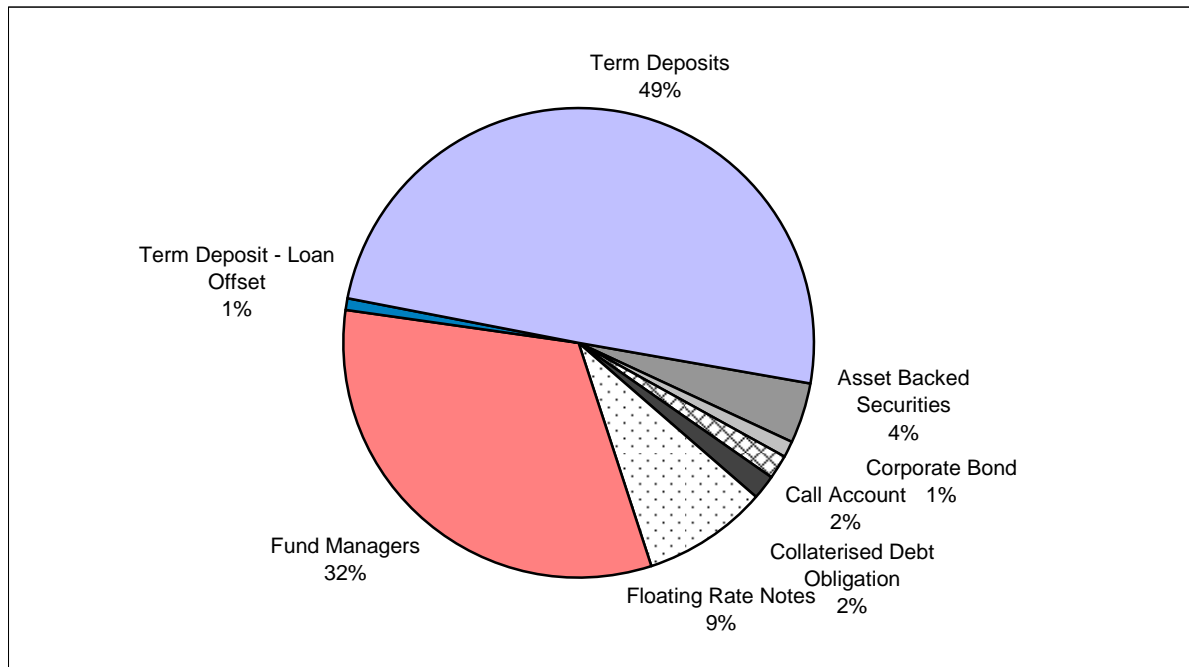
**That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 30 November 2008 totalling \$120,519,788.83 be received and noted.**

**REPORT:**

**Report for Period Ending 30 November 2008**

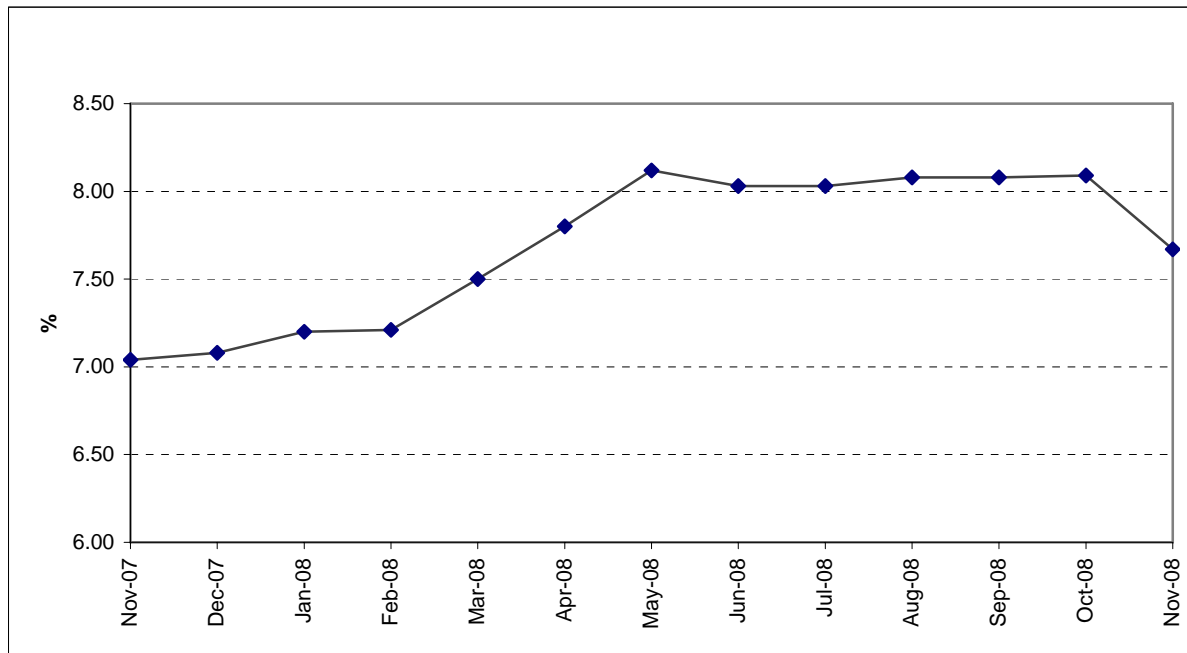
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Cl. 212 of the Local Government (General) Regulations and Council policies. Council had \$120,519,789 invested as at 30 November 2008 and the net return on these funds was \$473,051 or 4.71% annualised for the month.

**1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY**

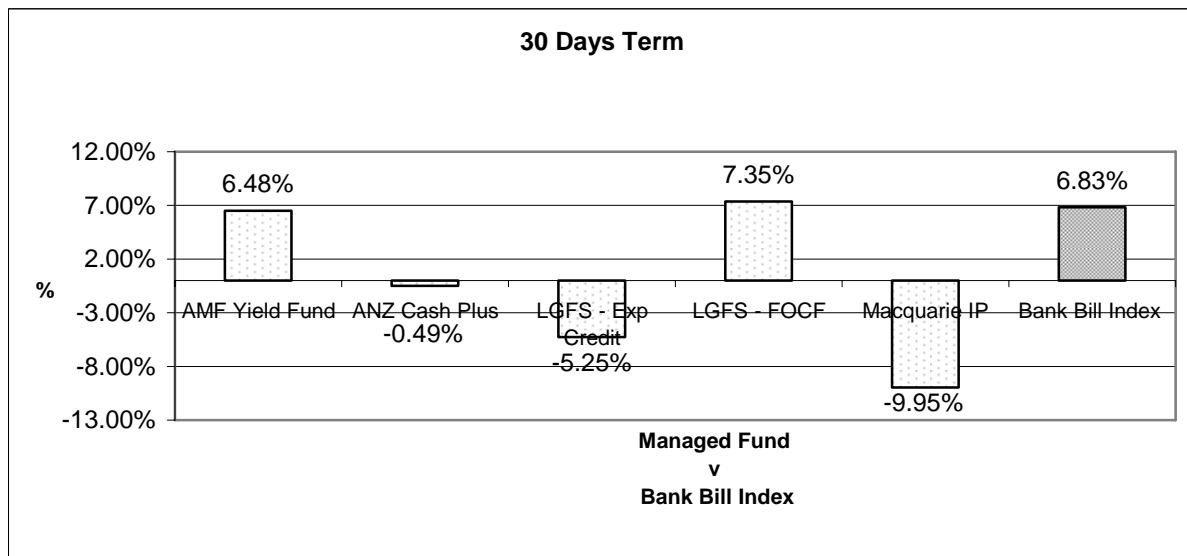




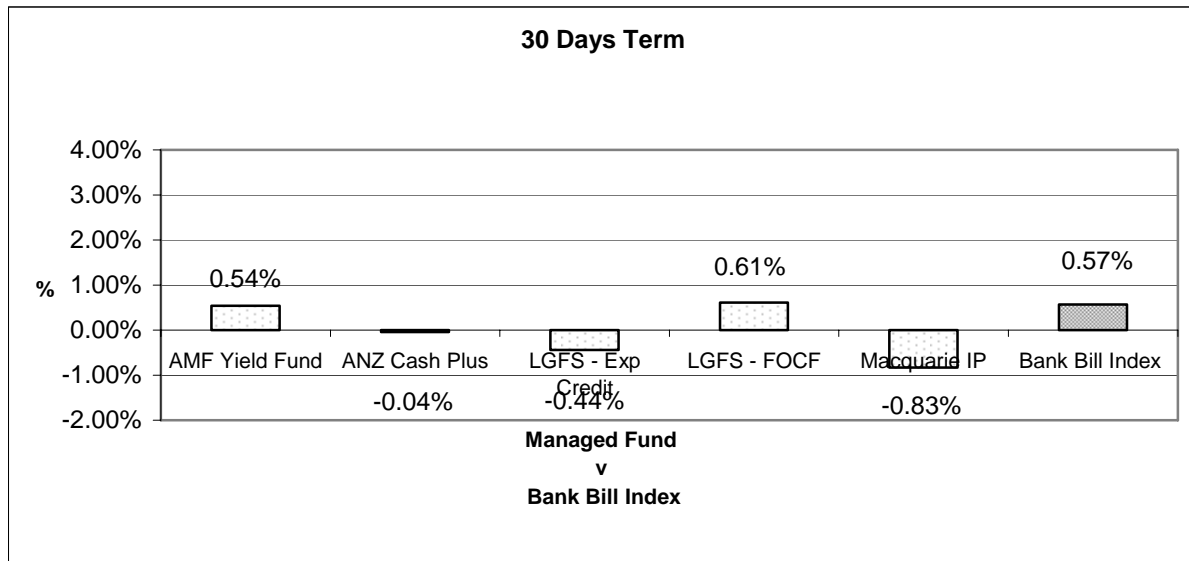
## 2. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)



## 3. FUNDS MANAGERS PERFORMANCE FOR MONTH - NET OF FEES (ANNUALISED)



**4. FUND MANAGERS PERFORMANCE FOR MONTH - NET OF FEES (NOT ANNUALISED)**



**5. FUND MANAGERS - DETAILED INFORMATION**

Fund	Credit Rating	Percentage of Total Fund Managers Current Month	Fund Managers Balance end of Previous month	Fund Managers Balance end of Current month	Distribution for Month/Quarter	Coupon Paid
AMF Yield Fund	AAA	2.76%	\$1,067,370	\$1,072,948	\$5,577	Monthly
ANZ Cash Plus	AA	2.33%	\$906,533	\$906,166	\$9,225	Monthly
LGFS - Exp Credit	n/a	14.37%	\$5,601,274	\$5,576,575	\$0	Monthly
LGFS - FOCF	AA-	53.89%	\$20,793,740	\$20,915,031	\$140,057	Quarterly
Macquarie IP	A	26.65%	\$10,432,223	\$10,342,779	\$27,459	Quarterly
<b>Total</b>		<b>100%</b>	<b>\$38,801,140</b>	<b>\$38,813,499</b>	<b>\$182,318</b>	



**6. DIRECT SECURITIES**

Investment Type	Final Maturity	Counterparty/ Product Name	Face Value	Market Value	% Return on Face Value	Next Coupon
CDO	04/12/2008	Westpac CDO	2,000,000.00	1,999,020.00	8.20	40,393.90
FRN	26/11/2010	NAB	2,000,000.00	1,981,422.70	4.88	23,850.52
FRN	22/05/2009	Adelaide Bank	1,000,000.00	994,234.00	4.67	23,013.86
FRN	20/07/2010	CBA	1,000,000.00	983,465.83	6.01	14,736.09
FRN	17/08/2010	ANZ	1,000,000.00	966,092.00	4.89	12,065.67
FRN	21/01/2011	CBA	2,000,000.00	1,996,112.37	6.34	31,613.15
FRN	24/01/2011	Macquarie/HSBC	2,000,000.00	1,810,030.15	8.33	41,535.89
ABS	08/03/2012	Members Equity	2,000,000.00	1,628,280.00	8.29	33,263.75
FRN	23/11/2012	Deutsche Bank	1,000,000.00	900,218.00	5.47	13,779.08
FRN	22/04/2013	ANZ	1,000,000.00	1,090,290.00	8.65	472,067.19
ABS	22/01/2018	Merrill Lynch Puttable Note	2,000,000.00	1,659,170.00	5.66	23,155.65
ABS	22/01/2018	Merrill Lynch Zero Coupon Bond	2,000,000.00	2,527,601.85	0.00	0.00
ABS	22/01/2018	Merrill Lynch Helium	2,000,000.00	18,728.00	6.71	33,090.41
ABS = Asset Backed Security CDO = Collateralised Debt Obligation FRN = Floating Rate Note		Total	21,000,000.00	18,554,664.90	6.01	

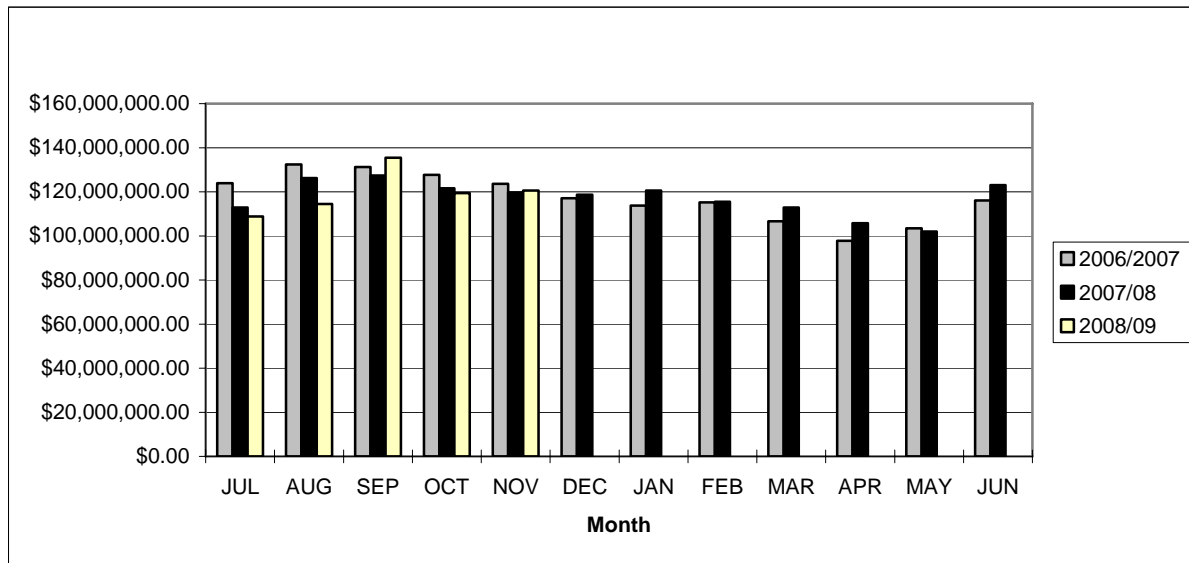
**7. TERM DEPOSITS**



Institution	Short Term Credit Rating	Amount Invested	Term	% Return	Estimated interest due on maturity \$
Adelaide Bendigo Bank	A2	2,000,000.00	181	7.90	78,350.68
Bank of Queensland	A2	1,000,000.00	245	7.70	51,684.93
Bank of Queensland	A2	2,000,000.00	90	6.85	33,780.82
Bankwest	A1	2,000,000.00	106	7.80	45,304.11
Bankwest	A1	4,000,000.00	91	7.71	76,888.77
Bankwest	A1	3,000,000.00	180	7.80	115,397.26
Bankwest	A1	4,000,000.00	190	7.40	154,082.19
CBA	A1	951,625.00	182	5.22	24,769.36
Elders Rural Bank	A2	1,000,000.00	90	6.85	16,890.41
IMB	A2	1,000,000.00	90	5.88	14,498.63
Investec Bank	NR	1,000,000.00	1099	6.88	207,153.97
LGFS	A	2,000,000.00	91	7.80	38,893.15
Macquarie Bank	A1	5,000,000.00	180	8.08	199,232.88
National Australia Bank	A1+	4,000,000.00	180	8.00	157,808.22
National Australia Bank	A1+	2,000,000.00	98	7.70	41,347.95
National Australia Bank	A1+	4,000,000.00	189	8.00	165,698.63
St George Bank	A1	3,000,000.00	93	7.70	58,857.53
St George Bank	A1	5,000,000.00	95	7.99	103,979.45
Suncorp Metway	A1	3,000,000.00	1095	8.30	747,000.00
Suncorp Metway	A1	1,000,000.00	365	8.39	83,900.00
Suncorp Metway	A1	2,000,000.00	180	7.84	77,326.03
Suncorp Metway	A1	4,000,000.00	105	7.90	90,904.11
Suncorp Metway	A1	4,000,000.00	1094	6.88	824,846.03
		60,951,625.00		7.50	3,408,595.12

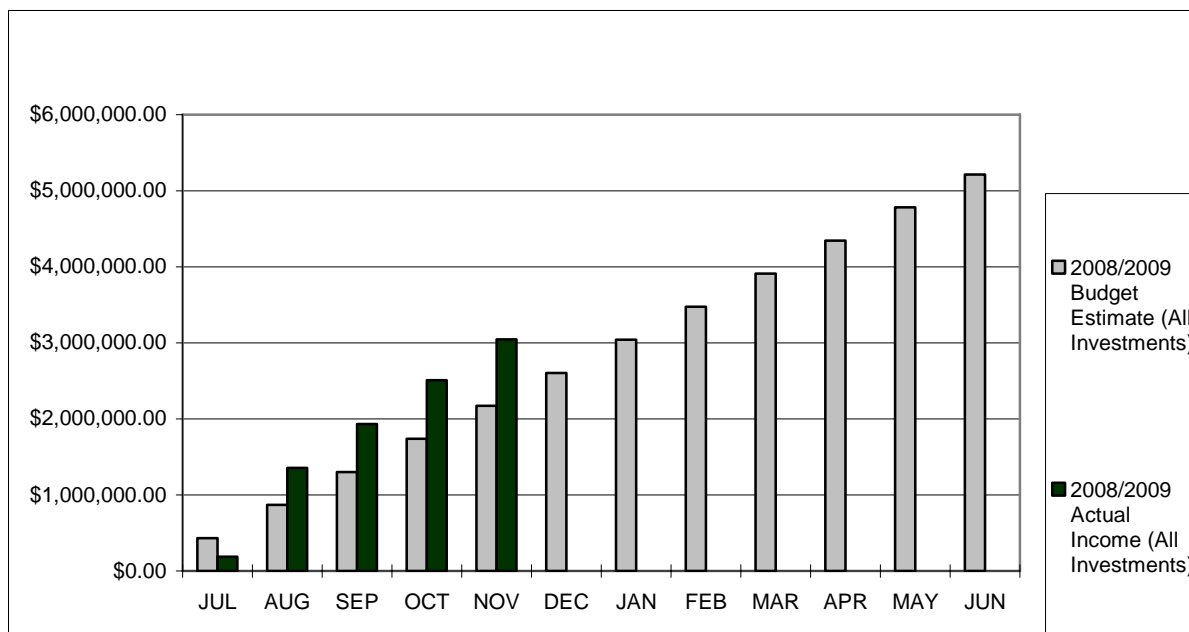


**8. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED**



**9. TOTAL PORTFOLIO INCOME YEAR TO DATE**

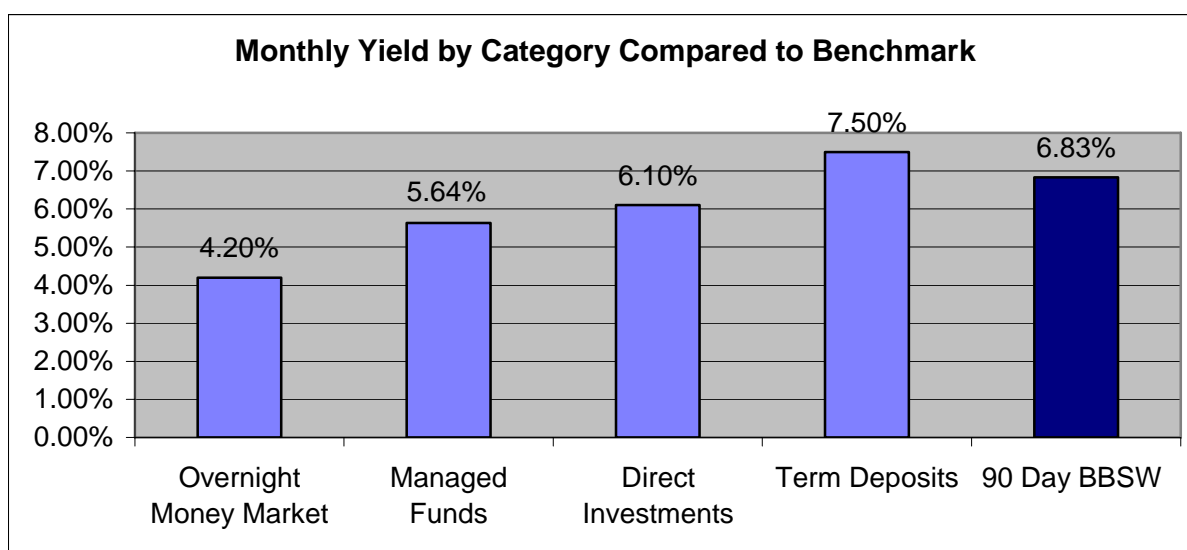
Managed funds net distributions, term deposits accrued interest and direct securities accrued coupons.





**10. PERFORMANCE BY CATEGORY**

Category	Face Value	Market Value	Average Yield	Above/(Below) 90 day BBSW Benchmark
Overnight Money Market	\$2,200,000.00	\$2,200,000.00	4.20%	-2.63%
Managed Funds	\$38,813,498.96	\$38,813,498.96	5.64%	-1.19%
Direct Investments	\$21,000,000.00	\$18,554,664.90	6.10%	-0.73%
Term Deposits	\$60,951,625.00	\$60,951,625.00	7.50%	0.67%
90 Day BBSW	\$122,965,123.96	\$120,519,788.86	6.83%	



**11. DOMESTIC ECONOMY**

The Reserve Bank of Australia cut the official cash rate by 1% to 4.25% pa in early December. The Federal Government's \$10.4 billion economic stimulus package also commenced with one-off payments to families and pensioners. Further substantial government spending could be needed in 2009 to minimise job losses and may push the Federal budget into deficit.

**Global Economy**

World financial markets have continued to be severely stressed during November. Strains in credit markets also escalated and the month has been marked by further large declines in equity prices and exceptional volatility across a range of markets. In response to these developments, a number of governments have announced fiscal stimulus measures to strengthen their financial systems which could stabilise conditions over time.

The International Monetary Fund forecasts global growth of 2.2% next year, a level it called the "equivalent of a global recession." The G20 group of countries met in November and agreed that member countries should "use fiscal measures to stimulate domestic demand to rapid effect, as appropriate."





Japan, Euro-zone countries and unofficially the USA entered a technical recession during November, as central banks around the world cut cash rates in an attempt to minimise the depth and duration of the recession.

### **Council's Investment Portfolio Performance**

Term deposits and floating rate notes this month experienced reduced returns as the cash rate was again cut by the Reserve Bank. The cash rate was cut to 4.25% in early December and this will translate to a further reduction in returns from bank bill linked investments such as term deposits and floating rate notes.

Extreme volatility is still apparent in financial markets, although the effects have been mitigated significantly this month in Council's investment portfolio by sourcing new term deposits and reducing the amount held in managed funds.

It should be noted that the cash rate has dropped from 7.25% to 4.25% since August 2008.

Going forward, it will be difficult to achieve above benchmark results as term deposits mature in 2009 and reset in a much lower interest rate environment. Fund managers should start to achieve better returns later in 2009 if economic forecasts prove correct.

The \$6m Argon Asset Backed Security is currently valued by Oakvale Capital at \$4,205,500. The Helium Note component of this structured deal continues to decline on a marked to market basis and is currently valued at \$18,728. The Helium Note part of Argon is expected to default and reduce to a zero value in January 2009.

An indication of Portfolio performance is provided by disregarding changes in capital values. For example, Council had \$120,519,789 invested as at 30 November 2008 and the net return on these funds was \$473,051 or 4.71% annualised for the month. The net return on funds invested this month is slightly down this month due to an increase in the amount available for investment and overall lower returns.

*Source: Oakvale Capital limited*



**12. INVESTMENT SUMMARY AS AT 30 NOVEMBER 2008**

**GENERAL FUND**

COLLATERISED DEBT OBLIGATION CORPORATE BOND FLOATING RATE NOTE	1,999,020.00	
ASSET BACKED SECURITIES FUND MANAGERS LOAN OFFSET TERM DEPOSITS CALL	5,105,717.85 5,109,284.04 951,625.00 60,000,000.00 2,200,000.00	<b>86,815,573.94</b>

**WATER FUND**

TERM DEPOSITS FUND MANAGERS	0.00 31,225,365.48	<b>31,225,365.48</b>
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**SEWERAGE FUND**

TERM DEPOSITS FUND MANAGERS	0.00 2,478,849.41	<b>2,478,849.41</b>
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**TOTAL INVESTMENTS** 120,519,788.83

It should be noted that the General Funds investments of \$86M are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

All Water and Sewerage Fund investments can only be expended in accordance with Government regulation and Council resolution.

**Statutory Statement - Local Government (General) Regulation 2005 Clause 212**

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Local Government (General) Regulations and Council's investment policies.

**Chief Financial Officer (Responsible Accounting Officer)**

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.



**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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

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## REPORTS FROM THE DIRECTOR ENGINEERING & OPERATIONS

**O6 [EO-OC] Variation of Restriction as to User - Lot 9 in DP 1039569 - Fraser Drive, Tweed Heads South**

**ORIGIN:**

**Design**

**FILE NO: DA07/0589**

**SUMMARY OF REPORT:**

The subdivision of the subject land, Lot 9 in DP 1039569 at Fraser Drive, Tweed Heads South, was approved by the Department of Planning 4 November 2008.

Condition S1C1 of the approval requires the developer to make application to Council for the variation of a Restriction as to User registered over Lot 9, for which Council is the benefiting authority with the power to vary, release or modify the restriction. The existing restriction relates to a required development height of RL 2.65m AHD. Amendments to Council's Development Control Plan, adopted in March 2006, revised the minimum development height (design flood level) to RL 2.60m AHD and condition S1C1 requires the Restriction as to User to reflect these amendments.

Council has received an application from the developer to approve the variation of the existing Restriction as to User so that the minimum development height referred to therein will become RL 2.60m AHD.

An assessment by Council of the application prior to its approval recommended that the developer either comply with the existing minimum development height within the Restriction as to User or amend the Restriction over Lot 9 to the current minimum development height adopted.

To enable the developer to comply with condition S1C1 of the approval and the subject land to reflect current Council DCP requirements, it is recommended that Council approve the variation of the Restriction as to User thirdly referred to in DP 1039569 burdening Lot 9 by amending the minimum development height referred to therein from RL 2.65m AHD to RL 2.60m AHD.



**RECOMMENDATION:**

**That Council:-**

1. Approves the variation of the Restriction as to User thirdly referred to in DP 1039569 burdening Lot 9 by amending the minimum development height referred to therein from RL 2.65m AHD to RL 2.60m AHD; and
2. Executes all necessary documentation under the Common Seal of Council.

**REPORT:**

As per Summary of Report.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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Nil.

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**07 [EO-OC] Tweed Regional Aquatic Facility Fees for School Use**

**ORIGIN:**

**Recreation Services**

**SUMMARY OF REPORT:**

Council has had discussions with some of the Shires local schools regarding their operational requirements for use of the Tweed Regional Aquatic Centre. The issue of fees was discussed and there was general agreement that the \$2.50 entry fee for school programs was reasonable, but that the carnival fee of \$200.00 per hour was restrictive for smaller schools.

Accordingly, an alternative fee structure for school carnivals was proposed and supported by the schools present. The proposed fee structure is a reduction from \$200.00 per hour to \$150.00 per hour for hire of the whole 50m pool, and \$100.00 per hour for the hire of 4 lanes. These options will enable some flexibility for smaller schools to structure their carnivals to suit their preferred programs.

**RECOMMENDATION:**

**That Council advertises the following amendments to the draft fees for the Tweed Regional Aquatic Centre for twenty eight (28) days and invite submissions from the public:-**

**Current adopted fees:-**

<b>School carnivals per hour shared use – 3 lanes:</b>	<b>\$150.00</b>
<b>School carnivals per hour sole use:</b>	<b>\$200.00</b>

**Proposed fees (to apply for events staged after date new fees are adopted by Council):-**

<b>School carnivals per hour shared use – 4 lanes:</b>	<b>\$100.00</b>
<b>School carnivals per hour sole use:</b>	<b>\$150.00</b>



**REPORT:**

**Background**

Councils pricing category of which swimming pools are **Category A: Significant Partial Coast Pricing –**

*The price for this good/service is set to make a significant contribution toward the cost of providing the service. The remainder of the cost is met from general purpose income.*

Accordingly, the fee schedule for the Tweed Regional Aquatic facility is based on the assumption of the pool running cost being subsidised annually by approximately 50% through general rates. The estimated annual operational cost to run the facility is \$1,262,243.00 with estimated income being \$676,538.00 realising a deficit of \$585,705.00 per annum. These estimates, particularly the income, are obviously based on a number of broad assumptions.

The \$14m capital costs and resultant loan interest is funded 100% from general rates with no component factored into the entry fees.

The schedule of fees was advertised on July 2008, closing on 30 August 2008 at which time 3 submissions were received.

**School Fees**

The advertised fees schedule for schools use of the 50m pool is:

School swim programs:	\$2.50
School carnivals per hour shared use – 3 lanes:	\$150.00
School carnivals per hour sole use:	\$200.00

Council staff has had discussions with some of the Shire's local schools regarding their operational requirements for use of the Tweed Regional Aquatic Centre. The issue of fees was discussed where there was general agreement that the \$2.50 entry fee for school programs was reasonable, but that the carnival fee of \$200.00 per hour was restrictive, particularly for smaller schools.

**School Swim Programs:**

The \$2.50 school use fee is 0.50c more than that charged at the Kingscliff and Tweed pools for 2008/09 and recognises the significant difference in facilities offered. The school groups' fee for Lismore Memorial Baths is \$2.50, the same as those for TRAC, however Lismore Memorial Baths do not have a large covered grandstand, a recreation pool or the slide that TRAC offers.

Royal Life Saving sets standards for pool management and safety including recommended ratios of lifeguards to patrons. School programs, particularly when multiple schools are using the facility, regularly require the rostering of additional staff to provide schools with the required ratios. When this scenario was explained to the schools they understood that in addition to the general subsidised entry for school programs, they also often represented additional costs for Council to provide them with the level of supervision required.

### **School Carnival Fees:**

In discussions with the schools regarding carnival fees, it became apparent that many of the smaller schools may struggle with the adopted fee structure. A proposed alternative structure as detailed below was discussed with the schools and received general support.

School carnivals per hour shared use – 4 lanes:	\$100.00
School carnivals per hour sole use:	\$150.00

The reduced fee and option to use half the pool reduced the overall cost and provide more flexibility in options for smaller schools depending on how they structure their carnivals.

### **Discussion**

As TRAC is a regional facility that offers the best facilities available for schools between Sydney and Brisbane, in particular the 450 seat covered grandstand, it is anticipated that the facility will be utilised extensively for schools outside the Shire. This has already been demonstrated by the pre-opening bookings from schools outside the shire.

As noted above, the operating cost of the pool will be subsidised by approximately 50% by the broader community whilst the capital costs are funded 100% by the broader community. It can be assumed that with consideration to the location and nature of the facility, a significant proportion of the community will not benefit directly from the subsidisation. Increasing the subsidy may increase this potential inequity, particularly to the benefit of those outside the Shire.

The \$2.50 school programs fee is considered reasonable and equitable. The proposed changes to the carnival hourly fee and half pool hire option will reduce income by approximately \$4,000.00 per annum.

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

Reduction in budgeted pool income by approximately \$4,000.00 per annum.

### **POLICY IMPLICATIONS:**

Requirement to advertise proposed fees as per fees and charges policy.



**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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Nil.

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**O8 [EO-OC] Murwillumbah Multi-Level Car Parking Complex - Proposed Licenced Carspaces**

**ORIGIN:**

**Planning & Infrastructure**

**SUMMARY OF REPORT:**

Council resolved at its meeting held 24 June 2008 to implement various arrangements for parking at the new multi-level car park at Murwillumbah. These arrangements include one floor of free unrestricted parking, one floor of \$2 per day coupon parking and one floor of time restricted parking and some spaces may also be leased (licenced for an annual fee. Implementation of these arrangements is underway and will be completed late January 2009.

**RECOMMENDATION:**

**That in relation to the Murwillumbah car parking complex:-**

- 1. Annual licences be issued for individual car spaces to interested parties for the middle, covered level of the car park complex at a licence fee of \$550.00 (including GST) per annum per space with increases based on CPI.**
- 2. The Director Engineering and Operations be given delegated authority to sign and issue the licences.**

## REPORT:

### 1. Background

At Council meeting held 24 June 2008, in regard to the Murwillumbah multi-level car parking complex, car parking arrangements, it was resolved that:-

- "1. 38 of the 98 ground floor car spaces be restricted to a two hour limit (8.00AM to 5.00PM Monday to Friday), subject to Local Traffic Committee approval;
2. The remaining 54 (non disabled) car spaces on the ground floor be restricted to a four hour limit (8.00AM to 5.00PM Monday to Friday), subject to Local Traffic Committee approval;
3. The open top level of the car park be allocated as public unrestricted car spaces;
4. The remainder of the spaces on the middle level of the complex be paid coupon car parking (Monday to Friday only), subject to Roads and Traffic Authority and Local Traffic Committee approval, for a trial period of six months. The coupons are to be purchased from the Murwillumbah Civic Centre or the Tweed Regional Aquatic Centre (when opened) at the rates stated below:-
  - Daily - \$2
  - Monthly - \$36
  - Annually - \$350;
5. The proposal and fees for coupon parking be publicly advertised for a 28 day period prior to implementation;
6. Nearby businesses be formally approached to determine their interest in leasing spaces on the middle covered level of the car park complex based on a monthly or yearly rental period at a cost of \$52.00 per month per space or \$550.00 per year per space with increases based on CPI;
7. Council staff negotiate with businesses in Proudfoots Lane with a view of relocating reserve parking from behind the shops to the middle level of the car park with a no cost exchange for converting the privately owned parking to 2 hour time restricted parking available to the general public;
8. All car parking arrangements adopted for the car parking complex be reviewed six months after the commencement of operation of the car parking complex."

This resolution responded in part to an earlier resolution of 31 July 2007 which resolved:-

*“That:*

*.....*

*6. Council will consider options for equitable financing of a level of the car park which will include:-*

- Making a special rate on Murwillumbah CBD businesses and/or*
- Commercialisation of a level by sale/lease of spaces or paid car parking.”*

The alternative option of making a special rate on the Murwillumbah CBD businesses was abandoned by Council at its 24 June 2008 meeting in favour of the measures adopted in the resolution of that day.

## **2. Implementation**

### **a. Ground Floor Spaces**

Since the commissioning of the Tweed Regional Aquatic Centre, the ground floor spaces have been sign posted for 2 and 4 hour limits between 8.00am and 5.00pm Monday to Friday.

### **b. Top Level Car Spaces**

These spaces have been available to the public for a number of months as unrestricted car spaces.

### **c. Middle Level Car Spaces - Coupon Parking**

Approval for coupon paid parking has been obtained from the Local Traffic Committee and the Roads & Traffic Authority of NSW advising of the coupon parking fees and proposal for 28 days is scheduled to commence shortly. Implementation is scheduled for the latter part of January 2009.

### **d. Middle Level Car Spaces - Leased (Licenced) Spaces**

There have been preliminary approaches to determine interest for leased spaces in this area. At this stage a total of 3 lease spaces have been requested by Murwillumbah businesses. Council’s solicitors have verbally advised that a “licence” agreement is more appropriate in this case than a “lease” agreement. Accordingly, licence holders will be provided with a licence permit which must be displayed on the dashboard of the vehicle (similar to parking coupons). This will enable licence holders to allocate the licence permit to any member of their staff or other person.

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

Financial implications are as stated within this report.

There will be some resource implications in administering the licence agreements.

**POLICY IMPLICATIONS:**

This report deals with the implementation of Council's Policy with regard to parking at the Murwillumbah Car Parking Complex as resolved 24 June 2008.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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1. Council report dated 24 June 2008 (DW 1841999)
  2. Council resolution 24 June 2008 (DW 1846867).
-



**O9 [EO-OC] Floodplain Management Program Grant Funding**

**ORIGIN:**

**Planning & Infrastructure**

**SUMMARY OF REPORT:**

Council has received an offer for grant funding of \$155,000 from the State Assisted Floodplain Risk Management Program (\$2 State:\$1 Council) for floodplain management projects in the 2008/09 financial year.

This grant can be applied to the following projects:-

1. Tweed Shire Coastal Creeks Flood Study
2. Tweed Valley Floodplain Risk management Study (and Plan)
3. Mooball-Crabbes Creek Flood Mitigation works (to enlarge the waterway area through the Kallaroo Circuit Bund)

This grant is a “lump sum” which can be applied to any, or all, of the three projects within the limit of the overall total.

The local matching component, on the basis of 2:1 funding, is \$77,500 resulting in an overall total of \$232,500 and Council’s 2008/09 budget has sufficient allocation to meet this requirement.

**RECOMMENDATION:**

**That:-**

1. **Council formally accepts the grant offer of \$155,000 for floodplain management projects from the Minister for Climate Change and Environment under the State Floodplain Management Program 2008/09.**
2. **All necessary documentation be executed under the Common Seal of Council.**

**REPORT:**

Council is in receipt of a letter of offer for a floodplain management program grant for 2008-2009. The offer is detailed as follows:-

<b>Grant Program</b>	<b>Project</b>	<b>Funding Ratio</b>	<b>Total Grant Funding</b>	<b>Required Council Funding</b>
NSW Floodplain Management Program (State Only)	Mooball-Crabbes Creek Flood Mitigation Works	2:1	\$155,000	\$77,500
	Tweed Shire Coastal Creeks Flood Study			
	Tweed Valley Floodplain Risk Management Study and Plan			

The grant is a 2:1 “lump sum” to be applied over any of the above three projects (rather than three separate grants).

Council funding is required to match 50% of the grant as a local component (ie. \$77,500) and the total available funds is therefore \$232,500.

**Project Description**Tweed Shire Coastal Creeks Flood Study

This project examines flood behaviour in Cudgen, Cudgera and Mooball Creeks (including their upstream tributaries) and derives flood levels for a range of design flood events.

The study will form the basis of a Floodplain Risk Management Study and Plan for these coastal creeks.

Tweed Valley Floodplain Risk Management Study and Plan

This project develops strategies for dealing with floods in the Tweed Valley using results from the Tweed Valley Flood Study. The floodplain risk management study will examine feasible measures such as house raising, evacuation plans, planning for impacts of climate change, flood levee improvements and land use planning recommendations whilst the floodplain risk management plan will then summarise the most appropriate of these, with a schedule for implementation.

Apart from the NSW State Government funding program for 2008/09, Council has also applied for a grant under the Commonwealth’s Natural Disaster Mitigation Program to provide the necessary additional funds for this project.

### Mooball-Crabbes Creek Flood Mitigation Works

This is a joint project with Byron Shire Council to resolve issues involving the enlargement of waterway area at Kallaroo Circuit Bund.

Council has already received some previous grants for development of this project but additional funds are required to complete the construction. The 2008/09 grant now provides some additional funding towards completion of the project.

Historically TSC has been responsible for the management of the grant applications, with BSC responsible for planning and arranging approved works. Tweed Shire Council is not required to allocate funds to match the Government Grants, as BSC provides the required Council funding.

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

#### LEGAL:

Council is following the floodplain management process in accordance with the NSW floodplain Development Manual. The Local Government Act 1993 provides indemnity for Councils acting in "good faith" and in accordance with that manual.

#### RESOURCE:

Council will engage consultants to assist in these specialised projects.

#### FINANCIAL:

Council's 2008/09 budget has sufficient funds available to provide the necessary local funding component.

### **POLICY IMPLICATIONS:**

Nil.

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

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**O10 [EO-OC] Flood Mitigation Program Grant Funding**

**ORIGIN:**

**Planning & Infrastructure**

**SUMMARY OF REPORT:**

Council has received an offer for grant funding to undertake maintenance of flood mitigation assets in the 2008-2009 financial year.

**RECOMMENDATION:**

**That Council formally accepts the following grant offer and provides the necessary amount to match the Government grant for maintenance from its 2008/09 allocation for Flood Mitigation Maintenance:**

<b>Grant Program</b>	<b>Project</b>	<b>Funding Ratio</b>	<b>Total Grant Funding</b>	<b>Required Council Funding</b>
<b>NSW Floodplain Management Program (State Only)</b>	<b>Maintenance of Flood Mitigation Works</b>	<b>1:1</b>	<b>\$24,200</b>	<b>\$24,200</b>

**REPORT:**

Council is in receipt of a letter of offer for a flood mitigation maintenance grant for 2008-2009. The offer is in accordance with the standard conditions for financial assistance and is summarised as follows:

<b>Grant Program</b>	<b>Project</b>	<b>Funding Ratio</b>	<b>Total Grant Funding</b>	<b>Required Council Funding</b>
NSW Floodplain Management Program (State Only)	Maintenance of Flood Mitigation Works	1:1	\$24,200	\$24,200

**Project Details**Maintenance of Flood Mitigation Works

Council is responsible for the ongoing maintenance and replacement of over 200 floodgates and other flood mitigation structures such as levees, pumps and gauges in rural and urban areas. An improved asset management plan for flood mitigation assets has been developed over recent years, prompting an increased need for maintenance spending, which will be assisted by the above grant funding. The grant offer matches the amount sought in Council's grant application.

It is recommended that Council formally accepts the grant offer, and provides the necessary amount to match the grant funding from its annual allocation for Flood Mitigation Maintenance.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Funds are available in the current 2008/2009 budget for Flood Mitigation Maintenance to match the grant offer.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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Nil.

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**O11 [EO-OC] Fencing of Playgrounds****ORIGIN:****Recreation Services****SUMMARY OF REPORT:**

On 11 April 2008, a 21 month old boy tragically drowned when he wandered away from a playground in Russell Way, Banora Point. In response to this devastating loss, Council is in receipt of a petition organised by the toddlers parents requesting that Council consider erecting fences around all public children's playground equipment within the Tweed Shire.

Tweed Shire Council currently has 83 parks with play equipment of varying scale in a variety of locations. Whilst the request to fence all play equipment is understandable considering the circumstances, there are a number of legal, operational and financial implications that require consideration prior to determining the most appropriate response to this issue.

**RECOMMENDATION:****That Council:-**

- 1. Responds to the petition, expressing Councils deepest sympathy for the tragic loss and advise that prior to determining a course of action; Council will undertake an audit of all playgrounds for risk management purposes. The audit will involve consideration of:**
  - a. any unusual risks associated with the playground (e.g. a cliff hidden from view, a drainage channel adjacent not readily visible, a delivery depot resulting in frequent truck movements);**
  - b. what steps need to be taken to alert the reasonable person to the presence of that risk (e.g. erection of a fence along one side of a playground adjacent a busy road, warning signs, copper log barricades);**
  - c. whether the required response to address the risks is reasonable and practicable or if it is deemed necessary remove the playground equipment from that location.**

2. **On receipt of the audit, prepares a further report, having regard to Council legal, financial and operation constraints, recommending options to respond to the playgrounds safety issue.**



## **REPORT:**

On 11 April 2008, a 21 month old boy tragically drowned when he wandered away from a playground in Russell Way, Banora Point. In response to this devastating loss, Council is in receipt of a petition organised by the toddlers parents requesting that Council consider erecting fences around all public children's playground equipment within the Tweed Shire.

Tweed Shire Council currently has 83 parks with play equipment of varying scale in a variety of locations. Whilst the request to fence all play equipment is understandable considering the circumstances, there are a number of legal, operational and financial implications that require consideration prior to determining the most appropriate response to this issue.

### **Legal Considerations**

Council's insurance liability Solicitors were requested to provide advice on the legal situation when considering this issue. The main points of their advice are summarised below.

### **Duty of Care**

A duty of care is owed by an occupier to the class of entrants who would foreseeably use the playground. That would clearly include children of different ages. However, that does not mean that an occupier, particularly an occupier of a playground, is required to make the playground safe from every foreseeable risk for all entrants of all different ages and capacities. The duty owed by the Council to the class of persons who entered the playground, including children, is to exercise reasonable care.

Council's duty of care extends to take steps to prevent harm to persons exercising reasonable care for their own safety. 'Reasonable care' in this context involves the expectation that children will be supervised in the playground by an adult capable of perceiving dangers to children.

Where there is an 'unusual danger', namely one which an adult would not ordinarily perceive to exist to a child, Council will generally be found to owe a duty of care to respond. However, it is important to note that a danger is not 'unusual' merely because an adult is unaware of it. An unusual danger would exist in circumstances where an adult acting reasonably would not expect any risk to exist. Given adult supervision may be assumed by an occupier and is relevant to the standard of care owed to a young child, the foreseeable risks which require response are those presented to children supervised by a responsible adult.

### **Operational Considerations**

Council has fenced three playgrounds in the past being Norries Headland Park, a park in Champagne Drive Vintage Lakes, and Lions park Kingscliff with the latter the only remaining fenced playground. The other fences were the target of regular vandalism with fence railings broken and whole panels stolen. On one occasion in the Norries Headland Park a fence panel was found in a tree. Additionally, the fences safety components such as latches and spring hinges have difficulty in withstanding the intense use and conditions experienced in public parks, rendering them ineffective.

Aside from the cost of constant repair, of major concern is the increased risk presented should the supervisor of a child lower their level of supervision on the assumption that the child is constrained by the fence when the fence may not be secure. As noted above Council will owe a duty of care where an unusual danger would exist in circumstances where an adult acting reasonably would not expect any risk to exist. A defective fence may in fact inadvertently create such a circumstance.

### **Financial Considerations**

Council currently maintains 83 playgrounds, many of which are old and in a state of disrepair offering limited play value, with some not complying with current Australian Standards. The annual play ground maintenance allocation in the 2008/09 budget is \$74,546.00 which covers basic maintenance, vandalism repairs and minor component replacement. In many instances, budgetary restrictions limit the response to non compliance, aged or damaged equipment to removal of the equipment without replacement. The estimated cost (in addition to the maintenance budget) to bring all equipment up to current standards is approximately \$300,000.00, although this would focus on compliance issues and provide little in the way of new equipment.

Two 7 year plan budget items being 'park asset renewal' and 'park asset maintenance' totalling \$85,550 are intended to facilitate the upgrade and renewal of park assets including BBQ's, shelters, paths etc. A portion of this has been allocated each year on a priority basis to the playground compliance program.

Based on recent quotes, the initial cost to fence all playgrounds would be approximately \$670,000.00. The annual maintenance/replacement cost based on 20% of capital costs and additional staff cost based on a weekly inspection regime is estimated at \$205,215.00. This expenditure is well beyond Council's current annual budget of \$74,546 for playgrounds.

### **Discussion**

To implement a policy of fencing all playgrounds has significant cost implications to address risks that may not exist, or possibly increase the risk in some circumstances. Based on the legal advice and parameters of a risk audit, it is anticipated that the risk audit will indicate that few of councils play equipment will require action from a risk perspective. Of those that do require action, the appropriate response will not necessarily be to fence the whole playground. Other management options may include fencing the hazard such as a fence parallel to a road or installing some other form of barrier. In the worst case scenarios it may be more prudent to remove the risk all together by removing the play equipment.

Much of the Shires existing play equipment is old with little functionality and non compliance with current standards. The maintenance and upgrade of existing facilities is under funded and accordingly, it may be considered that a better outcome could be achieved with the funds required upgrading playground equipment rather than to install and maintain fences around all play equipment.

If a limited number of playgrounds are to be fenced it would be equitable to distribute these equally around the Shire so that all communities have reasonable access to such facilities.

Accordingly, it is not considered prudent to implement a policy of fencing all of the Shire's play equipment without further consideration to the issues outline above. A risk audit will provide Council with considered options for managing areas of identified risk and also detail the financial and operational implications of the options.

### **Recommendation**

Accordingly, it is recommended that Council:-

1. Respond to the petition, expressing Councils deepest sympathy for the tragic loss and advise that prior to determining a course of action; Council will undertake an audit of all playgrounds for risk management purposes. The audit will involve consideration of:
  - a. any unusual risks associated with the playground (e.g. a cliff hidden from view, a drainage channel adjacent not readily visible, a delivery depot resulting in frequent truck movements);
  - b. what steps need to be taken to alert the reasonable person to the presence of that risk (e.g. erection of a fence along one side of a playground adjacent a busy road, warning signs, copper log barricades);
  - c. whether the required response to address the risks is reasonable and practicable or if it is deemed necessary remove the playground equipment from that location.
2. On receipt of the audit, a further report to Council will be prepared, having regard to Council legal, financial and operation constraints, recommending options to respond to the playgrounds safety issue.

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

Potentially significant resource and financial implications. Legal advice from Council's insurance liability Solicitors included as a confidential attachment.



**POLICY IMPLICATIONS:**

Potential implications for playground management policy.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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1. **Confidential attachment** - Legal advice from DLA Phillip Fox Solicitors. (DW 1935022).
-

**012 [EO-OC] Creation of Easement for Electricity Purposes burdening Council owned Land being Lots 10 & 11 in DP 1014470 – Casuarina Way, Casuarina**

**ORIGIN:**

**Design**

**FILE NO: DA07/0631 Pt 2**

**SUMMARY OF REPORT:**

Council approved an application for a telecommunications facility on 24 June 2008. The facility includes one (1) monopole structure with three (3) antennas located around the top of the monopole and one (1) Telstra equipment shelter. The approval also extends to security fencing providing a perimeter around the area which contains the abovementioned structures. This approval relates to Lot 10 in DP 1014470, land owned by Council, being the Casuarina Rugby fields at Casuarina Way, Casuarina.

This report relates to the power cables servicing the development to be laid by Country Energy to connect to a pad mounted transformer within Lot 11 in DP 1014470, immediately adjacent to Lot 10.

It is recommended that Council approve the creation of an Easement for Electricity Purposes within Lots 10 and 11 in DP 1014470 for the benefit of Country Energy.

**RECOMMENDATION:**

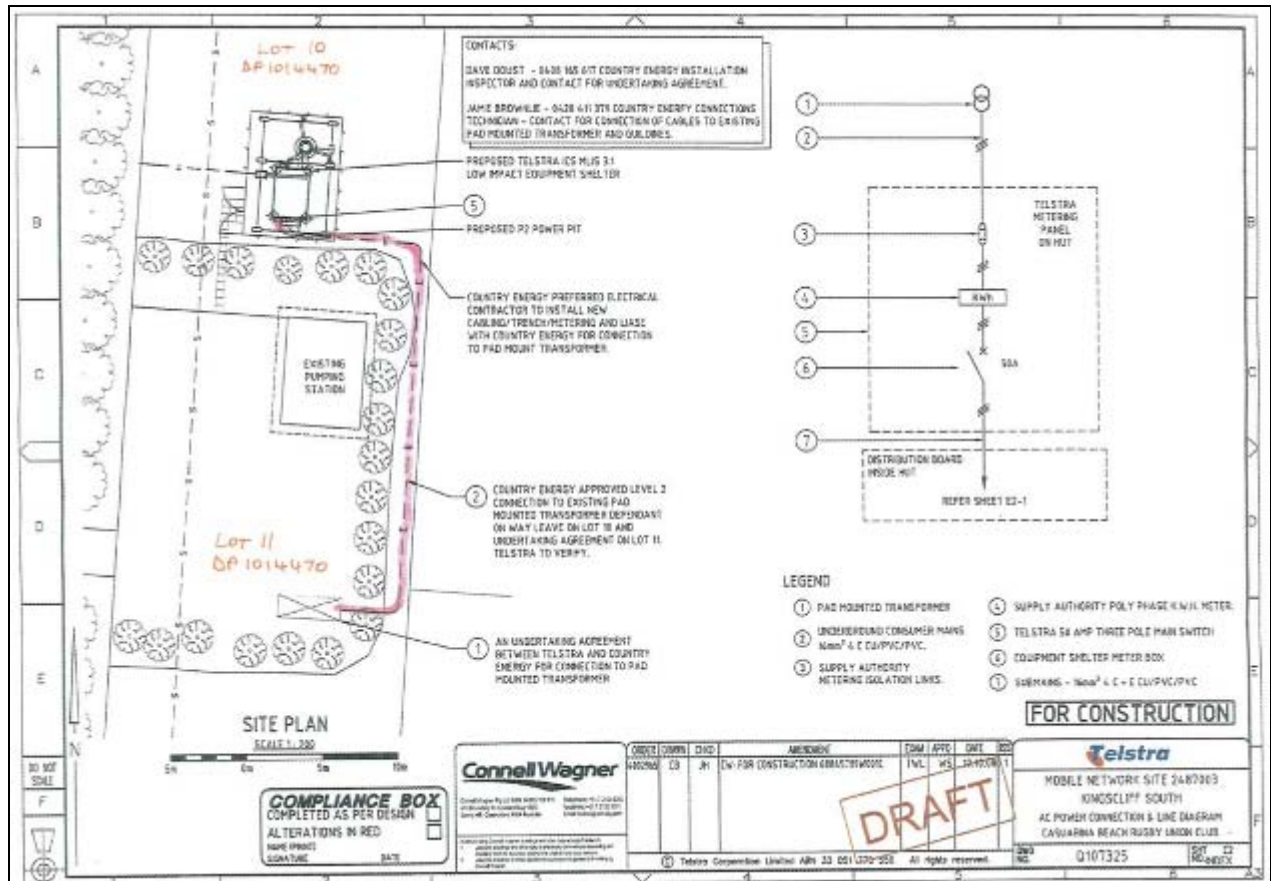
**That:-**

- 1. Council approves the creation of an Easement for Electricity Purposes within Lots 10 and 11 in DP 104470 benefiting Country Energy;**
- 2. That Telstra bear all survey and legal costs relating to the creation of the Easement for Electricity Purposes; and**
- 3. Council executes all documentation under the Common Seal of Council.**

**REPORT:**

Council approved an application for a telecommunications facility on 24 June 2008. The facility includes one (1) monopole structure with three (3) antennas located around the top of the monopole and one (1) Telstra equipment shelter. The approval also extends to security fencing providing a perimeter around the area which contains the abovementioned structures. This approval relates to Lot 10 in DP 1014470, land owned by Council, being the Casuarina Rugby fields at Casuarina Way, Casuarina.

This report relates to the power cables servicing the development to be laid by Country Energy to connect to a pad mounted transformer within Lot 11 in DP 1014470, immediately adjacent to Lot 10. The plan below shows the pad mounted transformer within Lot 11 and the proposed Telstra facility within Lot 10 and the cable layout between them:-



Section 46 of the *Local Government Act* provides that an estate, lease or licence in respect of community land may be granted for the provision of public utilities and works associated with or ancillary to public utilities. An “estate” in this context is an “interest, right or encumbrance”. An easement, by definition is a “right enjoyed by the owner of one piece of land to carry out some limited activity (short of taking possession) on another piece of land”. Pursuant to section 46 Council can approve the creation of an easement with Council owned community land.

The purpose of this report is to recommend the approval of the creation of an Easement for Electricity Purposes within Lots 10 and 11 in DP 1014470 in favour of Country Energy to service the Telstra telecommunications facility. It is recommended that the applicant, Telstra, bear all survey and legal costs in relation to the creation of the easement.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

All legal implications are discussed in the body of the report. As Council provided development consent for the telecommunications facility within Council land and has entered into a lease with Telstra over part of Lot 10, it is recommended that there be no compensation payable with respect to the granting of the easement, as the use of the adjacent land for the cables for the facility can be viewed as a necessary adjunct to the use of the land.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://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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**O13 [EO-OC] Amendment of Council's Fees and Charges - Quarry Products**

**ORIGIN:**

**Works**

**SUMMARY OF REPORT:**

The report briefly summarises quarry activities and proposes increases in the charges for materials sold to external customers.

**RECOMMENDATION:**

**That the proposed changes to Council's Fees and Charges for Quarry Products be placed on public exhibition for 28 days:**

**Proposed Fee**

<b>Product</b>	<b>Existing Price per tonne GST incl.</b>	<b>Proposed Price per tonne GST incl.</b>
<b>Raw gravel</b>	<b>\$9.30</b>	<b>\$9.30</b>
<b>Overburden/Fill</b>	<b>\$4.60</b>	<b>\$4.60</b>
<b>Crushed/Screened Gravel</b>	<b>\$12.10</b>	<b>\$14.60</b>
<b>Aggregate 75 + mm</b>	<b>\$10.20</b>	<b>\$12.70</b>
<b>Aggregate 30 – 70mm</b>	<b>\$10.20</b>	<b>\$12.70</b>
<b>Aggregate 20mm</b>	<b>\$10.80</b>	<b>\$13.30</b>
<b>Aggregate 10mm</b>	<b>\$10.80</b>	<b>\$13.30</b>
<b>Aggregate 7mm</b>	<b>--</b>	<b>\$16.50</b>
<b>Cracker Dust</b>	<b>\$10.80</b>	<b>\$10.80</b>
<b>Screened Topsoil</b>	<b>\$12.10</b>	<b>\$12.10</b>
<b>Screened Sand</b>	<b>\$12.10</b>	<b>\$12.10</b>

**REPORT:**

Council owns or leases seven quarries –

<b>Quarry Name</b>	<b>Road</b>	<b>Locality</b>	<b>Status</b>	<b>Materials</b>
Kinnears Quarry	Harrys Road	North Arm	Not operational	
Singhs Quarry	Harrys Road	North Arm	Operational. Leased	Roadbase & gravel
Chilcotts Quarry	Numinbar Road	Chillingham	Not operational	
Duroby Quarry	Duroby Road	Duroby	Not operational	
Burringbar Quarry	Cudgera Creek Road	Burringbar	Not operational. DA to re-open lodged	Roadbase & gravel
Quarry Road Quarry	Wardrup Valley Road	South Murwillumbah	Operational	Filling
Quirks Quarry	Eviron Road	Eviron	Operational	Roadbase & gravel

The quarries producing roadbase and gravel are predominantly operated to supply materials for Council's construction and maintenance activities. Quarry Road Quarry supplies fill at cost to internal and external customers. Quirks Quarry is operated in conjunction with Council's solid waste landfill site at Stotts Island – the hole left after extraction is completed will become a cell for the landfill.

Section 112 of Council's adopted Fees & Charges includes prices for the sale of quarry products to external customers, however, as noted above, this has not been the focus of operations and such sales have traditionally been zero to very small quantities.

In the last year, the demand for quarry products from Council's quarries has been less than usual, due to the location of major road works in close proximity to commercial quarries. This has resulted in excess stockpiles of materials at Quirks Quarry, and the rate of extraction falling behind schedule for the future landfill. Accordingly, sale of materials to external customers has been commenced to reduce the stockpiles and bring the rate of extraction back into balance with the landfill timetable.

These sales have prompted a review of the prices quoted in Council's Fees & Charges. It is apparent that these existing rates are well below market rates, and cover only the cost of production without returning a margin to cover the quarry development, operation and restoration costs. Selling below market rates can also lead to an undesirable distortion in the local market for these products. Accordingly a set of revised prices is recommended to correct this situation. The proposed cost adjustments have been made only to those products that are available at Quirks quarry and are in demand from the external market. It is not the intention to move to a commercial operation. The objective of Council's quarry operation remains to provide materials for use on Council projects. The sales to external customers from Quirks quarry is to ensure that extraction rates keep pace with the need for future landfill.

<b>Product</b>	<b>Existing Price per tonne GST incl.</b>	<b>Proposed Price per tonne GST incl.</b>
Raw gravel	\$9.30	\$9.30
Overburden/Fill	\$4.60	\$4.60
Crushed/Screened Gravel	\$12.10	\$14.60
Aggregate 75 + mm	\$10.20	\$12.70
Aggregate 30 – 70mm	\$10.20	\$12.70
Aggregate 20mm	\$10.80	\$13.30
Aggregate 10mm	\$10.80	\$13.30
Aggregate 7mm	--	\$16.50
Cracker Dust	\$10.80	\$10.80
Screened Topsoil	\$12.10	\$12.10
Screened Sand	\$12.10	\$12.10

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

The proposed changes to the Fees & Charges must be advertised for public comment prior to final adoption.

Any surplus funds generated by the increased charges is held in the quarry reserve to fund environmental management and restoration of the quarries, and the development of future quarries.

#### **POLICY IMPLICATIONS:**

Nil.



**UNDER SEPARATE COVER/FURTHER INFORMATION:**

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://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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**O14 [EO-OC] Bay Street Road Closure**

**ORIGIN:**

**Design**

**SUMMARY OF REPORT:**

Following the meeting held on 9 October, 2008, an advertisement was published in the Tweed Link on 28 October, seeking submissions from the public about the Bay Street proposal.

This report provides an overview of the issues raised in the submissions, together with a review of the historical background of the road closure proposal which places it within the context of the development of the Jack Evans Boat Harbour.

All this material has been publicly available, however, it is clear that details of this history of various Bay Street proposals has been lost to the community over time.

**RECOMMENDATION:**

**That given the additional information now available:-**

- 1. Council extends the submission period for a further period to expire on 13 January, 2009; and**
- 2. A workshop be arranged following the expiry of the submission period to allow the councillors to review the submissions prior to a formal report and recommendation being made regarding the road closure at a subsequent Council meeting.**
- 3. A copy of this report and non-confidential attachments be placed separately on Council's internet site for public information.**

## REPORT:

### **1. Advertising Proposal Part Closure of Bay Street, Tweed Heads**

Following the meeting held on 9 October, 2008, an advertisement was published in the Tweed Link on 28 October, seeking submissions from the public until end of November 2008..

This report provides an overview of the issues raised in the submissions, together with a review of the historical background of the road closure proposal which places it within the context of the development of the Jack Evans Boat Harbour.

### **2. Historical Background – Jack Evans Boat harbour**

The Jack Evans Boat Harbour has been the subject of various plans of management.

#### **2.1 1987 Crown Lands Plan**

In 1987 the Crown Lands Office prepared a plan of management for the Department of Lands. The objectives of the plan was to provide for formal parks and gardens; informal parklands; walking track through the reserve from Bay Street to the lighthouse at Point Danger; public car parking to suit the needs of the reserve; public amenities; day visitor and park related tourist facilities; picnic facilities and children's playgrounds; an improved beach profile within the northern boat harbour; low intensity use cultural centre site (eg art gallery) (optional); beach front erosion control and storage space for Public Works Department training wall repairs. The plan also suggested a timetable for development.

It is to be noted that the plan included reference to the caravan park operating from the northern precinct of the boat harbour. In 1983 the Lands Department advised Council and the occupants that any right to occupy would cease on 31 December 1993. The plan identifies the closure of the caravan park in the 1993/94 financial year with landscaping and car parking to replace the area vacated.

One of the components upon termination of the caravan park was the relocation of the Tweed Heads Rowing and Aquatic Club (THRAC) and Waterworld, whereupon the areas used would be cleared and landscaped.

THRAC sought an extension to October 1996 as they had encountered difficulties in funding their relocation to a Dry Dock Road site, which the Minister granted. This decision impacted on the timing for the implementation of the scheduled works under the 1987 plan.

#### **2.2 1992 Jack Evans Boat Harbour Plan of Management**

Council was then directed by the Department of Lands to prepare a revised plan for the area affected by the Minister's decision. Following discussions between Council officers and Lands Department officers, it became apparent that a broader approach to the planning of the whole area was necessary.

Council formed the Jack Evans Boat Harbour Review Committee (the Committee) to ensure wide-ranging public input on all consultative matters pertaining to the future development of the plan of management.

The Committee established the requirements, assessed the prospects for developing a new plan of management and recommended the appointment of the McInnes Group to undertake a 3 stage plan of management. The consultants were required to:

1. identify a theme for the development of the areas and prepare options and a concept plan for that development;
2. based on the concept plan, prepare a plan of management; and
3. prepare a programme for the implementation of the management plan.

The consultants were commissioned in October 1991 and stage 1 was adopted by the Committee and placed on public exhibition between December 1991 to end of January 1992.

In June 1992 the draft Jack Evans Boat Harbour Plan of Management (JEBHPM) was completed, following analysis of public submissions, and discussions with the Department of Lands, the Committee and other interested parties.

The JEBHPM contained wide ranging recommendations aimed at embellishing the quality, diversity, protection and general attractiveness of the entire Jack Evans Boat Harbour to afford both the resident and tourist populations with a portfolio of major attractions in the Tweed shire.

The JEBHMP identified 9 management areas, according to proposed use and development. Under Management Unit 8 – Public Open Space, Plaza, Walkways, Bridge and Parking, the plan refers to the development and management of a wide range of leisure, recreation and tourism activities.

Reference is also made to proposed extensions to the Tweed Mall which were redesigned to provide pedestrian access to Chris Cunningham Park, adding additional amenity to the users of both the shopping centre and the Jack Evans Boat Harbour. It was envisaged that the plan would allow the maximisation of investment opportunities to redevelop the land to finance the implementation of the plan. Attachment 1 to this report is the excerpt from the JEBHPM referring to Tweed Mall, together with the plan attached to JEBHPM, illustrating the bridge.

### **2.3 1998 Jack Evans Boat Harbour Plan of Management**

In February 1996, Tweed Shire Council as the trustees for the now amalgamated Crown Reserves in the Jack Evans Boat Harbour sought a consultant to assist in the review and implementation of the JEBHPM. The scope of the works of the plan required review to reflect the material changes that had occurred since the adoption of the plan.

Council, as the managers of the Jack Evans Boat Harbour Reserve Trust, commissioned Master Planning Services to:

- ❖ Review the 1992 Plan of Management and assess the material changes that had occurred and any changes that were likely to occur in the foreseeable future;
- ❖ Prepare a revised Master Plan that addresses necessary and/or beneficial changes to the development mix, site structure, scale and theme of the commercial and public areas;

- ❖ Prepare a broad feasibility study to assess the viability of the project and to provide financial information for investors;
- ❖ Make recommendations to the JEBHPM so that the Reserve Trust could call for expressions of interest from developers/investors;
- ❖ Develop an implementation programme with appropriate staging.

Master Planning Services commenced the review in April 1996 and presented a draft report "Recommendations for Amendments to Jack Evans Boat Harbour Plan of Management" on 15 August 1996.

The second development principle identified in the review, titled "Integration with Tweed Heads" noted that *"The Jack Evans Boat Harbour development should be integrated with the upgrading of Tweed Heads generally, and creating a pedestrian friendly area between Wharf Street/Bay Street and the harbour precinct. Development of the harbour precinct should take into consideration recommendations of the Tweed Heads 2000+ Strategic Plan"*.

The review also identified 27 development precincts to aid in identifying the development areas, costing and staging.

Precinct 3 – Tweed Mall Plaza on page 16, included in this report as attachment 2, states:

*"It is proposed to build a bridge extension over Bay Street from the Food Hall of Tweed Mall. The bridge will form a direct link from Jack Evans Boat Harbour to the Tweed Mall and will provide an outdoor plaza space for 'Al Fresco' dining, a meeting place and performance space. Terraced areas and paths will connect the Tweed Mall with the harbour as well as providing a strong outdoor vista for internal spaces of the building. Views to the harbour from the "Harbour View" food hall will be improved. The park land will have formal paved areas, seating and night lighting."*

In its discussion of the staging of the Plan, the construction of the Tweed Mall bridge was included in stage 5, where it was noted on pages 25 and 26, included in this report as attachment 3:

*"This is a bridge with al fresco dining area linking the first level food hall of Tweed Mall shopping centre to Chris Cunningham Park."*

*It is important that agreement is reached between Council and the Tweed Mall owners so that construction can commence at an early date, creating a focus on the southern side of the harbour and providing for upgrading of landscaping and facilities in Chris Cunningham Park.*

*Tweed Mall would be expected to undertake the landscaping and enhancement of Chris Cunningham Park (Precinct 3) as part of construction.*

*Agreement is also required for the use of Tweed Mall's new multi-storey car parking facilities on Bay Street as an overflow area for car parking."*





In January 1997 the Tweed Coast Reserves Trust received notification that a National Native Title Claim was lodged over the Jack Evans Boat Harbour by the Koombumerri people.

On Wednesday 18 February 1998 The Tweed Reserves Trust approved the new Jack Evans Boat Harbour Plan of Management and resolved to refer it to the Department of Land and Water Conservation for consideration and public exhibition.

However, the Plan of Management was not forwarded to the Department due to various circumstances.

The Native Title Claim, as it was over land subject of the Plan of Management, appears to have impacted the progress of the Plan as negotiations with the Koombumerri extended into 1999. There were several obstacles that frustrated settlement, including several changes of legal representation for the claimant group, changes to the statutory requirements for a native title claim, changes in settlement terms during the course of negotiations with the claimant group and indications that other potential claims were to be lodged over the subject land.

Despite ongoing negotiations up to early 2001, the claim was discontinued.

The 1998 Plan of Management was never formally adopted.

#### **2.4 2004 Ministerial Task Force Plan of Management**

In June 2002, Andrew Refshauge MP, the then Minister for Urban Affairs and Planning, announced the establishment of a Ministerial Taskforce for Tweed Heads. The Taskforce was established after numerous requests were made to the Minister to establish comprehensive planning controls for Tweed Heads after the development application was received for the Latitude 29 high rise.

In December 2002 the Tweed Heads Town Centre Ministerial Taskforce advised Council that the 1993 Plan of Management for the Jack Evans Boat Harbour required a review and that the Taskforce had appointed a subcommittee to co ordinate the process of review and develop a new master plan and development a concept plan of management for the precinct.

On 26 February 2003 Council received a presentation from the Tweed Heads Central Business District Revitalisation Task Force, which included an outline of the importance of the Jack Evans Boat Harbour precinct to the overall redevelopment planning process.

At its meeting held on 9 April 2003 the Jack Evans Boat Harbour Reserve trust resolved that *"the Trust, in principle, supports a review of the 1998 Draft Jack Evans Boatharbour Plan of Management in consultation with the Tweed Heads Town Centre Revitalisation Task Force"*.

It was proposed that a steering committee be established to review the 1998 draft Plan of Management and that the committee be comprised of representatives from the Tweed Heads Central Business District Revitalisation Task Force, Planning NSW, Department of Land and Water Conservation, Jack Evans Boat Harbour Reserve Trust and officers of Council. A copy of the 9 April 2003 report is attachment 4.

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Between 11 to 31 May of 2004 the Taskforce publicly exhibited a draft Masterplan for Tweed Heads. The Masterplan was intended to be a broad scale strategic document providing a future vision for Tweed Heads, it was not a formal policy document and did not make any specific recommendations to amend the Tweed LEP 2000, any DCP's or s94 plans. The responsibility to adopt and implement the plan remained with Council.

On 2 June 2004, the Jack Evans Boat Barbour Reserve Trust resolved that the Trust *“generally supports the vision in the Tweed Heads Masterplan for the Jack Evans Boatharbour as expressed in the draft Masterplan....”*

At its meeting held on 6 October 2004, Council resolved to adopt the Masterplan as a vision document for Tweed Heads conditional upon capital and recurrent costs being suitably linked to funding sources. Upon successful adoption Council would implement the recommendations of the Masterplan through the reserves trust as well as amendments to Council's policy documents. Council also resolved to recommend to the Jack Evans Reserve Trust that it notify the Minister for Lands requesting consent to prepare, and funds for the preparation of a draft Plan of Management for Jack Evans Boat Harbour to implement the vision and objectives of the Tweed Heads Masterplan. The report and resolution are included as attachments 5 and 6.

The Tweed Heads Masterplan, for easy reference, is included in this report as attachment 7. The Illustrative Masterplan, shown as figure 5.01, is referenced as providing *“the overall framework for the Town Centre against which all of the precincts have been set”*, Bay Street sits on the common boundary between the Jack Evans Boat Harbour precinct and the Town Centre Core precinct. Tweed Centro is identified in the Illustrated Masterplan as point 15 which notes: *“New terrace to food hall and activated street. New residential above”*

The Masterplan objectives for the Jack Evans Boat Harbour precinct is discussed at 5.6 of the Masterplan and includes to *improve connections to the surrounding precincts in particular Bay Street and Duranbah Beach* and in its urban design principles to *‘establish strong visual and activity connections between Tweed Mall and the Harbour zone, including establishing a plaza/market area along Bay Street’*.

The Town Centre Core is discussed at 5.7 and includes as an objective to *“integrate the Tweed Mall and Bay Street Precincts into a coherent Town Centre Core; activate the street frontages along Wharf and Bay Streets in particular adjacent to the Jack Evans Boat Harbour”*.

In the Design Guidelines at 6.2 specific reference is made to Tweed Mall, where it states:-

*“The Tweed Mall site offers the potential for a range of high rise and mid rise development opportunities which, if controlled appropriately, would help transform the Town Centre Core. The corner of Bay Street and Wharf Street, in particular has the potential to unlock the missing nexus between the Town Centre and the Jack Evans Boat Harbour. The corner should be clearly articulated to create a new urban structure to to the town centre core with active frontages along Bay Street and overlooking Jack Evans Boat Harbour from north facing balconies.”*

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## 2.5 Tweed Heads Development Control Plan

It is to be noted that the Development Control Plan for Tweed Heads adopted by Council on 31 July 2001, notes in section 3.3.2:-

### ***"Tweed Mall***

*Any redevelopment or extension to the Tweed Mall shopping centre should focus outwards onto Wharf and Bay Streets and the Jack Evans Boat Harbour. Ideally, redevelopment should incorporate active street frontages with shopfronts built up to the public footpath. The building should become an active part of the streetscape. Car parking should be provided to the rear or underneath the building, not between the street edge and the building front. Redevelopment may incorporate a multi-level convention centre, or tourist and residential accommodation, with a focus on the attributes of the site's location opposite the Boat Harbour."*

This provision has been transposed unaltered into the new DCP at B2.3.3 on page B2-15 in the same terms, a copy of that page is attachment 8 of this report.

## 3. Tweed Mall (now Centro) Extensions

On 3 March 1994, Tweed Mall Pty Ltd, the owners of Tweed Mall, lodged a development application for the extension and refurbishment of the existing shopping centre. The development was to proceed in four stages:

1. North car park
2. Food court and specialty shop extensions to Bay Street boundary
3. Refurbishment of the existing shops and southern extension, and
4. Bridge over Bay Street (restaurants), upgrade of parklands

An architectural drawing of the development is attachment 9 of this report.

On 31 March 1994, Tweed Mall Pty Ltd formally requested Council to give consideration to the closure of Bay Street from Wharf Street to the eastern boundary of the property owned by Tweed Mall Pty Ltd and the subsequent sale of the closed road to Tweed Mall Pty Ltd, at an amount to be agreed upon, either by cash contract or by a contribution of site works to the adjacent Jack Evans Boat Harbour.

At its meeting held on 20 July 1994, Council resolved to approve DA 94/87, with consent condition 21 which stated:-

21. *Satisfactory arrangements are to be completed with Council for the closure and purchase of that part of Bay Street required for the implementation of Stage 2 of this approval, prior to the issue of Building Approval for that stage.*
22. *Satisfactory arrangements are to be completed with Council for the embellishment of the open space area in Chris Cunningham Park adjacent to Stage 2 prior to the issue of building approval for that stage. In this regard, particular attention is to be given to the transition between the private commercial area and the public open space."*

Council also resolved that:-

*“The owners of the subject land enter into a legally binding agreement which ensures that both Stage One and Stage Two are completed. Such agreement to be completed prior to release of building approval for Stage One.”*

On 26 July 1994, development consent was issued to Tweed Mall Pty Ltd.

Meeting notes from Council’s former Director Development Services, Mr David Broyd, provide a background and context to the proposed development. Mr Broyd noted, in August 1995:-

*“The original Tweed Mall proposal emerged from discussions involving Gary Shiels (consultant for Tweed Heads Strategic Plan), myself and David Savenake from Tweed Mall Pty Ltd. David Savenake subsequently presented a plan – generally in accordance with that given approval – to the Tweed Heads Steering Committee and Jack Evans Boat Harbour Committee, both of whom responded with enthusiasm. The Tweed Heads Steering Committee/Tweed Heads Strategic Plan advocated linkages between Jack Evans Boat Harbour and Tweed Mall as an activity/people/tourist focus with substantial ‘public benefit’. It was also the Jack Evans Boat Harbour Committee position that the means of upgrading Chris Cunningham Park should be derived from financial negotiations with Tweed Mall Pty Ltd”*

Council and Tweed Mall Pty Ltd entered into a legal agreement on 19 October 1994 which provided in part for the developer confirming liability and commitment to undertake improvements to Chris Cunningham Park and possibly other public areas in the vicinity of Tweed Mall as soon as possible subject to clauses 3 and 4.

Clause 3 provides that the parties acknowledge that despite there only being conceptual plans for the Stage 2 improvements in Chris Cunningham at that time, it was an integral part of the consent issued that the developers carry out works of public benefit in Chris Cunningham Park (ie paving and landscaping etc) which is equal to or in excess of the valuation of the land consumed as part of the Bay Street road reserve and the air space over Bay Street road reserve occupied by the second stage of development.

Clause 4 provided that the parties acknowledge that there would be a possibility the eventual design plans for Chris Cunningham Park may result in works which are valued less than the valuation of the road reserve land and air space, then the parties would negotiate the remaining value of work to be undertaken on Wharf Street between Bay Street and Frances Street in accordance with plans to be published in the Tweed Heads Strategic Plan public exhibition.

Clause 5 provided that the developer would proceed with the required works subject to development approval 94/87 within a reasonable time after the road closure.

On 15 March 1995, Council resolved to apply to the Department of Conservation and Land Management (CALM) for the partial closure of the Bay Street road reserve as shown on the plan attached to the report. The report, included as attachment 10, noted:-

*“After leadup (sic) presentations and negotiations with the Jack Evans Boat Harbour Committee and the Tweed Heads 2000 Plus Plan Steering Committee, Tweed Mall Pty Ltd submitted plans for the refurbishment and extensions of Tweed Mall- including construction over the current Bay Street road reserve and substantial embellishments to Chris Cunningham Park”*

The report described the partial road closure as:-

*“It is a partial road closure with the retention of a seven (7) metre road with two (2) metre footpaths each side – hence an eleven (11) metre road reserve.”*

And the report further noted:-

*“The partial road closure of the Bay Street road reserve was given extended public exposure and debate during the processing of the development application for the Tweed Mall refurbishment and extensions. As has always been a fundamental premise of plan implementation, public exhibition and formal decision making on the proposed partial closure is now recommended for initiation.”*

On 21 March 1995, Council requested a valuation from the Valuer General for the road closure parcel and the rental for the air space for the bridge over the remaining road width of the road reserve. A plan showing the areas of road to be closed and leased is attachment 11.

On 5 April 1995, Council forwarded a formal application to CALM for the partial road closure, noting that the plan of road closure was being lodged for registration and that the consent of the adjoining owner, Government Insurance Office of NSW (GIO) was being pursued.

On 11 April 1995, Council received the valuation from Valuer General, the valuation of the land was determined to be \$1,300,000 and the rental value of the stratum air space for the bridge only was \$37,000 per annum, and the lettable floor space on part of the bridge as \$45,000 per annum.

On 19 April 1995, the plan of road closure was registered as DP 848723.

On 3 June 1995, CALM advertised the road closure proposal, inviting submissions to the proposal. CALM, by letter dated 9 August 1995, provided Council with copies of letters of objection, numbering five. Most significantly, two of these objections were from Woolworths (Q'land) Pty Ltd and acting for GIO Life Ltd, Australian City Planners and Walker Taylors, Edwards and Smith, solicitors for GIO Asset Management.

Woolworths requested and were granted an extension of the submission period to allow them to seek expert advice from a traffic engineering consultant as they were of the view that *“the closure of Bay Street would drastically alter the current accessing arrangements to its supermarket, with a serious potential impact on the continuing operation of the store”*.

Australian City Planners indicated that their client's objections related to the potential physical impediment to vehicular access to the supermarket (Woolworths were leasing the site from GIO).

On 13 September 1995, Council received a copy of the report from Roger Bramfield Consulting Pty Ltd, consultant traffic engineers from Woolworths. An assessment of the report by Council resulted in discussions with Woolworths regarding alternate access arrangements to their loading dock. Ultimately Woolworths withdrew their objection to the road closure by letter dated 21 March 1996.

Notwithstanding the agreement reached with Woolworths, GIO did not formally approve the alternate access arrangements.

In a letter dated 8 March 2000, from the Land Water Conservation (formerly CALM) Council was advised that the *"road closing application has now been terminated by the Department on the basis that there is no indication GIO intends on withdrawing or altering its objection to the proposal.... This matter is now considered to be finalised. Should Council wish to pursue road closing action in the future at this location, it will be necessary to lodge a new road closing application"*.

As the road closure did not proceed, Stage 2 of the refurbishment which included the bridge or the embellishment of Chris Cunningham Park did not occur.

#### **4. The Current Proposal to Part Close Bay Street**

The Tweed Heads Masterplan Project Facilitation Team (PFT), created in response to the launch of the Tweed Heads Town Centre Masterplan in 2004, was comprised of representatives from the Department of State and Regional Development (DSRD), the Department of Lands, department of Infrastructure Planning and Natural Resources, Tweed Economic Development Corporation and Tweed Shire Council. The team was created to advance and implement the Masterplan.

Centro Properties purchased the Tweed Mall property in 1997 and the GIO property in 2003.

In October 2005 Centro entered into discussions with DSRD in relation to the utilisation of the road closure parcel for the redevelopment of Tweed Centro (formerly Tweed Mall) in accordance with the Masterplan. These discussions were tabled at meetings of the Project Facilitation Team and the Team was advised that the Walker Corporation and Centro intended to proceed with the redevelopment as a joint venture. The joint venture team gave a presentation to the PFT in December 2005.

A report was received by Council on 6 March 2007, forming part of this report as confidential attachment 1, which details Council's response to the overtures from the joint venturers. It was resolved at that meeting to proceed with the road closure application and to engage a probity officer to provide advice regarding the disposal of the land.

At a meeting held on 13 November 2007 a confidential report was received by Council which discussed the probity plan that was drafted for the disposal of Bay Street and advice in relation to the probity implications regarding the overtures from the joint venturers. Council adopted the probity plan for the disposal of the Bay Street road closure parcel. A copy of the report is attachment 12 of this report.

A further confidential report was received by Council on 9 October 2008, which noted:-

*"The plan provided that there is an opportunity to directly negotiate with the joint venturers, Centro Properties, the owners of Centro Tweed Mall shopping centre, and Walker Corporation Pty Ltd. This opportunity arises because the road closure parcel, Lot 1 in DP 848723, is immediately adjacent to the land owned by Centro and the Department of Lands, as owner of the Crown Land across the road, will not grant any sale, lease or licence over the surface of the land"*

The Probity Plan adopted on 13 November 2007 provides strict rules that must govern the conduct of any negotiation and sale of the subject part of Bay Street. It also explicitly provides for the adherence to the preservation of confidential information as well as stating that the probity plan applies to the Councillors, members of the Project Team, other members of Council staff and any external advisers.

All persons listed above are required to adhere to the requirements for confidentiality and ensure that there is no breach of commercial confidentiality from which pecuniary liability may arise.

The plan provides in section 7:-

*"The issue of confidentiality must be weighed explicitly against the need to be open and transparent. In general terms Council must assess each document and piece of information gathered in connection with direct negotiations against its obligations under section 12 of the LGA (Local Government Act 1993), the Freedom of Information Act 1989, the Privacy and Personal Information Protection Act 1998 and general commercial law"*

In adherence to the requirements of confidentiality, the plans submitted by the joint venturers are not to be made available for public exhibition as they form part of the documentation *"gathered in connection with direct negotiations"*.

The Probity Plan is attached as confidential attachment 2 to ensure that each Councillor is aware of their responsibilities in relation to probity in the circumstances.

## **5. Advertisement to Part Close Bay Street - Submissions Received**

The submission period expired on 30 November, 2008. At the time of writing this report, 337 submissions and 3 petitions were received.

The majority of the initial submissions received were from individuals who raised the issues of concern to them in relation to the sale of the Bay Street road reserve, the majority of the latter submissions were a pro forma list of issues with a space for name, address and signature. Other submissions were a plain pro forma with a space for name, address and signature and a blank area for individual comments.

There were common concerns that were raised in the individual submissions and plain pro forma submissions, these are as follows:-

- ❖ Congestion of traffic
- ❖ Access for semi-trailers to off loading docks
- ❖ Bus parking in Bay Street and Endeavour Parade
- ❖ Loss of open space/public land, being the grassed area of Chris Cunningham Park for road pavement to compensate for road closure
- ❖ Perceived loss of crown land for the benefit of a developer
- ❖ Inappropriateness of high rise development in the precinct
- ❖ Under utilised commercial space in Tweed, no need for more commercial space to be created
- ❖ Loss of trees in median strip
- ❖ Use of area from Chris Cunningham Park for road pavement

The pro forma submissions with issues raised these issues:-

- ❖ The utilisation of the proceeds of the sale of the road closure parcel
- ❖ The one off commercial gain for the community and the greater benefit to the developer at the expense of loss of the amenity of open space

The breakdown of the submissions is as follows:

<b>Individual Submissions</b>	<b>Pro forma with issues</b>	<b>Plain Pro forma</b>
125	112	100

The question and answer sheet posted on Council's internet, and attached to this report, provides a reply to some of the issues raised, specifically:

- ❖ the egress and entry of semi-trailers to the Woolworths loading dock;
- ❖ that there will be no loss of space from Chris Cunningham Park, (see Note 1) and
- ❖ the unauthorised use of Bay Street by terminated buses between services.

**Note 1:** The northern boundary of the Bay Street road reserve marks the limit of any road or associated works with the partial road closure. Some submissions have identified that this boundary is north of the current kerb and gutter of Bay Street, includes some grassed area and should therefore be considered to be part of Chris Cunningham Park. The answers provided on the internet refer to the road reserve boundary in the literal sense and it is acknowledged that some parts of the road reserve now contain grassed areas.

Council's Traffic Engineer replied to the traffic issues raised as follows:-

- ❖ Regarding the current congestion of the Wharf St/Bay St intersection – Council response is that the intersection is currently operating at a satisfactory level of service. Any redevelopment of Tweed Centro would require a detailed traffic impact report in relation to the proposed level of the service at the signals.



- ❖ There are currently no turn arrows at the existing signals – Council response is that the imposition of turn arrows will generally provide a lower level of service for the intersection as a whole, as above, any redevelopment would require a detailed analysis of the performance of the intersection to be carried out.
- ❖ There is no access for semi-trailers and semi-trailer manoeuvres will be hazardous to other motorists – Council response is that semi-trailer access will also need to be assessed as part of any development application
- ❖ Loss of car parking and a restriction on car parking for visitors to Jack Evans Boat Harbour – Council response is that existing car parking will not be lost, any reduction in existing car parking caused by any development will be compensated by the construction of car parking nearby – again this will need to be assessed as part of any development application.

Some submissions referred to other unrelated issues, and will not be dealt with in this report, but will be submitted to the relevant officers for comment and response.

## **6. Conclusion**

The proposal to close part of Bay Street to encourage an active streetscape, addressing Jack Evans Boat Harbour to the north has been the subject of Council consideration for many years.

The proposal was formally advertised to the community in November, 2008 and submissions have been received.

There has been a strong community response to the proposal and the submissions have identified many adverse impacts that will/may arise if this proposal proceeds.

Given this level of public interest it is considered that the period for submissions should be extended until 13 January 2009 and that this should be followed by a Council Workshop to review the submissions and Council's strategies and objectives for this area of Tweed Heads.

It is anticipated a formal report to Council on this proposal would be prepared and submitted after this Workshop.

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

The legal obligations arising from the Probity Plan relating to the requirement to maintain confidentiality is a legal implication to be borne by each Councillor and officer of Council.

### **POLICY IMPLICATIONS:**

Nil.



**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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1. Excerpt 1992 Jack Evans Boat Harbour Plan of Management with plan (DW1946188)
2. Excerpt from draft 1998 JEBHPM, page 16 (DW1946131)
3. Excerpt from draft 1998 JEBHPM, pages 25 & 26 (DW1946136)
4. Jack Evans Boat Harbour Reserve Trust report dated 9 April 2003 (DW1946133)
5. Council report dated 6 October 2004 (DW1104328)
6. Council resolution dated 6 October 2004 (DW1104322)
7. Tweed Heads Masterplan (DW1104152) (provided to Councillors only)
8. Excerpt from Tweed Shire DCP, Section B2 – Tweed Heads, page B2-15 (DW1946183)
9. Architectural plan of Tweed Mall refurbishment, including bridge and embellishment of Chris Cunningham Park (DW1945523)
10. Council report minutes for meeting held 1 March 1995 (DW1946162)
11. Site Plan dated 21 February 1995 showing bridge as part of stage 2 Works (DW1945525)
12. Operations Committee report dated 13 November 2007 (DW1705811)  
Operations Committee resolution dated 13 November 2007 (DW1705811)
13. Bay Street information posted on Council's internet site (DW1946113)
14. Council Resolution from Meeting held 6 March 2007 (DW1555385)

**Confidential Attachments**

1. Confidential Report dated 9 October 2008 (DW1901947)
  2. Probity Plan for the Disposal of Bay Street – November 2007 (DW1703755)
  3. Confidential Report dated 6 March 2007 (DW1550835)
-



## REPORTS FROM THE DIRECTOR COMMUNITY & NATURAL RESOURCES

**O15 [CNR-OC] Restoring Watercourses, Wetlands & Coastal Lakes on the North Coast 08/11. Contract No. 2007/USM/0013**

### **ORIGIN:**

**Natural Resource Management**

### **SUMMARY OF REPORT:**

The Clarence Valley Council was granted funds by The Environmental Trust to manage the above project on behalf of an Alliance of 6 Northern Rivers Councils (Kempsey Shire, Clarence Valley, Tweed Shire, Richmond River County, Port Macquarie Hasting and Greater Taree).

Clarence Valley Council has offered Tweed Shire Council \$300,000 over three (3) years to undertake urban wetland rehabilitation and acid sulfate soil remediation works on the Tweed Floodplain.

### **RECOMMENDATION:**

**That Council:-**

- 1. Receives the Urban Sustainability Grant funds from Clarence Valley Council for the amount of \$300,000 for three years.**
- 2. Votes expenditure for the two components of the project: Bray Park Wetland Rehabilitation and Blacks Drain ASS remediation respectively for the amount of \$100,000 for 2008/2009.**

**REPORT:**

The Environmental Trust has been funding Floodplain projects and Council has been successful in securing a number of grants. The next round of funding is offering Council a \$300,000 over three years contract to continue this work. The Project Outcomes are:

**Bray Park Wetland Rehabilitation:**

- Rehabilitate stream bank, wetland and bushland
- Improve urban water management, particularly stormwater and urban runoff.
- Improve the environmental performance of community organisations and households in urban areas by capacity building and involvement in sustainable management of wetlands, creeks and bushland
- Build educational facilities (may include board walk and interpretative signage)

**Blacks Drain ASS remediation work:**

- Reduce acidity, heavy metals and low DO exports from Blacks drain (BD) catchment
- 1500m of existing deep ASS drain filled and replaced by shallower/wider drain

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

TSC Financial Contribution as per contract - \$90,000 over three years, funded by Tweed River Committee budget.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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1. Contract No. 2007/USM/0013 (DW 1934595)
-

**O16 [CNR-OC] Waste Management Charges**

**ORIGIN:**

**Waste Management**

**SUMMARY OF REPORT:**

The fees and charges for Stotts Creek Landfill identify two separate rates for builders waste; builders waste sorted \$30 per tonne, and builders waste unsorted \$60 per tonne. The builders sorted waste charge was implemented to provide incentive to separate the construction and demolition waste to allow for recycling. This has not occurred, and the reduced charged has inadvertently been used to subsidise disposal costs for commercial operators.

**RECOMMENDATION:**

**That**

- 1. Council advertises the removal of the "builders waste sorted" charge of \$30 per tonne from the fees and charges, effective Monday 2 February 2009.**
- 2. The Waste Management Coordinator advises all commercial waste transporters of the proposed change to the landfill fees and charges.**



**REPORT:**

Stotts Creek Landfill fees and charges identify two separate rates for builders waste; builders waste sorted \$30 per tonne, and builders waste unsorted \$60 per tonne. The builders sorted waste charge was implemented to provide incentive to separate the construction and demolition waste to allow for recycling, rather than presenting a mixed or unsorted load which predominantly is landfilled. Due to reluctance by the commercial operators to change their practices, and an inability of Council's contractor, Solo Resource Recovery, to effectively police the charge, there has been little increase in the recovery of construction and demolition materials for recycling. The reduced builders waste sorted charge has been used inadvertently to subsidise the disposal costs for commercial operators.

The latest waste tonnage quarterly report shows 2051 tonnes of waste was accepted at Stotts Creek Landfill under the builders waste sorted charge. After investigation it was determined that this waste was predominantly landfilled with little or no opportunity for recycling. The amount of builders waste sorted has been increasing since the charge was implemented. 550 tonnes was accepted as builders waste unsorted, which was all landfilled.

There are two other landfill charges in place which will act to increase recycling from this waste stream. Commercial operators can dispose of green waste or timber sorted loads at \$33 per tonne, while rubble/concrete, bricks, or masonry sorted loads at \$17 per tonne. These two landfill charges will be promoted to provide incentive for the commercial operators to separate these materials, and allow for increased recycling of builders waste.

A review of surrounding Council's landfill fees and charges is below. It is noted that by removing the builders waste sorted charge, and reverting to the builders waste unsorted charge, Tweed Shire will be more aligned with the charges at surrounding landfills.

Activity	Tweed	Gold Coast	Byron	Ballina
<b>Builders waste</b>	<b>\$30 sorted</b> <b>\$60 unsorted</b>	<b>\$63</b>	<b>\$65</b>	<b>\$171</b>
Green waste	\$33	\$33	\$35	\$42
Rubble/concrete	\$17	\$28	\$15	\$35

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Managed through the Waste Fund, delivered by the Waste Management Unit.

**POLICY IMPLICATIONS:**

Nil.



**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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Nil.

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**017 [CNR-OC] Request to Activate Previously Approved Loan Funds for Urgent Expansion of Tweed Valley Respite Service (TVRS) Facility at Cudgen Road, Kingscliff**

**ORIGIN:**

**Director Community & Natural Resources**

**SUMMARY OF REPORT:**

Tweed Valley Respite Service Inc ("TVRS") is requesting activation of a proportion (\$495,000) of previously Council-approved loan funds at the annual loan servicing cost to Council less \$10,000 per annum to facilitate urgent expansion of its aged care services at Kingscliff.

Currently, TVRS exercises long term occupancy of "The Cottage" facility at Cudgen Road, Kingscliff. Council is the owner of the land and building.

The need for expansion at this site, in order to provide aged services in Tweed, is now critical, and reflects demographics of this area.

To date, two (2) loans to TVRS for expansion at this site have been approved by Council. Neither approved loan has been activated.

In May 2003, Council resolved to allocate \$495,000 in the 2003/2004 budget from loan funds to construct a respite administration building and associated facilities on Council's land to be leased by Tweed Valley Respite Service at the annual loan servicing cost to Council less \$10,000 per annum, and this to be included in the advertised budget.

In 2005, owing to increased costs identified in a 2004 feasibility study, Tweed Valley Respite Service Inc requested additional monies. This amount was an additional \$495,000 with terms as for initial loan. It was originally to be included in the rate rise and was later actually included in the budget as loan funds.

The current annual loan servicing cost to Council for \$495,000 requested by TVRS @ 7.13% over 20 years is \$46,827.52 per annum. The original approved terms would reduce the cost to TVRS to \$36,827.52 per annum.

If the loan to TVRS is approved, Council will own the facility after 20 years.

TVRS is seeking to carry out extensions to the facilities as soon as possible and would seek to access the approved funds in early 2009.

**RECOMMENDATION:**

**That:-**

- 1. Council activates a proportion of approved loan monies previously allocated to Tweed Valley Respite Service as per Council resolution on 7 May 2003.**
- 2. Council allocates \$495,000 to Tweed Valley Respite Service Inc. to construct extensions to Tweed Valley Respite Service Aged Care service facilities on Council land, being Lot 2 DP1041750 Cudgen Road, Kingscliff.**
- 3. This loan be repaid by Tweed Valley Respite Service Inc. at annual repayment of \$36,827.52 over a 20 year period (which is the current annual loan servicing cost to Council, less \$10,000) as a rent equivalent and that Tweed Valley Respite Service Inc. enters into a formal lease agreement with Council.**

## REPORT:

Tweed Valley Respite Service Inc (TVRS) is a long standing community-based and incorporated organisation which has operated in Tweed Shire since 1987. TVRS provides respite, support and educational services to people who are frail aged and/or have a dementia and their carers, and to children and adults with a disability and their carers.

The core aim of the organisation is to offer services which will enable carers to continue caring for their person at home, to support the person to continue living either with their family or independently, and to continue participating in the community.

Since 2000, in alignment with increased demand for services, TVRS has grown significantly to now provide over 18 substantial programs with more than a fourfold growth in client and carer numbers. Staffing levels have increased from 13 to 120 and the service brings over \$4,000,000 in funding annually to Tweed Shire.

The upgrading of its accommodation facilities to accommodate growth has been a strategic issue since 2003. This is now a critical operational issue for all sections of TVRS.

At this point, the unresolved issue is adequate accommodation for Aged Care Services. This is an especially critical problem in the Tweed given the percentage of the older population who will develop a dementia and the importance of a community based response which will enable the person to stay at home longer, rather than proceeding immediately to residential care.

The current facility at Kingscliff is fully utilised and care options in the community for people experiencing dementia and their carers are seriously limited until expansion is undertaken.

In order to commence expansion, TVRS now requests activation of an approved loan of \$495,000 under the original terms:

*On 7 May 2003, Council resolved to allocate \$495,000 in the 2003/2004 budget from loan funds to construct a respite administration building and associated facilities on Councils land to be leased by Tweed Valley Respite Service at the annual loan servicing cost to Council less \$10,000 per annum, and this to be included in the advertised budget.*

The current annual loan servicing cost to Council of \$495,000 requested by TVRS @ 7.13% over 20 years is \$46,827.52 per annum. The original terms would reduce the cost to TVRS to \$36,827.52 per annum.

TVRS is seeking to carry out extensions to the facilities as soon as possible and would seek to access the approved funds in early 2009.

The following information provides a history which also outlines how the organisation has sought to resolve the issues of inadequate accommodation, and the most recent outcomes of this.

### **History**

TVRS began its services with two programs in 1987.

In 1990 land at Cudgen Road, Kingscliff was allocated by Council for use by TVRS.

In 1994, in a partnership arrangement between Council and TVRS, a purpose-built Respite Cottage for frail aged persons and people with dementia was constructed using Home and Community Care (HACC) Capital Assistance funds. TVRS has conducted its aged care services at this site since 1994/5. Council is the owner of the land and the building.

In 2003/2004, owing to increased demand for TVRS services, a request was received by Council from TVRS to expand the footprint of land available and to secure loan funds to assist TVRS in expanding the building.

At the Council Meeting 7 May 2003, Council resolved to allocate \$495,000 in the 2003/2004 budget from loan funds to construct a respite administration building and associated facilities on Council's land to be leased by TVRS at the annual loan servicing cost to Council less \$10,000 per annum, and this to be included in the advertised budget.

The terms of this loan was that it would be repaid over 20 years as rent equivalent to the principle of the loan and annual interest, less \$10,000 a year. Council would own the facility after 20 years.

In January 2004, a feasibility study was conducted to ascertain whether extensions should be built at the Kingscliff site or at Council's South Tweed site with a decision to proceed at Kingscliff. Building costs rose significantly during the period of the study and TVRS requested additional monies in 2005 originally to be included in the rate rise and later actually included as loan funds. This amount was an additional \$495,000 with terms as for initial loan.

To date, neither loan has been activated.

In 2007, TVRS intended to utilise the loan monies to purchase a site in Murwillumbah. This did not proceed.

In 2008 TVRS purchased the ex Christian College site at Dungay to fulfil requirements for Management, Administration and a Disability Skills Development Centre. This purchase does not require use of approved loans funds.

However, TVRS has continued to significantly expand services to the aged care sector with a growth in funding, programs, staff and clients. The demands reflect the demographics of this area.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

As per report.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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Nil.

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**O18 [CNR-OC] Tweed River Regional Museum Foundation**

**ORIGIN:**

**Community & Cultural Services**

**SUMMARY OF REPORT:**

Due to recent Local Government elections, Council must nominate a representative to replace Administrator Boyd and join the Board of Directors of Tweed River Regional Museum Foundation, as stated in the Constitution of Tweed River Regional Museum Foundation Limited.

**RECOMMENDATION:**

**That Councillor Longland be nominated as Tweed Shire Council's elected representative to the Tweed River Regional Museum Foundation Board of Directors.**



**REPORT:**

The Tweed River Regional Museum Foundation Limited (the Foundation) was established as a Company Limited by Guarantee for the purpose of marshalling, from appropriate sources, financial support for Tweed River Regional Museum. The Foundation Constitution requires a Board of Directors, comprised of President, Vice-President, Secretary, Treasurer, three Ordinary Directors, and the Senior Museum Curator. It also requires "One representative of Council being the Mayor of the Shire or a serving Councillor or Administrator, nominated by the Council in place of the Mayor." Councillor Barry Longland has expressed interest in taking up this role if nominated by Council as he is the Councillor representative on the Tweed River Regional Museum Advisory Committee.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Nil.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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Nil.

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**O19 [CNR-OC] Offer of Assistance for Implementation of the Tweed River Estuary Management Plan and the Tweed Coast Estuaries Management Plan 2008/09**

**ORIGIN:**

**Natural Resource Management**

**SUMMARY OF REPORT:**

The Minister for Climate Change and the Environment, Carmel Tebbutt MP, advised Council that financial assistance of up to \$300,000 will be made available to Council on a 1:1 NSW Government to Council basis. An amount of up to \$250,000 for implementation of the Tweed River Estuary Management Plan 2008/09 and \$50,000 for implementation of the Tweed Coast Estuaries Management Plan 2008/09 was offered.

This funding has been made available through the Estuary Management Program of the Department of Environment & Climate Change (DECC). Council has allocated \$500,000 to the Tweed River Management Program to provide Council's matching contribution to the estuary program and to match other grant funds as they become available. A budget of \$50,000 is available to match the funding provided for Tweed Coast Estuaries.

**RECOMMENDATION:**

**That Council:-**

- 1. Accepts the financial assistance of up to \$300,000 from the Department of Environment & Climate Change's Estuary Management Program on a one to one basis.**
- 2. Votes the expenditure for implementation of the Tweed River Management Program (\$250,000) and Tweed Coast Estuaries Management Program (\$50,000).**



**REPORT:**

The Minister for Climate Change and the Environment, Carmel Tebbutt MP, advised Council that financial assistance of up to \$300,000 will be made available to Council on a 1:1 NSW Government to Council basis. An amount of up to \$250,000 for implementation of the Tweed River Estuary Management Plan 2008/09 and \$50,000 for implementation of the Tweed Coast Estuaries Management Plan 2008/09 was offered.

This funding has been made available through the Estuary Management Program of the Department of Environment & Climate Change (DECC). Council has allocated \$500,000 to the Tweed River Management Program to provide Council's matching contribution to the estuary program and to match other grant funds as they become available. \$50,000 is budgeted to match the funding provided for Tweed Coast Estuaries.

The Tweed River Management Program submitted to DECC is included below in Table 1. This will now be amended to indicate the lower contribution by DECC and a revised program presented in the next meeting minutes of the Tweed River Committee.

The Tweed Coast Estuary Management Program submitted to DECC is included below in Table 2.

**Table 1: TWEED RIVER COMMITTEE – TWEED RIVER ESTUARY MANAGEMENT PROGRAM**

**IMPLEMENTATION BUDGET 2008/2009**

<b>Project</b>	<b>Description</b>	<b>Outcomes</b>	<b>Budget Amount</b>	<b>Amended Budget</b>
<i>Project Coordination and Administration</i>	-Coordination of Tweed River Committee and management of all Tweed River Estuary Management Program Projects.	-Delivery of estuary management program.	\$100, 000	\$100,000
<i>Education</i>	-Tweed River Festival -Supporting initiatives at 'Sustainable Living Centre'	-5000 people attend Tweed River Festival events -Estuary management profile in new TSC facility, a purpose built regional scale environmental education centre, increased access to schools.	\$20, 000	\$20,000
<i>Wetland Enhancement</i>	-Charles Bay Project 3rd Year Implementation -Stage 4 works Bilambil Creek Rehabilitation	-Weed removal from approx 20 ha SEPP 14 wetland and riparian forest -Supporting Landcare in riparian revegetation in Bilambil estuary	\$70, 000	\$70,000
<i>Monitoring</i>	-Implementation of DEFIRE and EHMP long term monitoring recommendations	-Rationalised ambient water quality monitoring and ecosystem health assessment program.	\$40, 000	\$40,000
<i>Riparian Rehabilitation</i>	-Riparian Vine Weed Project, -Oxley Cove 4th year, -Byrriil Creek 4th year, -Riparian Projects Team	-Weed removal and bush rehabilitation in riparian and wetland areas.	\$200, 000	\$160,000



<b>Project</b>	<b>Description</b>	<b>Outcomes</b>	<b>Budget Amount</b>	<b>Amended Budget</b>
<i>Community Nursery</i>	Continued support for the Tweed River Committee Community Nursery	-Provision of nursery facilities for groups and individuals undertaking catchment rehabilitation.	\$30,000	\$30,000
<i>Stormwater</i>	-Maintenance of Lavender Creek artificial wetland -Ongoing implementation of Condong Creek revegetation	-Reduced stormwater pollution to Tweed River estuary from existing urban and industrial areas.	\$100, 000	0
<i>Bank Stability</i>	Revetment work and access improvement adjacent Philp Parade, Tweed Heads,	-Stabilise 250 metres of eroding river bank.	\$150, 000	\$150,000
<i>ASS and Floodgate Projects</i>	Tidal gate installation, ASS research support, water quality monitoring	-Installation of tidal gates and drain infilling. Assist ongoing research into ASS impacts & management. Logging of water quality in drains.	\$80, 000	\$80,000
<i>Boating Facilities</i>	-Implementation of Tweed Recreational Boating Study including development of Condong Regional Boating Facility	-Construction of onshore facilities to enhance commercial and recreational boating in the Tweed.	\$80, 000	0
<i>Foreshore Projects</i>	Tweed River Murwillumbah Reach – stabilisation, amenity and access enhancement plan implementation first year (5 km reach)	-Weed removal, bank stabilisation on public land, provision of advice to private landholders on river bank and riparian management.	\$130, 000	\$100,000
		Tweed Shire Contribution	\$500, 000	\$500,000
		DECC Estuary Program	\$500, 000	\$250,000
	<b>Total</b>		<b>\$1,000,000</b>	<b>\$750,000</b>



**Table 2**  
**Tweed Coastal Committee - Implementation of the Tweed Coast Estuaries Management Program 2008/2009**

Project	Description	Outcomes	Amount
Water Quality Monitoring	Ongoing ambient water quality monitoring in three coastal creeks	WQ analysis for 11 sites	\$15,000
Education	Production of the Tweed Coastal education booklet	Increased awareness of coastal ecosystems and management of estuaries Increased community commitment to and involvement in management of coastal estuaries	\$5,000
Recreational Foreshore Improvement and Bank Stabilisation in Cudgen Creek	Creek bank rehabilitation at sites CN1 and CN3 as per Estuary management Plan	Improved recreational and environmental amenity in two popular access locations	\$30,000
Riparian Rehabilitation of Cudgera Creek	Provision of access point to reduce erosion and improve accessibility for canoes at Cudgera Creek	Construction of a canoe launching facility	\$25,000
Riparian Rehabilitation of Mooball Creek	Protection and enhancement of riparian vegetation, weed management and maintenance of bank stabilisation structures.	Maintenance of important riparian vegetation buffers. Protection of foreshore recreational areas from the impacts of creek bank erosion	\$25,000
			\$100,000
		TSC Contribution	\$50,000
		DECC Contribution	\$50,000

#### LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council has allocated \$500,000 in the 2008/09 budget with the anticipation that we would receive \$150,000 in grant monies from DECC. The remainder above that required to meet this grant on a \$:\$ basis has been allocated as contributions to other grant funding opportunities.

Council has allocated \$50,000 in the 2008/09 budget to match the funding provided for Tweed Coast Estuaries.

#### POLICY IMPLICATIONS:

Nil.

#### UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Letter of Offer from Minister Carmel Tebbutt (DW 1935402)

**O20 [CNR-OC] Dune Vegetation Screens at SALT****ORIGIN:****Natural Resource Management****SUMMARY OF REPORT:**

Following consideration of a report regarding vegetation clearing in the dunal areas of Lot 500 adjacent to SALT, Council resolved at 13 November 2007 meeting the following:

*"that Council, subject to concurrence with Department of Lands, take the following actions to deter unlawful clearing of vegetation on dunes in public land adjacent to SALT:-*

1. *Erect visual screens, of size similar to the lost vegetation view line profile, at the location of unauthorised clearing with signage explaining why screens have been erected.*
2. *Department of Lands to be asked to contribute 50% of the cost of screens and signs.*
3. *Replace removed trees with tubestock on a 2:1 basis, with the number planted to be related to the number of trees recorded as having been removed to date. The species to be selected from the Management Plan species list.*
4. *Request the Ray Group, as an extension of the 'Lot 500 & 7(f) Zone Management Plan, Salt', to provide additional funding to meet the cost of planting and maintaining these additional plantings."*

Subsequent to that, the adjacent resident offered to replant the area with 8 mature Banksia trees. Council resolved at 22 April 2008 meeting to facilitate the planting of mature trees and review the potential for removal of the screen in November 2008.

The site was inspected on 6 November 2008 and it was noted that there were good survival rates with the new plantings and the advanced Banksia trees planted appear to be firm in the ground and have produced new tip growth. The site still requires on-going maintenance as do several other newly-planted sections along Lot 500 adjacent to SALT.

Due to the success of the mature Banksia plantings and similarity of this site to several others along the SALT foreshore that have been recently planted, it is recommended that the screen be removed as it is considered that the screen has served the purpose and is not assisting in the regeneration of the dune plants as it is positioned on the leeward side of the plantings. Signage should be erected on the fence of the same size and wording as that on adjacent, newly-planted areas.

**RECOMMENDATION:**

**That:-**

- 1. The visual screen located on Lot 500 between Angourie and Malibu Streets, South Kingscliff be removed.**
- 2. A sign be erected on the fence the same as that erected at adjacent rehabilitation areas.**
- 3. Council continues to monitor and maintain the site.**

**REPORT:**

Following consideration of a report regarding vegetation clearing in the dunal areas of Lot 500 adjacent to SALT, Council resolved at 13 November 2007 meeting the following:

*"that Council, subject to concurrence with Department of Lands, take the following actions to deter unlawful clearing of vegetation on dunes in public land adjacent to SALT:-*

- 1. Erect visual screens, of size similar to the lost vegetation view line profile, at the location of unauthorised clearing with signage explaining why screens have been erected.*
- 2. Department of Lands to be asked to contribute 50% of the cost of screens and signs.*
- 3. Replace removed trees with tubestock on a 2:1 basis, with the number planted to be related to the number of trees recorded as having been removed to date. The species to be selected from the Management Plan species list.*
- 4. Request the Ray Group, as an extension of the 'Lot 500 & 7(f) Zone Management Plan, Salt', to provide additional funding to meet the cost of planting and maintaining these additional plantings."*

Subsequent to that, following an offer from the adjacent resident to replant the area with mature Banksia trees, Council resolved to facilitate the planting of mature trees paid for by the resident and review the potential for removal of the screen in November 2008.

Council's Bushland Officer and Coastal Assets Supervisor inspected the site on 6 November 2008. It was noted in the memo reproduced below, that there are good survival rates with the new plantings and the advanced Banksia trees planted appear to be firm in the ground and have produced new tip growth. The recommendation in the memo is to retain the screen as the plantings are not yet established to be self-sustaining.

Memo to Coordinator Natural Resource Management from John Turnbull, Bushland Officer, 6 November 2008.

*"Rod Keevers and I examined the plantings undertaken as the result of illegal clearing within the dune area adjacent to 18 North Point Avenue, Kingscliff (SALT). The plantings have been largely successful with less than 10% mortality.*

*Specifically, advanced Coast Banksia (Banksia integrifolia) purchased for planting have all established to the point where they are firm in the ground and have produced a small quantity of new tip growth. I would anticipate that by the end of the growing season they will no longer require staking. Several had secondary ties removed to allow for secondary thickening of the trunks.*

*The remaining tubestock plantings have met with varied success; one species Silver Basswood (*Polyscias elegans*) has flourished and all are protruding from the tree guard bags. Several other species have achieved similar growth from some of the individuals planted while others of the same species have been heavily browsed by wallabies or hares e.g. Brown Kurrajong (*Commersonia bartramia*), Red Ash (*Alphitonia excelsa*) and Coast Banksia. Some species have experienced moderate growth and have not been browsed e.g. Bennet's Ash (*Flindersia bennettiana*). Still other species have had all planted specimens browsed e.g. *Syzygium* spp or have not achieved appreciable growth and are struggling e.g. Wallum Banksia (*Banksia aemula*).*

*Browsing animals have pushed down the plastic bag guards to eat preferred species and this activity is likely to continue. If this causes serious setback to the plantings it may be necessary to try the installation of rigid tree guards or replace species with less attractive plants. It is also possible that some specimens will require replacing if the gaps left by dead plants are not filled by adjacent plantings.*

*At this time it is recommended that staking of the large Banksia's is retained and that tree guards are retained around the majority of specimens; those on the Silver Basswood could possibly be removed.*

*The plantings are not yet established to a point where they are self-sustaining, have developed resilience or are capable of surviving without ongoing intervention.*

*Consequently the screen erected at the site needs to be retained."*

Further inspection by the Coordinator Natural Resource Management (see photographs below) found that the site is very similar to several other sections where recent plantings have been undertaken. The screen is doing very little to protect plants as it is positioned on the leeward side of the plantings. The purpose of the screen is to reduce views where foreshore vegetation has been removed for enhancement of views.

In this instance, the adjacent landholder who is most affected by the location of the screen, has assisted with replanting of mature trees and maintained that he was not responsible for the removal of the vegetation.

Therefore, it is recommended that Council resolve to remove the screen and continue to monitor and maintain the site. Signage should be erected on the fence of the same size and wording as that on adjacent, newly-planted areas.

Site photos are attached to this report.

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

Nil.





**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website [www.tweed.nsw.gov.au](http://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. Site photos (DW 1947859)
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**O21 [CNR-OC] Request for "In Kind" Support/Waive Fee**

**ORIGIN:**

**Community & Cultural Services**

**SUMMARY OF REPORT:**

Council has received requests from various organisations asking that Council provides in-kind support/waives the fees for room hire. Details of the requests are reproduced in the body of this report.

In accordance with Section 356 of the Local Government Act 1993 - Donations, Council resolved on 6 October 2004 that:-

*".... in future, all donations made by Council, whether in cash or in kind, be made by way of a resolution of Council."*

**RECOMMENDATION:**

**That Council:-**

- 1. With reference to the request from Tweed Australian South Sea Islander Community Inc, provides the South Sea Islander Room at Tweed Heads Civic Centre free of charge for 2009 monthly meetings (12) and that Council's support is recognised with the following acknowledgement "This programme has been supported by Tweed Shire Council".**
  
- 2. With reference to the request from Northern Rivers Symphony Orchestra, Council provides the Tweed Heads Civic Centre for rehearsals every Wednesday for \$10 per 3 hour rehearsal and as required on Sundays for \$10 per 3 hour rehearsal and provides the Tweed Heads Civic Centre free of charge for three (3) concert performances in 2009, and that Council's support is recognised with the following acknowledgement "This program has been supported by Tweed Shire Council".**

**REPORT:**

Council has received requests from various organisations asking that Council provides in-kind support/waives the fees for room hire. Details of the requests are reproduced as follows:-

Organisation Name	Request	Est \$ Amount of Waiver	Recommendation	Meet Guidelines?
Tweed Australian South Sea Islander Community Inc	Request waiver of fee for hire of the South Sea Islander Room for regular monthly meetings.	\$807.60	That the fee of \$807.60 be waived.	Yes
Northern Rivers Symphony Orchestra	Request waiver of fee for hire of Tweed Heads Civic Centre for three (3) concert performances in 2009 and rehearsals each Wednesday and Sundays as required at a charge of \$10 per rehearsal.	\$4362	That the fee of \$4362 be waived for 3 concert performances in 2009 and that the fee for rehearsals each Wednesday and Sundays as required be reduced to \$10 per 3 hour rehearsal.	Yes

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Should requests be approved for the waiving of fees for room hire, the income for the meeting room will be impacted by the amount of the fee reduction.

Should requests for "in kind" support be approved, this will impact on the costing of Council's involvement in the activity.

**POLICY IMPLICATIONS:**

In considering this request, reference should be made to:-

- Festivals Policy.
- Donations Policy.
- Guidelines for Fee Reduction, Auditoriums, Meeting Rooms and Halls.

**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](http://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. Tweed Australian South Sea Islander Community Inc (DW1934532)
2. Lyn McBurney, Northern Rivers Symphony Orchestra (DW1946032)

**O22 [CNR-OC] EC2008-134 Supply and Delivery of Water Treatment Chemicals & Industrial Gases to Bray Park Water Treatment Plant****ORIGIN:****Contracts/Water****FILE NO: EC2008-134****SUMMARY OF REPORT:**

This report outlines the tender for EC 2008 134 Supply and Delivery of Water Treatment Chemicals & Industrial Gases to Bray Park WTP with an approximate 18 month contract period ending 30 June 2010. Recommendations have been formulated based on the Selection Criteria (where appropriate) which is contained in the Tender Evaluation, Pricing Report included in **CONFIDENTIAL ATTACHMENT A**. It is recommended that Council accepts the tender of:

- Orica Watercare for the supply and delivery of Schedule A - Chlorine Gas;
- Redox Pty Ltd for the supply and delivery of Schedule B - Hydrofluorosilicic Acid (Fluoride);
- Omega Chemicals for the supply and delivery of Schedule D - Citric Acid;
- Omega Chemicals for the supply and delivery of Schedule E - Sodium Bisulphite;
- James Cumming & Sons Pty Ltd for the supply and delivery of Schedule F - Powder Activated Carbon; and
- CIBA Australia Pty Ltd for the supply and delivery of Schedule G – Polymer.

Attachment A is **CONFIDENTIAL** in accordance Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderers in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

During its debate on this item at the Meeting, the Council/Committee may decide, by resolution to discuss the confidential information in closed confidential committee. Before doing so, the committee will determine if members of the public will be allowed to make verbal representations as to whether that part of the meeting should be closed.

**RECOMMENDATION:**

That the:-

1. Tender from Orica Watercare (Schedule A), Redox Pty Ltd (Schedule B), Omega Chemicals (Schedules D & E), James Cumming & Sons Pty Ltd (Schedule F) and CIBA Australia Pty Ltd (Schedule G) be accepted for Contract EC2008-134 Supply and Delivery of Water Treatment Chemicals & Gases to the Bray Park Water Treatment Plan through to 30 June 2010.
  
2. ATTACHMENT A be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

## **REPORT:**

### **Background**

Council Tender EC2008-134 Supply and Delivery of Water Treatment Chemicals & Industrial Gases to Bray Park WTP (Readvertised) invited responses for the provision of:

- Schedule A: Chlorine Gas
- Schedule B: Hydrofluorosilicic Acid (Fluoride)
- Schedule C: Hydrated Lime (Caustic Soda)
- Schedule D: Citric Acid
- Schedule E: Sodium Bisulphite
- Schedule F: Powder Activated Carbon (wood based)
- Schedule G: Polymer

The Supply and Delivery of Water Treatment Chemicals was originally offered under Tender EC2009.115 however at the close of this tender only three submissions to two chemicals and one gas type had been received. The poor response was disappointing and unexpected. As no pricing of product comparisons could be achieved, it was considered Council's best option was to recall tenders for all the chemicals and chlorine gas and to make contact with all known suppliers advising them of the readvertised tender.

### **Tenders Received**

Responses were received for tender EC2008-134 as follows:

- Schedule A:- Orica Watercare.
- Schedule B:- Redox Pty Ltd.
- Schedule C:- NIL.
- Schedule D:- Omega Chemicals, Quantum Chemicals Pty Ltd.
- Schedule E:- Omega Chemicals, Quantum Chemicals Pty Ltd, Orica Watercare.
- Schedule F:- James Cumming & Sons Pty Ltd, Redox Pty Ltd, Orica Watercare, Quantum Chemicals Pty Ltd.
- Schedule G:- CIBA Australia Pty Ltd.

### **Tender Evaluation**

The Tender Evaluation was conducted by Council's Tender Panel, consisting of - Plant Operator, Contracts Engineer, Engineering Admin Supervisor and Assistant Water & Waste Water Engineer.



A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest. Recommendations appear below for the Tender.

The following table shows the preferred Tenderer\* against each of the Selection criteria:-

Criteria	Schedule A	Schedule B	Schedule D	Schedule E	Schedule F	Schedule G
1	Orica Watercare	Redox Pty Ltd	Omega Chemicals	Quantum Chemicals Pty Ltd	James Cumming & Sons Pty Ltd	CIBA Australia Pty Ltd
2	Orica Watercare	Redox Pty Ltd	Omega Chemicals	Omega Chemicals	James Cumming & Sons Pty Ltd	CIBA Australia Pty Ltd
3	Orica Watercare	Redox Pty Ltd	**	**	**	CIBA Australia Pty Ltd
4	Orica Watercare	Redox Pty Ltd	**	**	**	CIBA Australia Pty Ltd
5	Orica Watercare	Redox Pty Ltd	**	**	**	CIBA Australia Pty Ltd

\*Note: Schedule C received no submissions.

\*\* All Tenderers have equal scores.

#### Schedule A (Chlorine Gas):

Based on the fact one tender was received and comparing with reference price supplied by the Design Consultant (Hunter Water Australia), it is recommended that the Tenderer Orica Watercare be nominated for EC2008-134 Schedule A to supply and deliver Chlorine Gas according to the details supplied in their tender submission.

#### Schedule B (Fluoride):

Based on the fact one tender was received and comparing with reference price supplied by the Design Consultant (Hunter Water Australia), it is recommended that the Tenderer Redox Pty Ltd be nominated for EC2008-134 Schedule B to supply and deliver Hydrofluorosilicic Acid (Fluoride) according to the details supplied in their tender submission.

#### Schedule C (Hydrated Lime):

No Tenders were received for Schedule C. Council is to go back out to the market early 2009.



Schedule D (Citric Acid):

The Tender allowed for supply in two distinct forms, either as a liquid solution or in powder form. It was decided during the evaluation process, in consultation with the Process/Commissioning Engineer (HWA) for the project, that the preferred form for the initial operation would be the liquid solution. Therefore, evaluation of tenders was based on supply and delivery of the liquid solution form with no reference to the powder form.

Based on the sum of the weighted scores of each selection criteria, it is recommended that the Tenderer Omega Chemicals be nominated for EC2008-134 Schedule D to supply and deliver Citric Acid in liquid form according to the details supplied in their tender submission

Schedule E (Sodium Bisulphite):

The Tender allowed for supply in two distinct forms either as a liquid solution or in powder form. It was decided during the evaluation process, in consultation with the Process/Commissioning Engineer (HWA) for the project, that the preferred form for the initial operation of the water treatment plant would be the liquid solution. Therefore, evaluation of tenders was based on supply and delivery of the liquid solution form with no reference to the powder form.

Based on the sum of the weighted scores of each selection criteria, it is recommended that the Tenderer Omega Chemicals be nominated for EC2008-134 Schedule E to supply and deliver Sodium Bisulphite in liquid form according to the details supplied in their tender submission.

Schedule F (Powder Activated Carbon (PAC)):

The Tender specified wood based Powder Activated Carbon. Several Tenderers offered alternative products as follows:

- Coal Based PAC - James Cumming & Sons Pty Ltd and Orica Watercare.
- Coconut Based PAC – Redox Pty Ltd.

Even though these alternative materials provide potential cost savings to Council it was decided, in consultation with the Project's Design Consultant (HWA) and the Membrane Plant Supplier that wood based was to be used as specified due to the potential damage the alternative products may cause to the membrane filters. Therefore, evaluation of tenders was based on supply and delivery of the wood based PAC with no reference to alternative materials.

Based on the sum of the weighted scores of each selection criteria, it is recommended that the Tenderer James Cumming & Sons Pty Ltd be nominated for EC2008-134 Schedule F to supply and deliver wood based PAC according to the details supplied in their tender submission.

Schedule G (Polymer):

Based on the fact one tender was received and comparing with reference price supplied by the Design Consultant (Hunter Water Australia) and current supply to other plants within the Tweed Shire, it is recommended that the Tenderer CIBA Australia Pty Ltd be nominated for EC2008-134 Schedule G to supply and deliver Polymer for the Bray Park WTP according to the details supplied in their tender submission.

Details of recommended Tenderers relative competitiveness are shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Evaluation Committee.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

Funding is provided within the 2008/2009 Budget for EC2008-134 Supply and Delivery of Water Treatment Chemicals & Industrial Gases to Bray Park WTP.

**POLICY IMPLICATIONS:**

Nil.

**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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

1. **Confidential Attachment A** - EC2008-134 Supply and Delivery of Water Treatment Chemicals and Industrial Gases to Bray Park Water Treatment Plant (DW 1947059).
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**O23 [CNR-OC] EC2008-123 Design and Construction of Pontoons****ORIGIN:****Contracts****SUMMARY OF REPORT:**

This report outlines the tender for EC2008-123 Design & Construction of Pontoons and provides a recommendation on the preferred tenderer. There are three sites included in the contract:

- Site 1 – Public Jetty, Dry Dock Road, Tweed Heads South
- Site 2 – Public Pontoon, Riverside Drive, Tumbulgum
- Site 3 – Foysters Jetty, Minjungbal Drive, Tweed Heads South

Recommendations have been formulated based on Selection Criteria which is contained in the Tender Evaluation Report included in **CONFIDENTIAL ATTACHMENT A**. A summary of Selection Criteria is also included in the body of this report. It is recommended that Council accepts the tender from Prestige Pontoons Pty Ltd for EC2008-123 Design & Construction of Pontoons.

**RECOMMENDATION:****That:**

1. The tender from Prestige Pontoons Pty Ltd be accepted to the value of \$83,308.18 exclusive of GST.
2. The General Manager be given delegated authority to approve variations up to 20% above the initial contract price (inclusive of GST). Any variations shall be reported to Council on a quarterly basis.
3. **ATTACHMENT A** is **CONFIDENTIAL** in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret

**REPORT:****Background**

Council Tender EC2008-123 (Design & Construction of pontoons) invited responses for the provision of supply, delivery and installation of floating pontoon systems at three locations within Tweed Shire:

- Site 1 – Public Jetty, Dry Dock Road, Tweed Heads South
- Site 2 – Public Pontoon, Riverside Drive, Tumbulgum
- Site 3 – Foysters Jetty, Minjungbal Drive, Tweed Heads South

Site 1 involves installation of a new structure off the existing Public jetty at Dry Dock Road, Tweed Heads South. An approved Statement of Environmental Effects is required before site work can commence. This is being prepared by Council staff but was not approved at the time of this report.

Site 2 & Site 3 involve upgrading the existing damaged public pontoons and gangways. Work at both these sites includes construction of a new pontoon while utilising the existing gangways and piles where deemed structurally sound by the tenderers engineer. It is intended that both pontoon upgrades will be completed within their current footprint as approved in the original Development Application for the structure.

**Tenders Received**

A total of five (5) responses were received for tender EC2008-123:

- Hopedale Services Pty Ltd
- Sand Queensland Pty Ltd (trading as Pacific Pontoon & Pier)
- Prestige Pontoons Pty Ltd
- Atlas Marine International Pty Ltd (trading as Superior Jetties)
- Sydney Marina Contracting Pty Ltd

**Selection Criteria**

The selection criteria and weightings determined prior to issue of the Tender were:

Item	Criterion	Weighting %
1	Conformity of Offer	5
2	Innovation	10
3	Total Normalised Score (Tender Price)	45
4	Time Performance	10
5	Contract Experience	10
6	OHS and Risk Management	15
7	Warranty Periods Offered	5
	Total	100

**Tender Evaluation**

The tender evaluation was conducted by Council's Tender Assessment Panel, consisting of the Coordinator of NR Management, the Waterways Program Leader and a Contracts Engineer. A copy of the Tender Evaluation Report is included in **CONFIDENTIAL ATTACHMENT A**.

Based on the economic advantage and conformity of submission against non-cost criteria, it is recommended that Prestige pontoons Pty Ltd be nominated for EC2008-123 Design & Construction of pontoons.

The details of Prestige pontoons Pty Ltd relative competitiveness is shown in the Tender Evaluation Report included in **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Tender Evaluation Panel.

**LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

This tender process is in accordance with Section 55 of the Local Government Act 1993 and Part 7 (Tendering) of the Local Government (General) Regulation 2005.

Funding is provided from the Budget Group E021 (Tweed River) of the 2008/2009 Annual Budget. The project specific costs will be assigned against the Finance Performance-Operating Expenses under Job number A5781 - Lower Tweed Management Plan.

Site 1 still requires a Statement of Environmental Effects at the time this report was created. Council cannot instruct the commencement of work at the site without the final approved SEE document.

Work at Sites 2 & 3 involves upgrading the existing structures. All previous environmental documentation (i.e. SEE) and Council Development Approval shall apply.

**POLICY IMPLICATIONS:**

The recommendations in this report are consistent with Council's Procurement Policy, Procurement Procedure, Contracts Management Process document and Tenders Procedure.

**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](http://www.tweed.nsw.gov.au) or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

1. **CONFIDENTIAL ATTACHMENT A** - EC2008-123 Design & Construction of pontoons (DW 1947465)
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**O24 [CNR-OC] EC2008-127 Crushing of Concrete Rubble at Stotts Creek Landfill Facility**

**ORIGIN:**

**Waste/Contracts**

**SUMMARY OF REPORT:**

This report outlines the tender EC2008-127 for Crushing of Concrete Rubble at Stotts Creek Landfill Facility and provides a recommendation on the preferred tenderer. The contract period has a definite completion date of 27 November 2009.

Recommendations have been formulated based on Selection Criteria which is contained in the Tender Evaluation Report included in **CONFIDENTIAL ATTACHMENT A**. A summary of the Selection Criteria is included in the body of this report. It is recommended that Council accepts the conforming tender from O'Keeffe Quarries Pty Ltd for EC2008-127 Crushing of Concrete Rubble at Stotts Creek Landfill Facility.

**RECOMMENDATION:**

**That:**

- 1. The tender from O'Keeffe Quarries Pty Ltd be accepted for Crushing of concrete Rubble at Stotts Creek Landfill Facility at the Schedule of Rates offered (inclusive of GST) effective to 27 November 2009.**
- 2. The General Manager be given delegated authority to approve variations up to 20% above the initial contract price (inclusive of GST). Any variations shall be reported to Council on a quarterly basis.**
- 3. ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business**
  - (d) commercial information of a confidential nature that would, if disclosed:**
    - (i) prejudice the commercial position of the person who supplied it, or**
    - (ii) confer a commercial advantage on a competitor of the council, or**
    - (iii) reveal a trade secret**

## **REPORT:**

### **Background**

Council Tender EC2008-127 invited responses for the provision of concrete crushing services at Stotts Creek Landfill Facility. The original tender request document indicated that the awarded contractor would be offered a 3 year contractual arrangement (subject to 6 monthly CPI unit rate increases) to perform crushing services at the site.

However, there was an internal miscommunication while preparing the Tender Request documentation which effectively changed the entire scope of work. During the time between preparation, advertising and close of the tender, Council staff failed to consider that the Management of Stotts Creek Landfill Facility Contract is due to expire on 30 November 2009.

### **Tenders Received**

A total of five (5) responses were received for tender EC2008-127 on the closing date of 5 November 2008. These were as follows:

- Crushscreen Services
- Davis Earthmoving & Quarrying Pty Ltd
- Environmental Industrial Solutions
- O'Keeffe Quarries
- Terragon Mobile Crushing

### **Post Tender Correspondence**

On 18 November 2008, a tender addendum was issued to all submitting tenderers as Post Tender Correspondence. The addendum advised submitting tenderers of Councils intentions to correct the misinterpreted scope and allowed submitting tenderers to adjust their unit rates accordingly. The tender addendum included a revision of the contract duration to ensure that completion of the contract occurs on 27 November 2009 (which is before the completion of the Management of Stotts Creek Landfill Facility Contract due to expire 30 November 2009).

Council also took the opportunity to specify the requirement of an additional screened product 'Bedding Material' which completed the Particle Size Distribution spectrum. This addition to the Schedule ensured that the largest possible volumes of quality saleable products could be produced from contract activities.

### **Addendum Tenders Received**

Tender responses for the addendum closed in the Tender Box on 3 December 2008. A total of four (4) responses were received. These were as follows:

- Crushscreen Services
- Davis Earthmoving & Quarrying Pty Ltd
- O'Keeffe Quarries Pty Ltd
- Terragon Mobile Crushing





### Selection Criteria

The selection criteria & weightings determined prior to issue of the Tender were:

Item	Criterion	Weighting %
1	Tender Price* (Total Normalised Score)	40
2	Quality Assurance	20
3	Key Personnel Experience	10
4	Environmental Management	10
5	Contract Experience	10
6	OHS and Risk Management	10
	Total	100

\*Note: The evaluation of Tender Price was based on the Schedule of Rates submitted in response to the Post Tender Correspondence issued on 18 November 2008.

### Tender Evaluation

The tender evaluation was conducted by Council's Tender Assessment Panel, consisting of a Waste Management officer and 2 Contract Engineers. A copy of the Tender Evaluation Report is included in **CONFIDENTIAL ATTACHMENT A**.

Based on the economic advantage and detailed management plans, it is recommended that O'Keeffe Quarries Pty Ltd be nominated for EC2008-127 Crushing of Concrete Rubble at Stotts Creek Landfill Facility.

Details of O'Keeffe Quarries Pty Ltd's relative competitiveness are shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Tender Evaluation Panel.

### LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

This tender process is in accordance with Section 55 of the Local Government Act 1993 and Part 7 (Tendering) of the Local Government (General) Regulation 2005.

Funding is provided from the Budget Group G004 (Non Domestic Waste) of the 2008/2009 Annual Budget. The project specific costs will be assigned against the Finance Performance-Operating Expenses under Job number A2515 – Stotts Creek Depot.

### POLICY IMPLICATIONS:

The recommendations in this report are consistent with Council's Procurement Policy, Procurement Procedure, Contracts Management Process document and Tenders Procedure.



**UNDER SEPARATE COVER/FURTHER INFORMATION:**

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1. **CONFIDENTIAL ATTACHMENT A** - EC2008-127 Crushing of Concrete Rubble at Stotts Creek Landfill Facility (DW 194626)
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