



AGENDA

PLANNING COMMITTEE MEETING

Tuesday 17 March 2009

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**



THIS
PAGE
IS
BLANK

THIS
PAGE
IS
BLANK

ITEMS FOR CONSIDERATION OF THE COMMITTEE:

ITEM	PRECIS	PAGE
	REPORTS THROUGH GENERAL MANAGER	5
	REPORTS FROM DIRECTOR PLANNING & REGULATION	5
P1	[PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards	7
P2	[PR-PC] Refurbishment of the Banora Point Caravan Park, Lot 5 in DP 828639 & Lot 382 in DP 755740, Pacific Highway East, Banora Point	11
P3	[PR-PC] Development Application DA05/0308.17 & DA05/308.18 for an amendments to Development Consent DA05/0308 for a staged residential subdivision (3 stages) comprising 89 single dwelling lots, 7 duplex blocks, 1 drainage reserve, 1 residue lot & 2 publi	31
P4	[PR-PC] Development Application DA08/0475 for an attached dual occupancy at Lot 2 DP 1075086, No. 29 Vulcan Street Kingscliff	57
P5	[PR-PC] Development Application DA08/1118 for a Fruit and Vegetable Roadside Stall, Signage and Associated Carparking at Lot 11 DP 835413, No. 2 Boulder Close, Byangum	97
P6	[PR-PC] Development Application DA08/1012 for the Addition of Three (3) New Industrial Buildings to an Existing Industrial Development at Lot 229 DP 1122768, No. 90-92 Quarry Road South Murwillumbah	127
P7	[PR-PC] Development Application DA08/0831 for a Dwelling, Attached Garage & Swimming Pool at Lot 358 DP 1087716, No. 33 Cylinders Drive Kingscliff	155
P8	[PR-PC] Proposed Activity PTV08/0002 for a construction of a new sewerage scheme over the subject site and roads and land zoned as 2(d) Village in the Village of Mooball and Burringbar at Lot 1 DP 1054857 Pottsville Road, Mooball; Tweed Valley Way	183
P9	[PR-PC] Tweed Urban and Employment Land Release Strategy	225
P10	[EO-PC] Amendment to Section 94 Plan No. 1 - Banora Point West / Tweed Heads South	235



THIS
PAGE
IS
BLANK

THIS
PAGE
IS
BLANK

REPORTS THROUGH GENERAL MANAGER

REPORTS FROM DIRECTOR PLANNING & REGULATION

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

The following are the matters Council is required to take into consideration under Section 79(C)(1) of the Environmental Planning and Assessment Act 1979 in assessing a development application.

MATTERS FOR CONSIDERATION

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



THIS
PAGE
IS
BLANK

THIS
PAGE
IS
BLANK



P1 [PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards

ORIGIN:

Director Planning & Regulation

SUMMARY OF REPORT:

In accordance with the Department of Planning's Planning Circular PS 08-014 issued on 14 November 2008, the following information is provided with regards to development applications where a variation in standards under SEPP1 has been supported.

RECOMMENDATION:

That Council notes the Variations to Development Standards under State Environmental Planning Policy No 1 - Development Standards.

REPORT:

On 14 November 2008 the Department of Planning issued Planning Circular PS 08-014 relating to reporting on variations to development standards under State Environmental Planning Policy No. 1 (SEPP1).

In accordance with that Planning Circular, the following Development Applications have been supported where a variation in standards under SEPP1 has occurred: -

DA No.	Description of Development	Property Address	Date Granted	Development Standard to be Varied	Zoning	Justification	Extent	Authority
DA08/0753	Dwelling, swimming pool & front fence	Lot 351 DP 1087716 No. 19 Cylinders Drive Kingscliff	17/2/2009	Clause 32B of NCREP as it relates to overshadowing	2(f)	The property is beach front land in an approved residential subdivision. the development is a single residence and the shadow cast by the development will only affect the vegetation on the coastal dune and not the beach	Minor Shadow encroachment cast by the development into the foreshore during the nominated times in the development standard. The shadows cast impact on the coastal dune vegetation and do not reach the beach	Council under assumed Concurrence
DA08/0841	Dwelling & swimming pool	Lot 3 DP 253681 No. 49 Elanora Avenue, Pottsville	17/2/2009	clause 32B of NCREP as it relates to overshadowing	2(a)	The property is beach front land in an approved residential subdivision. the development is a single residence and the shadow cast by the development will only affect the vegetation on the coastal dune and not the beach	Minor Shadow encroachment cast by the development into the foreshore during the nominated times in the development standard. The shadows cast impact on the coastal dune vegetation and do not reach the beach	Council under assumed Concurrence
DA08/1007	Three (3) storey dwelling & swimming pool	Lot 282 DP 1120559 No. 13 Woodfull Crescent, Pottsville	23/2/2009	Clause 16 - Building Height - Number of storeys	2(a)	Topography of land and no anticipated impact on neighbours	3 Storeys rather than 2 storeys	Director General of the Department of Planning
DA08/0857	Dwelling, swimming pool & front fence with fence height variation	Lot 356 DP 1087716 No. 29 Cylinders Drive, Kingscliff	17/2/2009	Clause 32 B of the NCREP	2(f)	The property is beach front land positioned in an approved sub-division. The development is a single residence and the shadow cast by the proposal will have minimal affect on the vegetation within the coastal dune. The beach will not be affected.	Very minor shadow encroachment cast into the foreshore coastal reserve during the nominated times in the development standard.	Council under assumed Concurrence
DA08/1102	Storage Shed	Lot 6 DP 711121	10/2/2009	Clause 22 of TLEP 2000 relating to designated roads	1(a)	TLEP2000 stipulates 30m building line from designated road - applicant requested 12m building line relaxation	60%	Council under assumed Concurrence



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.



THIS
PAGE
IS
BLANK

THIS
PAGE
IS
BLANK

P2 [PR-PC] Refurbishment of the Banora Point Caravan Park, Lot 5 in DP 828639 & Lot 382 in DP 755740, Pacific Highway East, Banora Point

ORIGIN:

Development Assessment

FILE NO: PF4030/2620 Pt5

SUMMARY OF REPORT:

In November 2008 the refurbishment of Banora Point Caravan Park was reported to Council to seek support for a program for the management of the various approvals and possible enforcement actions arising from any unlawful development of the site.

Council resolved as follows:

"that Council

- 1. Continues to negotiate directly with the owner to seek a lawful development across the site; and*
- 2. Should the negotiations not resolve in a lawful outcome within two (2) months, Council engages legal representation and seeks their direction for the management of approvals and enforcement actions."*

This report seeks to provide a status update on previously outstanding matters. The Council report of 18 November 2008 is attached for the necessary background information.

RECOMMENDATION:

That:-

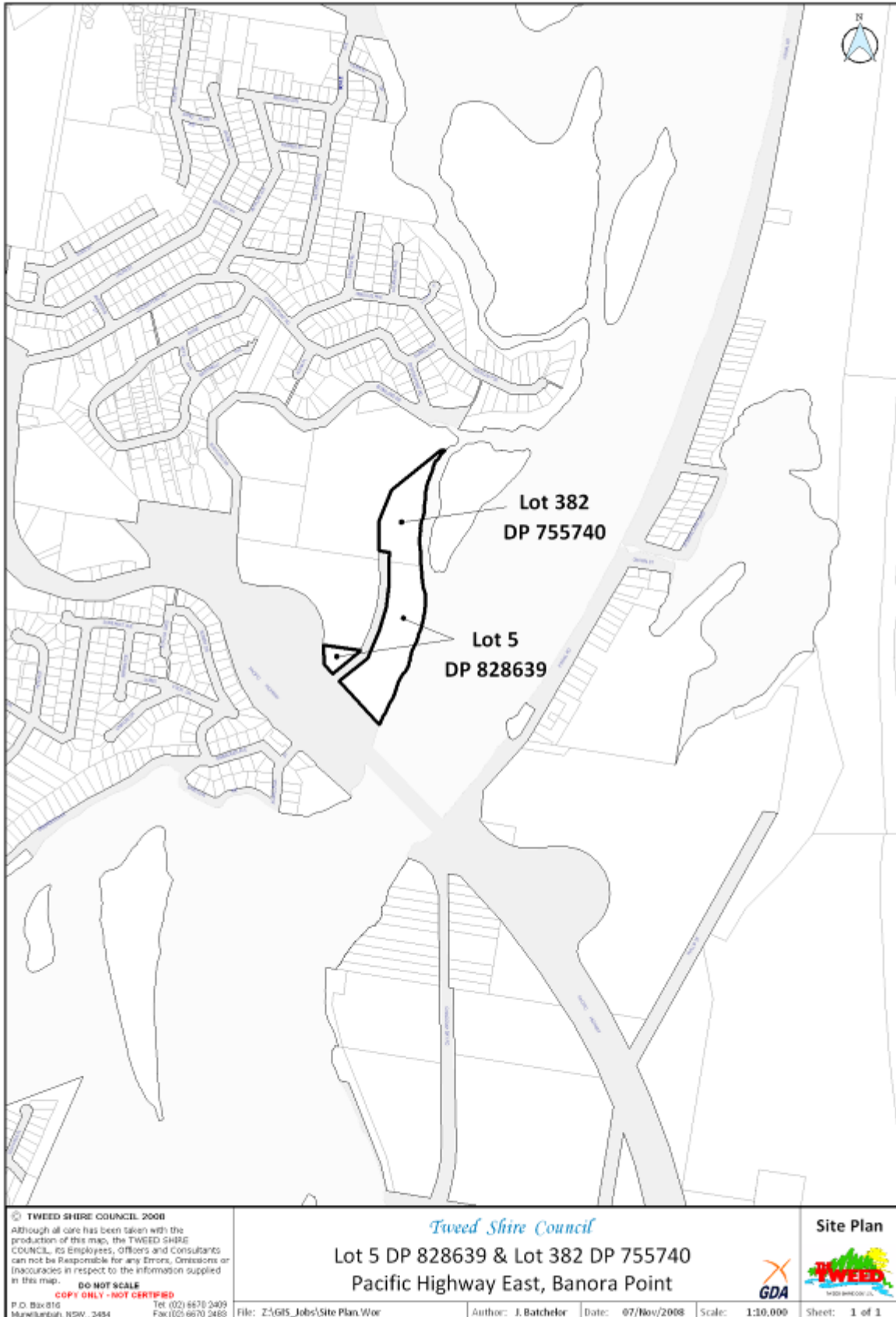
- 1. Council seeks additional information from the applicant as detailed within this report;**
- 2. Council advises the applicant that no development application is required for the previously undertaken site filling works;**
- 3. Should the additional information not be forthcoming within 2 months Council engages legal representation and seeks their direction for the management of approvals and enforcement actions.**



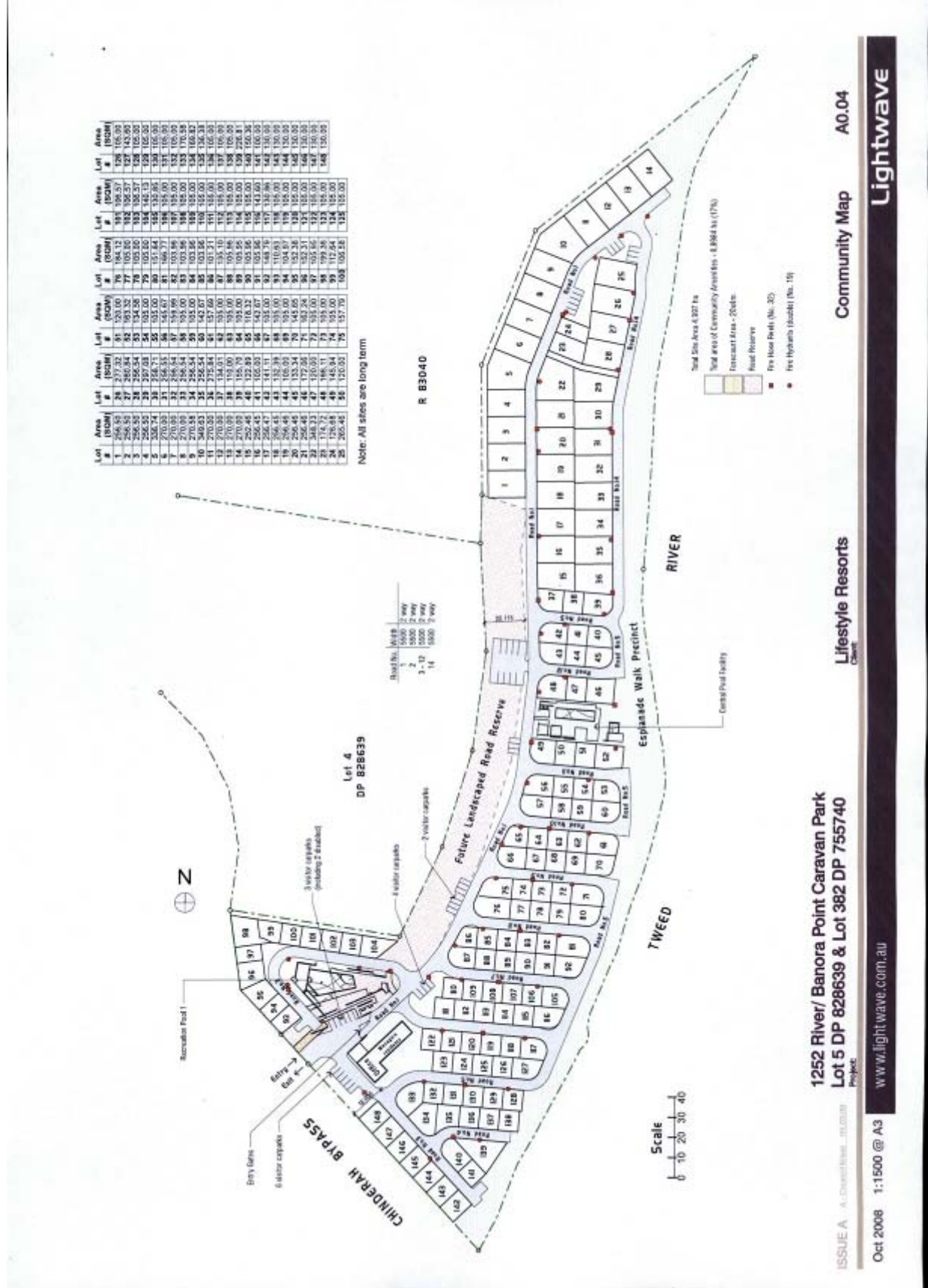
REPORT:

Applicant: Lifestyle Resorts Australia Pty Ltd(Own)
Owner: Lifestyle Resorts Australia Pty Ltd(Own)
Location: Lot 5 in DP 828639 & Lot 382 in DP 755740, Pacific Highway East,
Banora Point.
Zoning: 6(b) Recreation
Cost: Unknown

SITE DIAGRAM:



APPLICANT'S COMMUNITY MAP LODGED 5 MARCH 2009 (NOT APPROVED BY COUNCIL TO DATE)



ISSUE A - A Council Meeting - 03/03/09
 Project: 1252 River/ Banora Point Caravan Park
 Lot 5 DP 828639 & Lot 382 DP 755740
 www.lightwave.com.au
 Oct 2008 1:1500 @ A3
 Lifestyle Resorts
 Community Map A0.04
 Lightwave

Background & Report

As detailed within the Council report of 18 November 2008 the new owner of the site has decided to proceed with the refurbishment of the previously approved caravan park (by utilising the previous approvals rather than a new DA).

Since this time Council has been trying to liaise with the applicant to obtain applications for stormwater works, sewer works, and earthworks.

Some of the required information has been submitted to Council, however, there are other outstanding matters that have been brought to the applicant's attention.

Note: The below list of outstanding matters has not incorporated an assessment of the information supplied by the applicant on 5 March 2009. Council officers will continue to review the latest submitted material as soon as possible and provide an update to Council (by way of memorandum) on 17 March 2009 before the Council meeting.

Following is a status update on all matters:

S68 Applications for Sewer & Onsite Sewerage Management

Council Application SEW08/0500

This application has been cancelled.

Council Application SEP08/0016

This related to an application for a pump station. An approval was issued on 19/11/2008.

Council Application SEW 08/0090

This relates to an application for a pump station. Council's Senior Building Surveyor is co-ordinating the assessment of this application in consultation with Council's Environmental Health Officer.

A conditional approval can be issued that ensure ultimate compliance with Council's requirements.

In relation to the sewer rising main, it is a private rising main through Crown reserve over which the original developer was required to obtain an easement, which apparently never happened. Council's Water Unit must know what loading and pump flow rates are expected, and to be confident that the main is intact so that our system cannot discharge through it in a high level event. Council also has layers in the GIS for private sewers and rising mains. Council needs to know the location and size of the private SRM so that it can be included on the GIS layer. The easement should be benefiting the caravan park property and doesn't need to benefit Council, as it is not Council's infrastructure. These things should be part of the S68 Approval for the private pump station.



The applicant submitted an Engineers Statement on 5 March 2009 that has not been review to date. As detailed above this review will occur prior to the Council Meeting of 17 March 2009.

S68 Applications for Stormwater & Drainage

Council Application SWD08/0628 & Council Application SWD08/0629

Withdrawn

Council Application SWD08/0633

SW drainage over whole site with 10 SW quality devices

Ready for issue if Council concludes no DA is required for filling as detailed below.

Council Application SWD08/0003

Outdated (based on old S96) to be withdrawn by applicant.

Please note: The submission of works as executed plans for the water, sewerage and stormwater drainage infrastructure, and site works (filling), are required to be prepared in accordance with Development Design Specification D13, Section D13.15 Summary WAX Plans. These plans should be produced by a qualified surveyor and provided in the formats specified by D13.13.

Council is still awaiting this information.

Site Filling

On 22 September Council received a letter from the applicant with an accompanying legal advice stating that in their opinion the site already has consent to fill to the required flood level, and that therefore the applicant will not be submitting a DA for the "topping up" of the site.

In November 2008 Council was still of the opinion that a DA was required for the filling works of the subject site.

Subsequently in December 2008 the applicant further substantiated their justification with additional legal advice.

This additional information was reviewed by Council's Planning & Infrastructure Engineer and Council's Registered Surveyor who provided as follows:

In response to the letter from Wilshire Webb Staunton Beattie (18 December 2008), on behalf of the developer of the Banora Point Caravan Park, the following comments are provided regarding the issue of filling of the subject land, and in particular the statement from Landsurv "Datum Levels of 1967 Consent at Banora Point Caravan Park" (16 December 2008):

The condition of consent refers to filling of the land to RL 11. The condition does not specify units of measurement (although feet can be assumed), it does not specify a datum for measurement, and it does not specify whether the requirement is a minimum or a maximum fill level.

The assumption in the Landsurv statement that the applicable datum would be the permissible occupancy or mean high water mark is not agreed, as there is no valid basis for this assumption.

There are a number of varying datums that the condition could have referred to, all resulting in different final levels for the fill. It is considered that the applicable datum can not be properly determined without further evidence.

It is understood that approximately 0.3m of additional fill has been generally applied across the site to achieve a finished ground level of approximately RL 3.0m AHD as part of the current development activities. It is this filling that is the subject of concern for the Development Assessment Unit, as to its permissibility.

Council's current practice for approving the filling of land in Banora Point to increase flood immunity is to impose minimum fill requirements to design flood level. For the subject land, design flood level is RL 2.8m AHD. The costs of exceeding this level are borne by the developer, and additional filling is often necessary in order to create adequate fall for drainage and provide cover to underground services.

On the assumption that the fill level prior to the current development activities complied with the condition of development consent (that is, the caravan park operated for several decades at "11m" fill level), the additional fill is not considered a significant issue, or necessarily a breach of the consent conditions. The new fill exceeds Council's existing design flood level and therefore appears to meet current DCP-A3 requirements.

The additional filling would only create engineering concerns (and perhaps necessitate a new development consent) if it restricts existing drainage paths without providing adequate alternate services.

Having regard to these comments Council needs to determine whether the additional filling constitutes the need for a new DA.

The Tweed LEP 2000 specifies that earthworks are defined as:

"the addition or removal of any solid material on, to or from land, or any other work which will substantially alter the existing ground level or character of the surface of land"

The site has been topped up by approximately 300mm.

Based on the above comments the works have not substantially altered the level of the land nor the character of the surface of land.

Therefore it is recommended that Council accept that no development application is required for the site earthworks previously undertaken at the site provided that the applicant demonstrate details of the source of fill including documentary evidence that the fill material is free from contaminants and acid sulfate soil.

Approval to Operate & The Community Map

The applicant was previously requested to provide a Community Plan to ensure the site will be capable of complying with the relevant legislation and thus allow Council to issue an approval to operate.

The definition of a community map under the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 is:

Community map:

- (a) in relation to a manufactured home estate—means a scale map that accurately shows the road reserves, the community amenities and the dwelling sites within the manufactured home estate, and*

- (b) in relation to a caravan park or camping ground—means a scale map that accurately shows:*
 - (i) the access roads, community amenities and community buildings within the caravan park or camping ground, and*
 - (ii) the number, size, location and dimensions of dwelling sites or camp sites within the caravan park or camping ground, and*
 - (iii) in relation to a dwelling site or camp site within the caravan park or camping ground, the particular off-site parking space or spaces (if any) designated for use by the occupier of the dwelling site or camp site.*

The applicant provided a plan in January 2009 which was reviewed by Council's Environmental Health Officer. The following comments were provided:

It is considered that the layout as proposed is generally in conformity with Community Map G1714 dated 29/04/99, which has been recognised by Council following advice from Stacks The Law Firm that this is the approved community map and allows for 157 long term sites and 18 short term sites, as the footprint appears quite similar. The total number of long term sites proposed has been reduced by 9 to 148 with each site as proposed greater in area. There is neither provision for nor application for short term sites therefore any approval issued should exclude this use.

If the applicant wishes to obtain an Approval to Operate a Caravan Park, the following information is required in order to make a detailed assessment of the proposal:

- 1. A completed Application to Operate a Caravan Park shall be lodged with Council together with payment of the respective fee.*

2. *A community map titled appropriately is requested that complies with the definition within Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. The map shall identify all sites, the office, Manager's residence, offsite resident carparking, visitor carparking (including those for people with disabilities), and community amenities (including open space) and buildings. It would be preferred to also identify the following on the community map: fire hydrants and hose reels, entrance and exit roads, forecourt, and direction of roads.*

 3. *Clarification is also sought on a number of issues relative to Subdivisions 1 – 8 of Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005, which includes the following:*
 - a. *Clause 84 – Community amenities – Identify the areas reserved for recreation or other communal activities on the site in accordance with clause 84 including the proposed location of such area(s) and percentage of total land area.*
 - b. *Clause 87 – Dwelling sites to have road frontage – Site 98 on "Site Plan – Lot Areas A0.01" does not appear to have vehicular access to an access road.*
 - c. *Clause 88 – Setbacks from community buildings – Unclear from submitted plan. Demonstrate compliance with this clause for the Office/Manager's residence, laundry block(s), shower/toilet block(s) and other community buildings.*
 - d. *Clause 89 – Setbacks of dwelling sites and camp sites from road frontages – Unclear from submitted plan.*
 - e. *Clause 92 – Entrance and exit roads – Unclear from submitted plan.*
 - f. *Clause 93 – Forecourt – No evidence of a forecourt provided.*
 - g. *Clause 94 – Width of roads – Unclear from submitted plan.*
 - h. *Clause 97 (3) – Visitor parking – Unclear from submitted plan.*
 - i. *Clause 98 – Visitor parking for people with disabilities – The location of parking spaces of this nature cannot be identified from the submitted plan.*
 - j. *Clause 99 – Road surfaces – Confirmation of what road surfaces are proposed throughout the site.*
 - k. *Clause 104 – Electricity supply – Confirmation is required from an energy supplier that each dwelling site can be supplied with electricity from a reticulated energy supply and that electricity will be supplied by means of an electrical circuit connected to a separate electricity meter.*
 - l. *Clauses 113 to 120 – Laundry facilities – Whilst a concession exists for toilet and shower facilities, the same concession has not been provided for laundry facilities. Please provide further information with regards to these clauses.*
 - m. *Clause 127 – Garbage removal – Confirmation is required from Council's waste service provider that the site access roads are suitable for access of waste vehicles for servicing waste bins.*
-

- n. *Clause 128 – Fire Hydrants – The civil drawings titled “Sewer House Connection Details” prepared by Westera Partners Pty Ltd dated May 2008 (Project Number G07/215 A – Sheets 16 – 19 of 19) submitted to Building Services do not cover the entire site and site numbers do not match “Site Plan – Lot Areas A0.01”. Please show compliance with this clause and include on the Community Plan for ease of reference.*
- o. *Clause 129 – Fire Hose Reels – The civil drawings titled “Sewer House Connection Details” prepared by Westera Partners Pty Ltd dated May 2008 (Project Number G07/215 A – Sheets 16 – 19 of 19) submitted to Building Services do not cover the entire site and site numbers do not match “Site Plan – Lot Areas A0.01”. Please show compliance with this clause and include on the Community Plan for ease of reference.*

It is noted that the proposed layout does not appear to strictly comply with approved plans within development consents T4/2794 (17/3/86) and D94/15 (24/6/94), however, Council does have authority to vary the layout via the Community Plan. The applicant needs to specifically request this variation and justify the departures.

The applicant has submitted an updated "Community Plan" on 5 March 2009 which will be reviewed as soon as possible. The applicant also advised that an application for an updated licence to operate a caravan park will be lodged as soon as possible.

Site Contamination

Council is in receipt of a Soil Analysis for Banora Point Resort prepared by Simmonds & Bristow Pty Ltd dated 23 December 2008 (Ref: J-0811-339).

Whilst the report indicates that the previous land uses do not appear to have contaminated the soil, the following matters have been raised that require further information to be submitted by the applicant:

1. The sampling locations identified in Figure 1 “Map of site and sampling locations” of the report were reviewed by Council’s Environmental Health Officer and appear to be inconsistent with the requested sampling locations, which were the sewage pump well, the central male/female amenities positioned near the pump well, and the old storage area on the north-east corner of the site.

Please confirm whether submitted samples were obtained from the requested locations and provide detailed plans that show the exact sampling locations and the previously existing structures in question referencing Community Map G1714.

2. Sampling does not appear to have been carried out within the central male/female amenities location as per the above request. Additional information is required for future assessment.

3. Please outline why NSW Contaminated Site Guidelines were not utilised during this assessment.
4. The NSW Contaminated Sites Sampling Design Guidelines advise that samples should be collected at the depth(s) where the level of contamination is expected to be the most significant. The report states that surface sampling has been undertaken between 0 and 150mm at the locations. Confirmation is required that material sampled was taken from the natural surface level prior to the current owner filling the site, not the current fill surface level.
5. Further details are required regarding how potential contamination as a result of sewage overflow from the sewage pump well and the central male/female amenities were assessed and determined.

The applicant was advised that the above additional information was necessary and Council received the following response:

"In relation to the contamination sampling you have requested to be undertaken below, the Simmons and Bristow supplied to you, and your subsequent request for further information, we believe that insufficient guidelines were provided by yourself in relation to what testing was required of ourselves, and the location in which you wanted the testing done.

We are therefore rejecting your request to provide further testing. If you require further satisfaction that the area's are not contaminated, we will allow council officers, or any licensed company contracted by council, access to our site in order to complete whatever reports are required to put council at ease. We are not prepared to cover the cost of any further reports that we believe are not legally required of us."

This response is not considered justified. Council has reviewed the submitted material and has sought clarification on the submitted report. The clarification required is linked to the applicant's reports and should be available from the contractor. This request for clarification is not considered unreasonable.

It is recommended that Council continue pursuing this outstanding information from the applicant. Council staff will liaise with the applicant to detail the full scope of works required.

Traffic Control Plan

The applicant submitted a Traffic Control Plan.

In this respect the applicant was advised that:

"Council notes your traffic control plan, however, Council does not approve TCPs, but we have no objection to its implementation. The plan was prepared by qualified consultants, and it is up to you as the developer to comply with relevant standards."

Onsite Construction

The applicant is still pursuing the possibility of onsite construction of manufactured houses.

Onsite construction is not permissible as discussed previously, Council notes that no additional information has been received from the applicant in relation to this matter.

Validity of Boat Facility 0910/2000DA

The applicant has not provided any additional information to demonstrate commencement of any prior approvals for the boating facilities.

Landscaping

The landscaping plan was requested to review “the extent of works” to establish whether the activities constitute works within 40m of a waterway which would trigger the need for a permit from the Department of Water & Energy in accordance with the Water Management Act 2000.

This landscaping & regeneration plan has again been requested to ensure the development meets the legislative requirements, and ensures the protection of a sensitive coastal location. This request is now linked to a new DA for a boardwalk and two pools.

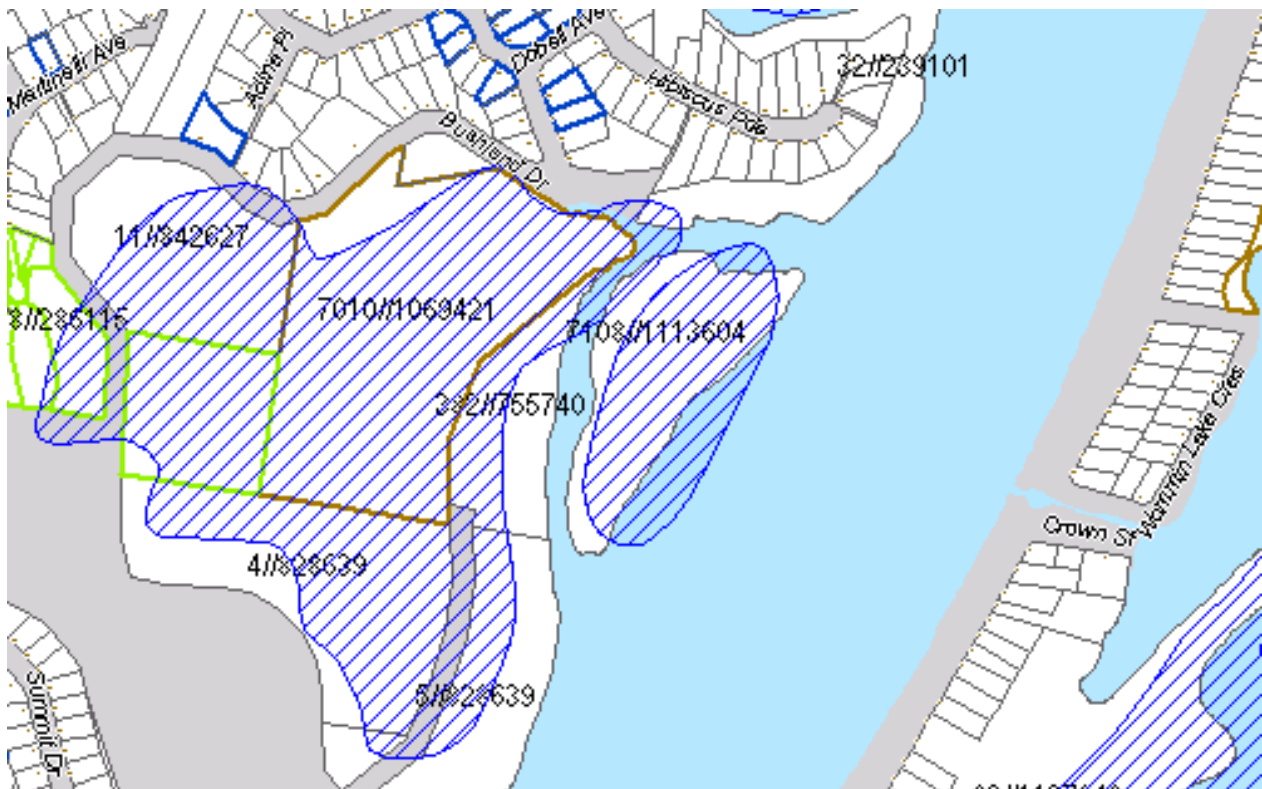
Pool DA's – DA08/1032 & DA08/1033

The applicant has withdrawn two previous approvals for pools and lodged one new Development Application for two pools and a boardwalk along the Tweed River.

This application (DA09/0064) is currently on exhibition.

Mapped SEPP 14 Land

The applicant has previously queried the process for amending the SEPP 14 maps which show the subject site affected by a mapped SEPP 14 (wetland):



The applicant has been advised that The Department of Planning is responsible for SEPP 14.

There is an avenue for persons to apply to the Department of Planning to alter SEPP 14 mapping based on elevation, micro topography, inundation regime, soil type and vegetation type. This would normally be done by the landowner, which in this case is the applicant and the Department of Lands (as owner of the adjoining road reserve). The applicant in conjunction with the Department of Lands should pursue amending the SEPP 14 Map with the Department of Planning.

Recent Media Release

On 6 March 2009, the applicant released the following media release and following images of the proposed development site:

***"FIRST HOME BUYERS IN RARE
WATERFRONT OFFERING***

RELEASED: 6 March 2009

First homebuyers will be given a rare opportunity to buy into waterfront property for under \$400,000 with the launch next weekend (Saturday, March 14) of the Morrison Group's innovative \$60 million gated residential precinct, River.

River will be a masterplanned community located on the only waterfront development site on the banks of the Tweed River at Barney's Point, near Tweed Heads – one of the most spectacular sites remaining in the Tweed region.



The Morrison Group, headed by Sally and Scott Morrison, have launched the first stage – a series of 13 two and three bedroom, architecturally designed river homes that will kick off a new community that will eventually consist of 150 dwellings.

“River is undoubtedly one of the most unique offerings to be launched on the Tweed for a number of years,” said David Stringer, of D.J Stringer Property Services which is marketing the project.

“The community has been designed to maximise the lifestyle of the Tweed River with the creation of architecturally designed homes that accentuate all aspects of waterfront living.”

River will include resort-style facilities including a gymnasium, pool, spa and lounge and will also include a boardwalk to maximise the private enjoyment of the Tweed River for owners.

A future marina is also proposed for the site.

Mr Stringer said the offering was targeted at a broad range of buyers from first home buyers to retirees at prices that would undoubtedly meet the market.

“These are very well priced, high quality river homes that will be part of a unique community on the banks of one of the area’s most pristine waterways,” he said.

“Price points present a unique opportunity for first home buyers to enter the market in what would become one of the Tweed’s blue chip waterfront investment opportunities.

“There is only a small opportunity between now and June 30 for first home buyers to take advantage of up to \$21,000 for the first home buyers’ grant and we believe this is one of the best offerings on the market for this category.

“The prices are simply unbeatable for this location for a gated community and buyers who get in during the early stages will stand in good stead for solid capital growth when the market turns.”

River will see the restoration and re-development of one of the Tweed’s most renowned sites, the former Banora Point Caravan Park, which was purchased by Morrison Group in 2007 for \$9 million.

The project will eventually accommodate a range of architecturally designed dwellings ranging from Terrace homes to freestanding dwellings.

The first stage will feature 13 river homes ranging from two to three bedrooms, four of which will be absolute waterfront.

The homes range in size from 136 to 167 square metres and will be priced from \$395,000.

River has been architecturally designed by Kingscliff-based firm Lightwave, which has designed a range of landmarks in the region including the Casuarina Beach Club, Paradiso Resort at Kingscliff, and Boundary Lane apartments at Rainbow Bay.

“The primary aim was to maximise the dollar value to appeal to first homebuyers and a savvy investment market,” said Patricia Gosling, project director.



"All homes have been designed to take advantage of the fantastic river and/ or bushland views they will have the look and feel of a sophisticated beach or river holiday 'villa'."

Quality materials and finishes have been selected with long life and low maintenance in mind and ESD principles have been incorporated into the designs throughout.

The project marks a return to the general residential market by the Morrison Group which has developed a range of state of the art over 50s communities throughout Queensland and northern NSW over the last decade.

"We have spent many years perfecting the gated resort concept and we are very excited about introducing River to a broader market," said Sally Morrison, general manager of the Morrison Group.

"While the quality of retirement living has been improved in recent years by such a dramatic standard, there are very few projects in general real estate that offer the same level of quality.

"We believe River is a fantastic opportunity for home owners and investors alike to be part of a finite commodity – waterfront communities."

River is located just off the M1 at Barneys Point, one of the most tightly held real estate precincts in the Tweed region.

The site is five minutes to Kingscliff and Fingal beaches and five minutes to Tweed shopping centres, the Tweed CBD and less than 10 minutes to Gold Coast Airport.

David Stringer will be on-site this weekend while a sale office will be open from next Saturday, March 14.

ENDS

FOR FURTHER INFORMATION CONTACT STEVE HUNT, MEDIA HUNT COMMUNICATIONS, ON (07) 55 207 955."

RIVER - AERIAL (From Applicant's Press Release):



RIVER TERRACE HOMES (From Applicant's Press Release):



RESIDENTS FACILITIES (From Applicant's Press Release):





As detailed within the Council report of 18 November 2008, the subject site benefits from the following approvals:

<u>Date</u>	<u>Consent Number</u>	<u>Approval</u>
14 November 1967	PN 1074	Filling of land to RL 11 and developing a caravan park and holiday units.
10 October 1983	T4/2795	Consent issued for the erection of 2 amenity blocks
17 March 1986	T4/2794	Extension to an existing caravan park to accommodate thirty six movable dwelling sites.
24 June 1994	D94/0015	Additions to existing caravan park to accommodate 5 relocatable home sites (these sites already existed and the DA was only lodged in response to the Council's request due to non compliance.
11 December 2000	DA 0910/2000	Boat Mooring & Launching Facilities
19 April 2001	DA 1198/2000	Erection of a demountable amenities building.

Whilst the original approval authorised a caravan park and holiday units the site consents have morphed into a development opportunity for a caravan park with a maximum capacity of 180 permanent home sites.

The new owner has decided to proceed with the refurbishment of the caravan park utilising the previous approval rather than a new DA.

Under State Government Planning Policy, the definition of "caravan park" can also include manufactured home sties.

The site therefore only has approval from Council for a caravan park and holiday units in accordance with the above consents.

It is the applicant's responsibility to ensure that any marketing material appropriately reflects what the site has development approval for. Furthermore, it is also the responsibility of the applicant to ensure that potential purchasers are aware that the site will be required to operated in accordance with both the Local Government Act and associated Regulations for Caravan Parks. The site does not have approval for a residential subdivision and has not been subject to any Torrens or Strata Title Subdivision.

Summary

The outstanding information above is considered necessary to enable Council to be satisfied that an approval to operate can be issued.

Until all of the outstanding information is received Council would have no option but to withhold the approval to operate (which has yet to be submitted).

OPTIONS:

1. Council request additional information and continue to negotiate directly with the owner to seek a lawful development across the site. Should the negotiations not resolve in a lawful outcome within 2 months Council engage legal representation and seek their direction for the management of approvals and enforcement actions
2. Council engage legal representation and seek their direction for the management of approvals and enforcement actions relating to Lot 5 in DP 828639 & Lot 382 in DP 755740.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council will incur legal costs if legal representation is required.

POLICY IMPLICATIONS:

It is considered necessary to continue working with the owner to ensure the legislative requirements are upheld and that this results in a lawful development site.

CONCLUSION:

This report aims to inform all Councillors of the status of the project to date and to seek support for a further program for the management of the various approvals and possible enforcement actions arising from any unlawful development of the site.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Council Report 18 November 2008 (DW1930873)
-

P3 [PR-PC] Development Application DA05/0308.17 & DA05/308.18 for an amendments to Development Consent DA05/0308 for a staged residential subdivision (3 stages) comprising 89 single dwelling lots, 7 duplex blocks, 1 drainage reserve, 1 residue lot & 2 publi

ORIGIN:

Development Assessment

FILE NO: DA05/0308 PT 12

SUMMARY OF REPORT:

Council is in receipt of two S96 Applications seeking amendments to DA05/0308 which approved the Barnby Street Subdivision.

S96 DA05/0308.17 seeks minor alterations to the staging plan and lot numbering in addition to relocating a pathway within the estate leading to Frangella Park.

S96 DA05/0308.18 has been lodged to resolve prior unauthorised works (excess fill was placed on adjoining land without consent) as reported to Council on 30 October 2008. In this regard Council resolved as follows:

1. *Council resolves to defer Item P2 and asks the applicant to initiate dispersal of the excess site material across the subdivision site.*
2. *Once the excess material is reduced as much as possible through site dispersal the applicant is requested to lodge a S96 Application and/or Development Application (as statutorily required) to truck the excess material off site.*
3. *The applicant be required to respond to Council's resolution within 7 days of this meeting and that an appropriate application, either S 96 or Development Application, referred to in Point 2 above, be submitted within 4 weeks of this meeting.*

The applicant has lodged S96 DA05/0308.18 to seek development consent to place the excess fill along a widened Joshua Street link road in additional to placing the fill along the batters of the new link road.

This request is not considered to be consistent with Council's previous resolution, however, as detailed within the following report it is considered a reasonable and lawful outcome for the site. Accordingly the two S96 Applications are considered appropriate and are recommended for conditional approval.

RECOMMENDATION:

That:

- A. Development Application DA05/0308.17 for an amendment to Development Consent DA05/0308 for a staged residential subdivision (3 stages) comprising 89 single dwelling lots, 7 duplex blocks, 1 drainage reserve, 1 residue lot & 2 public reserves at Lot 13 DP 793985; Lot B DP 368706; Lot 1 DP 392245, Barnby Street, Murwillumbah be approved subject to the following amendments to the existing conditions: -

1. Delete Condition 1B and replace with new condition 1C as follows:

1C The development shall be completed in accordance with the Statement of Environmental Effects and the following Plan Nos: -

- Drawing 20399 (I) prepared by Brown & Haan Surveying dated 9.12.2008 – amended to reference the western end of Rous River Way as “TRCP link road – to be dedicated to Council as part of Stage 1”;

This plan requires submission of amended engineering plans to address the necessary stormwater (IAD) modifications at the rear of Lots 227, 228 and 229.

The following referenced drawings show lot numbers that are not consistent with the above-mentioned plan, but are representative of actual dimensions, duplex lot locations, and physical works over the site:

- Drawing Number 7214/6/1 DA Figure 4 Revision E prepared by Cardno MBK and dated May 2006;
- Drawing Number 7214/06/1 DA Figure 10 Revision B prepared by Cardno MBK and dated August 2004;
- Drawing Number 7214/06 DA Figure 13 Revision B prepared by Cardno MBK and dated January 2005;
- Drawing Number 7214/06 DA Figure 14 Revision A prepared by Cardno MBK and dated November 2003;
- Drawing Number 7214/06/01 DA Figure 17 Revision B prepared by Cardno MBK and dated January 2005;
- Drawing Number 7214/06 DA Figure 18 Revision B prepared by Cardno MBK and dated August 2004;

except where varied by the conditions of this consent.

2. Delete Condition 30B and replace with new condition 30C as follows:

30C. The section of Road 3 (Silkpod Avenue) between Road 2 (Rous River Way) and Lot 315, when constructed, shall be built to full urban standards and dedicated as public road.

3. Delete Condition 31B and replace with new condition 31C as follows:

31C. The Stage 3 construction of Road 5 (Fig Court) is to terminate at the northern boundary of Lot 326, and will require the provision of a temporary sealed turning bulb area, covered by a Right-of-Carriageway.

4. Delete Condition 33A and replace with new condition 33B as follows:

33B. Lot 132 (public reserve) shall be filled to a minimum of RL 4.1m AHD, and constructed as part of the Stage 1 works.

5. Delete Condition 42A and replace with new condition 42B as follows:

42B. The developer shall embellish the public reserve (Lot 132) and drainage reserve according to the approved landscaping plan. The public reserve shall be filled and levelled with a suitably established grass cover. Further embellishment of the public reserve shall not occur until 30% of the allotments have been occupied. Alternatively, the developer may pay the appropriate financial contribution and Council will undertake the further embellishment works at the appropriate time.

6. Delete Condition 49B and replace with new condition 49C as follows:

49C. Prior to issue of a Construction Certificate the applicant is to provide evidence to Council that Lot 229 can achieve a 20m Inner Protection Area while still accommodating a dual occupancy. Failure to satisfy this condition will result in Lot 229 not being a nominated dual occupancy allotment.

7. Delete Condition 105B and replace with new condition 105C as follows:

105C. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.



Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Stage 1 (29 Residential Lots)

Water DSP2: 25.4 ET chargeable

Sewer Murwillumbah: 26 ET chargeable

Stage 2 (36 Residential Lots)

Water DSP2: 36 ET chargeable

Sewer Murwillumbah: 36 ET chargeable

Stage 3 (31 Residential Lots)

Water DSP2: 31 ET chargeable

Sewer Murwillumbah: 31 ET chargeable

Note all water and sewer charges have previously been paid to the value of 92.4 ET for water and 93 ET for sewer.

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

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

[PCC0265/PSC0165]

- 8. Delete Condition 106B and replace with new condition 106C as follows:**

106C. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be



issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

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

These charges will remain fixed for the date of issue of this consent (DA05/.0308.17) and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

Stage 1

- « **Tweed Road Contribution Plan:**
169 Trips chargeable
S94 Plan No. 4
Sector9_4
Note 169 trips for TRCP has previously been paid.

- « **Open Space (Structured):**
26 ET @ \$653 \$16,978
S94 Plan No. 5

- « **Street Trees:**
26 Lot/s @ \$297 \$7,722.00
S94 Plan No. 6

- « **Shirewide Library Facilities:**
26 ET @ \$688 \$17,888
S94 Plan No. 11

- « **Bus Shelters:**
26 ET @ \$26 \$676
S94 Plan No. 12

- « **Eviron Cemetery:**
26 ET @ \$131 \$3,406
S94 Plan No. 13

- « **Emergency Facilities (Surf Lifesaving):**
26 ET @ \$200 \$5,200
S94 Plan No. 16

- « **Extensions to Council Administration Offices
& Technical Support Facilities**
26 ET @ \$1996.8 \$51,916.80
S94 Plan No. 18



«	Cycleways:	
	26 ET @ \$352	\$9,152
	S94 Plan No. 22	
«	Regional Open Space (Casual)	
	26 ET @ \$855	\$22,230
	S94 Plan No. 26	
«	Regional Open Space (Structured):	
	26 ET @ \$2327	\$60,502
	S94 Plan No. 26	

Stage 2

«	Tweed Road Contribution Plan:	
	234 Trips chargeable	
	S94 Plan No. 4	
	Sector9_4	
	<u>Note</u> 234 trips for TRCP has previously been paid.	
«	Open Space (Structured):	
	36 ET @ \$653	\$23,508
	S94 Plan No. 5	
«	Street Trees:	
	36 Lot/s @ \$297	\$10,692.00
	S94 Plan No. 6	
«	Shirewide Library Facilities:	
	36 ET @ \$688	\$24,768
	S94 Plan No. 11	
«	Bus Shelters:	
	36 ET @ \$26	\$936
	S94 Plan No. 12	
«	Eviron Cemetery:	
	36 ET @ \$131	\$4,716
	S94 Plan No. 13	
«	Emergency Facilities (Surf Lifesaving):	
	36 ET @ \$200	\$7,200
	S94 Plan No. 16	
«	Extensions to Council Administration Offices & Technical Support Facilities	
	36 ET @ \$1996.8	\$71,884.80
	S94 Plan No. 18	
«	Cycleways:	
	36 ET @ \$352	\$12,672
	S94 Plan No. 22	
«	Regional Open Space (Casual)	
	36 ET @ \$855	\$30,780
	S94 Plan No. 26	



« **Regional Open Space (Structured):**
 36 ET @ \$2327 \$83,772
 S94 Plan No. 26

Stage 3

« **Tweed Road Contribution Plan:**
 201.5 Trips chargeable
 S94 Plan No. 4
 Sector9_4
Note 201.5 trips for TRCP has previously been paid.

« **Open Space (Structured):**
 31 ET @ \$653 \$20,243
 S94 Plan No. 5

« **Street Trees:**
 31 Lot/s @ \$297 \$9,207.00
 S94 Plan No. 6

« **Shirewide Library Facilities:**
 31 ET @ \$688 \$21,328
 S94 Plan No. 11

« **Bus Shelters:**
 31 ET @ \$26 \$806
 S94 Plan No. 12

« **Eviron Cemetery:**
 31 ET @ \$131 \$4,061
 S94 Plan No. 13

« **Emergency Facilities (Surf Lifesaving):**
 31 ET @ \$200 \$6,200
 S94 Plan No. 16

« **Extensions to Council Administration Offices
 & Technical Support Facilities**
 31 ET @ \$1996.8 \$61,900.80
 S94 Plan No. 18

« **Cycleways:**
 31 ET @ \$352 \$10,912
 S94 Plan No. 22

« **Regional Open Space (Casual)**
 31 ET @ \$855 \$26,505
 S94 Plan No. 26

« **Regional Open Space (Structured):**
 31 ET @ \$2327 \$72,137
 S94 Plan No. 26

[PCC0215/PSC0175]

9. Delete Condition 108A and replace with new condition 108B as follows:

108B Pursuant to the provisions of S94 Plan No.5 proposed lot 132 shall be dedicated as passive open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan.

Where a developer pays Council to complete the embellishment, Council will NOT install the equipment until a minimum of 30% of all lots in the development are occupied. Suitable embellishment shall be completed prior to the issue of a Subdivision Certificate.

10. Delete General Term of Approval 3A and replace with new General Term of Approval 3B as follows:

3B. Where achievable there shall be a minimum of 20 metres from future dwellings on Lots 225-232 to the reserve to the south west which shall be maintained as an Inner Protection Area (IPA) as outlined within Section 4.2.2(b) in Planning for Bushfire Protection 2001. If it is demonstrated that 20 metres is not achievable within the property boundaries, the RFS will consider the provision of a 15 metre IPA and a 1.8 metre high radiant heat shield. These lots shall not be duplex blocks unless the minimum 20 metres IPA can be provided. This is in recognition of the current management of the reserve and the limited extent of vegetation within the reserve.

B. Development Application DA05/0308.18 for an amendment to Development Consent DA05/0308 for a staged residential subdivision (3 stages) comprising 89 single dwelling lots, 7 duplex blocks, 1 drainage reserve, 1 residue lot & 2 public reserves at Lot 13 DP 793985; Lot B DP 368706; Lot 1 DP 392245, Barnby Street, Murwillumbah be approved subject to the following amendments to the existing conditions: -

1. Delete Condition 1C (as drafted fro DA05/0308.07) and replace with new Condition 1D as follows:

1D. The development shall be completed in accordance with the Statement of Environmental Effects and the following Plan Nos: -

- Drawing 20399 (I) prepared by Brown & Haan Surveying dated 9.12.2008 – amended to reference the western end of Rous River Way as “TRCP link road – to be dedicated to Council as part of Stage 1”;
This plan requires submission of amended engineering plans to address the necessary stormwater (IAD) modifications at the rear of Lots 227, 228 and 229.
- Knobel Consulting drawing series K1331 plans P019 Issue A (excluding Frangella park works), P020 Issue B, and P021 Issue A.

The plans for extended road batter works, cycleway, regrading and localised drainage improvements requires submission of amended engineering plans. The plans must clearly depict:

- (a) An undisturbed riparian buffer area beside Rous River. The riparian buffer width is to be commensurate with the approved 'Vegetation Regeneration Plan' by James Warren.
- (b) The cycleway should be designed to match a possible future residential reclassification of the road, and be reflective of 'Water Sensitive Urban Design' considerations.

The following referenced drawings show lot numbers that are not consistent with the above-mentioned plan, but are representative of actual dimensions, duplex lot locations, and physical works over the site:

- Drawing Number 7214/6/1 DA Figure 4 Revision E prepared by Cardno MBK and dated May 2006;
- Drawing Number 7214/06/1 DA Figure 10 Revision B prepared by Cardno MBK and dated August 2004;
- Drawing Number 7214/06 DA Figure 13 Revision B prepared by Cardno MBK and dated January 2005;
- Drawing Number 7214/06 DA Figure 14 Revision A prepared by Cardno MBK and dated November 2003;
- Drawing Number 7214/06/01 DA Figure 17 Revision B prepared by Cardno MBK and dated January 2005;
- Drawing Number 7214/06 DA Figure 18 Revision B prepared by Cardno MBK and dated August 2004;

except where varied by the conditions of this consent.

2. Insert new Condition 1E as follows:

- 1E. The existing temporary stockpile location must be immediately reinstated to its natural state upon removal of the excess fill. The area should be grassed to avoid erosion and sediment loss and dust nuisance.



REPORT:

Applicant: Jim Glazebrook & Associates Pty Ltd
Owner: Barnby Developments Pty Ltd
Location: Lot 13 DP 793985; Lot B DP 368706; Lot 1 DP 392245, Barnby Street Murwillumbah
Zoning: 2(a) Low Density, 2(c) Urban Expansion & 1(b2) Agricultural Protection

BACKGROUND:

In July 2006 Council approved an infill subdivision (3 stages) comprising 89 single dwelling lots, 7 duplex blocks, 1 drainage reserve, 1 residue lot & 2 public reserves at the subject sites.

The application proposed site earthworks to fill the low lying flood prone areas of the site. The central ridge within the site was to provide the material for fill, however, the remaining ridge area was to stay as a feature of the estate. This approach was meant to create a balanced cut and fill approach so that no importation of fill was required.

Since this time Council has previously approved two S96 Applications (DA05/0308.01 & DA05/0308.16) to make minor amendments to the previously approved development consent.

On Friday 19 September 2008 Council started receiving complaints from residents in the local area stating that the developers had started moving excess fill material to that part of the site zoned 1(b2) Agricultural Protection.

Council Officers investigated the complaints and met with the developers on site.

The developers explained that final earthwork levels on the site had now been achieved in accordance with the approved plans, but that as a result they had an excess of approximately 35,000m³ of material (from 400,000m³ of material that formed the earthworks).

The developers explained that they had reviewed their options in relation to the excess material and decided to place the fill on that part of the site zoned 1(b2) so they did not have to truck the material off site.

Since previously reporting this matter to Council in October 2008 the applicants have reviewed their options and are now requesting development consent (by way of a S96 DA05/0308.18) to place the excess fill material along a widened Joshua Street link road in addition to placing the fill along the batters of the new link road.

In addition the applicant is requesting a change to the staging plan by way of S96 DA05/0308.17. The below table shows a comparison between the staging breakdown between the latest approved consent (DA05/0308.16) and the proposed amendment consent (DA05/0308.17):



	<u>DA05/0308.16 Approved</u>	<u>DA05/0308.17 Proposed</u>
Stage 1	41 Residential Lots (plus two public reserves)	29 Residential Lots (plus four public reserves)
Stage 2	33 Residential Lots (plus two public reserves)	36 Residential Lots
Stage 3	22 Residential Lots (plus one residue parcel)	31 Residential Lots (plus one residue parcel)
<u>Total</u>	96 Lots	96 Lots

This has the effect of necessitating changes to previous conditions that referenced lot numbers as those affected lot numbers have been allocated a new lot number.

As part of DA05/0308.17 the applicant seeks Council approval to amend the consent, primarily to revert back to the approved Stage boundaries and lot numbering as per an earlier amended consent issued 21.12.06. It is noted that the current consent is an amended version issued 21.12.07. No lot sizes or shapes will be altered.

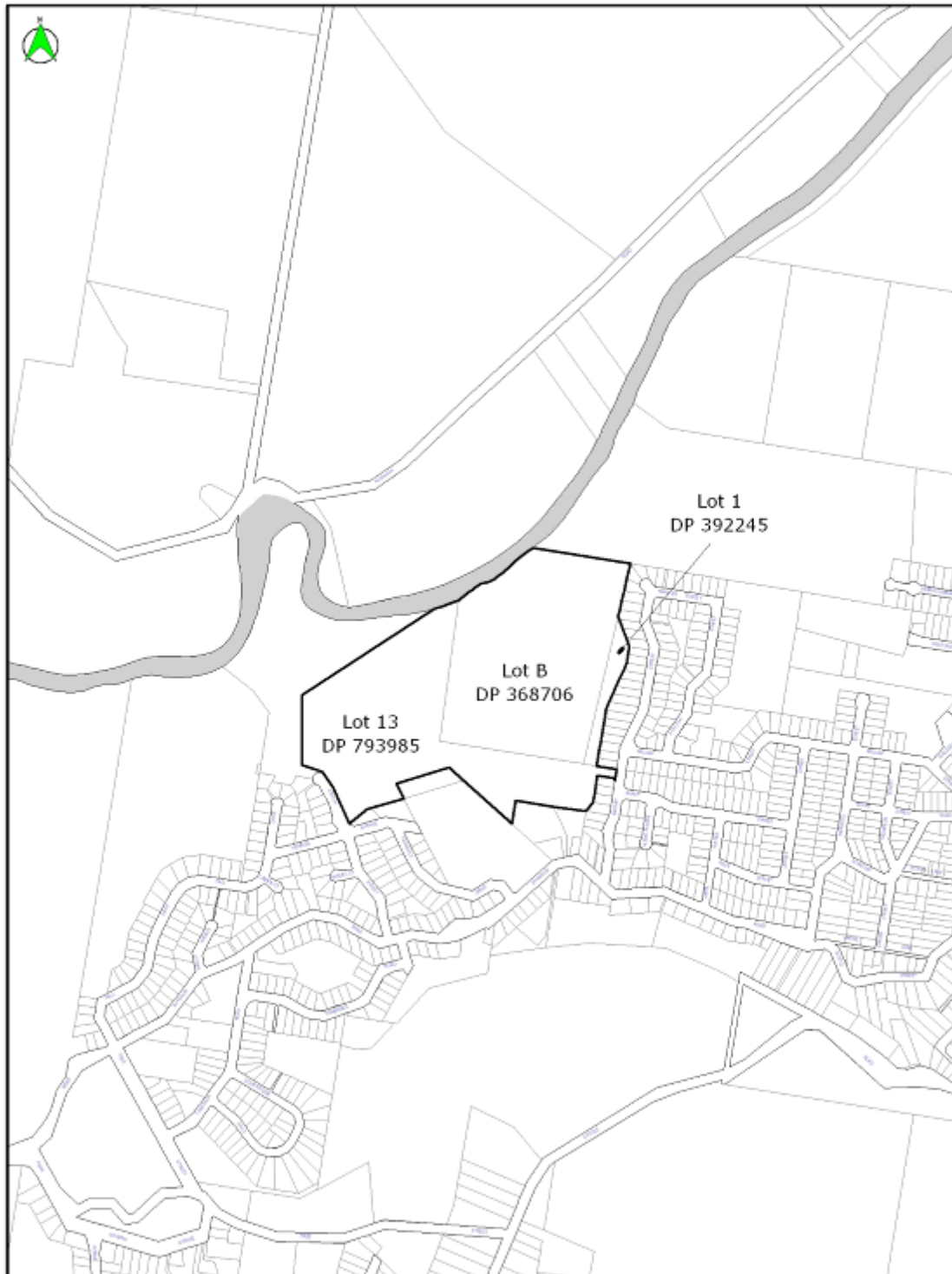
Furthermore, as a consequence of recent works on the site and clarification of the Frangella Park boundary, the proposed pathway to the park will also be relocated (as part of S96 DA05/0308.17). This is addressed in the proposed plan prepared by Brown & Haan – No.20399 Rev.I.

The two S96 Applications would necessitate changes to the following existing conditions of consent as approved as part of previous DA05/0308.16 (**attached**):

- Condition 1B Re: Approved Plans;
- Condition 30B Re: Road Construction;
- Condition 31B Re: Road Construction;
- Condition 33A Re: Public Reserve;
- Condition 42A Re: Embellishing Public Reserve;
- Condition 49B Re: Inner Protection Areas;
- Condition 105B Re: S64 Contributions;
- Condition 106B Re: S94 Contributions;
- Condition 108A Re: Dedication of Passive Open Space; and
- Condition General Term of Approval 3A.

Please note the changes generally only amend the above conditions to reflect either the correct plan or correct reference number based on the revised lot numbering.

SITE DIAGRAM:



© TWEED SHIRE COUNCIL 2005
 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.
DO NOT SCALE
COPY ONLY - NOT CERTIFIED
 P.O. Box 616
 Murwillumbah, NSW, 2454
 Tel: (02) 6676 2400
 Fax: (02) 6670 2493

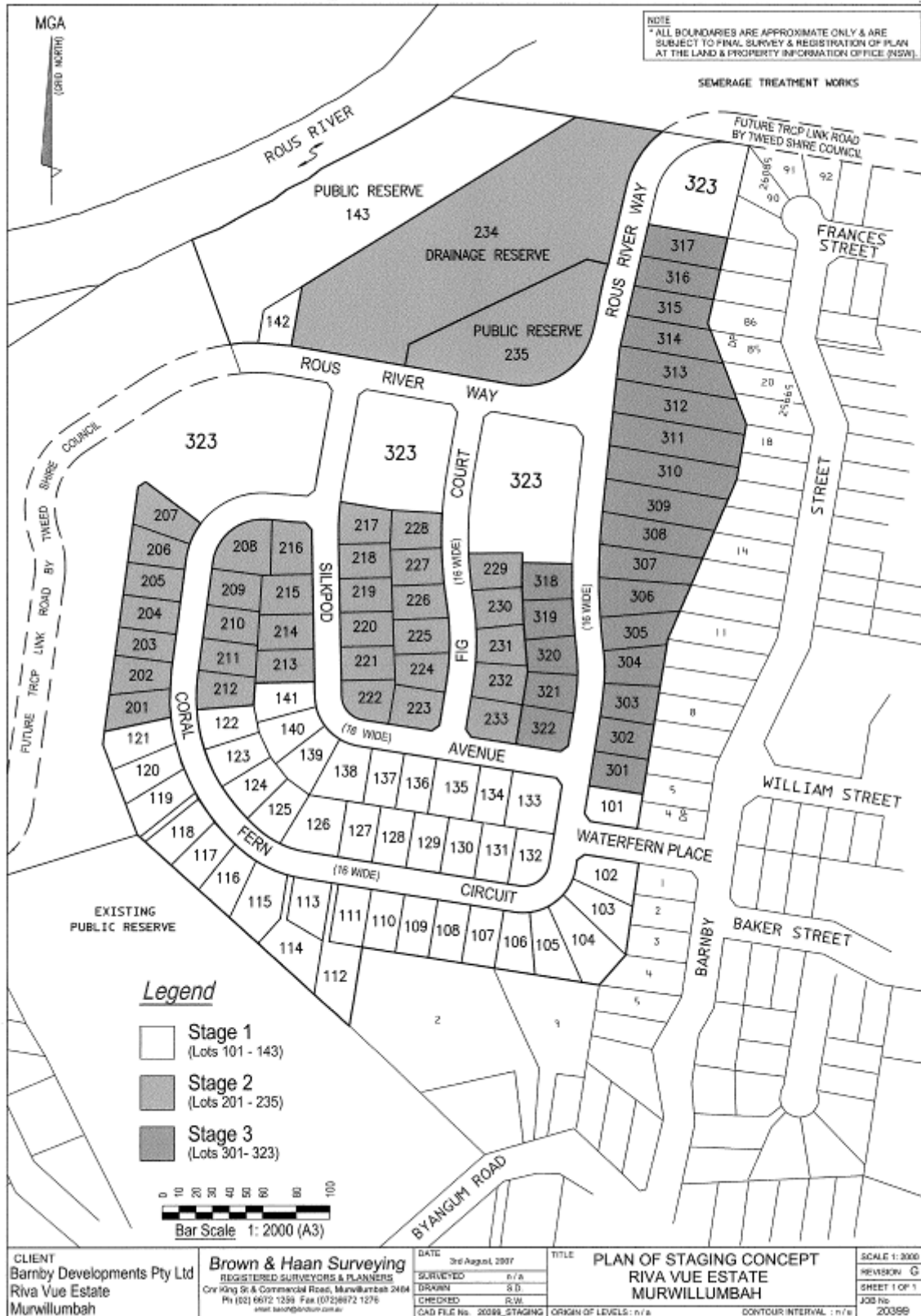
Tweed Shire Council
 Lot 1 DP 392245, Lot B DP 368706, Lot 13 DP 793985
 Barnby Street, Murwillumbah



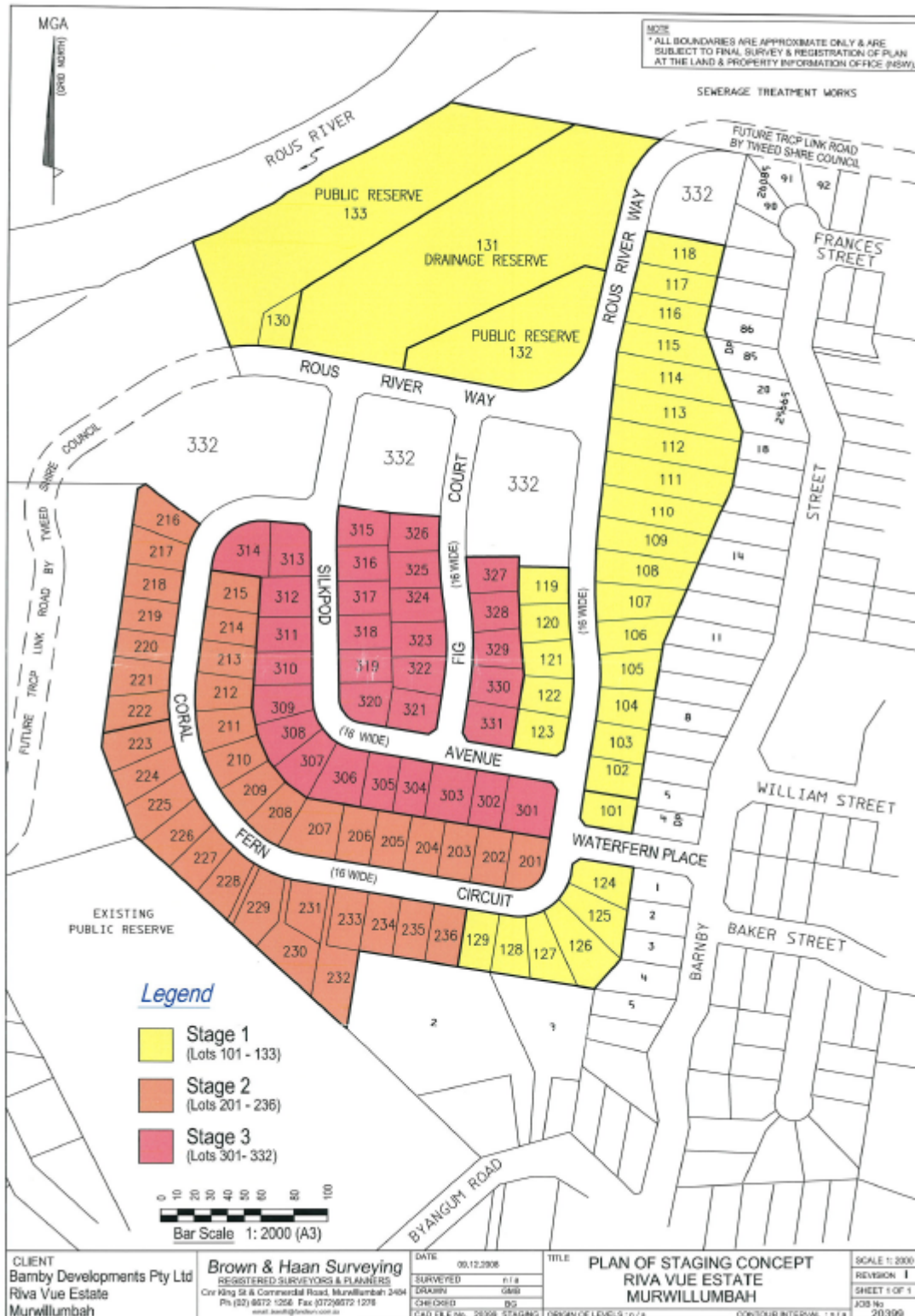
STRATEGIC
 PLANNING UNIT
**Site
 Plan**
 File: N:\MapInfo 7...M4P Site Plan.Wor Author: C.Davis Date: 6/Dec/2005 Scale: 1:10,000 Sheet: 1 of 1

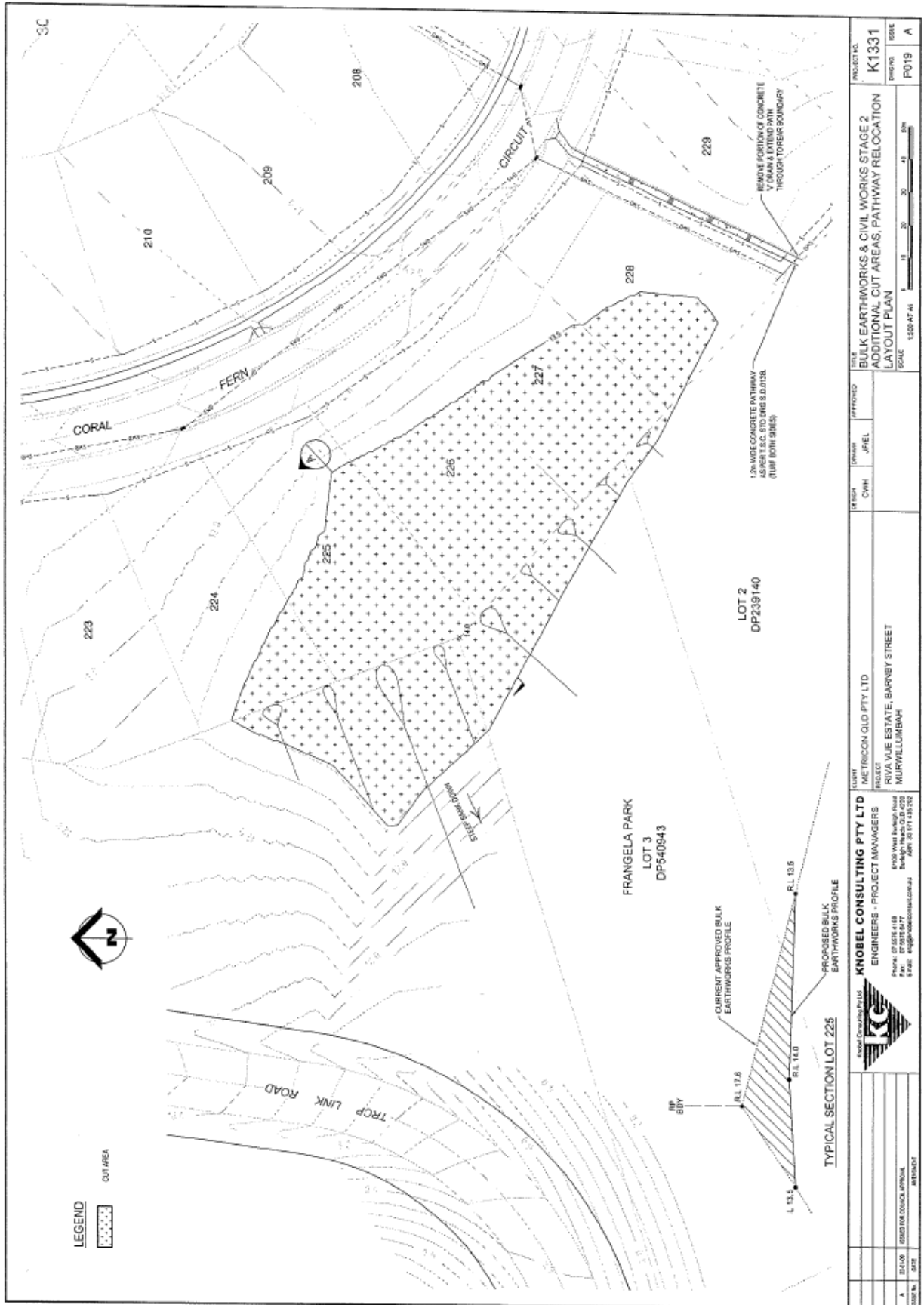


DEVELOPMENT PLAN APPROVED PREVIOUSLY (S96 - DA08/0308.16):



DEVELOPMENT PLAN PROPOSED (S96 - DA08/0308.17):

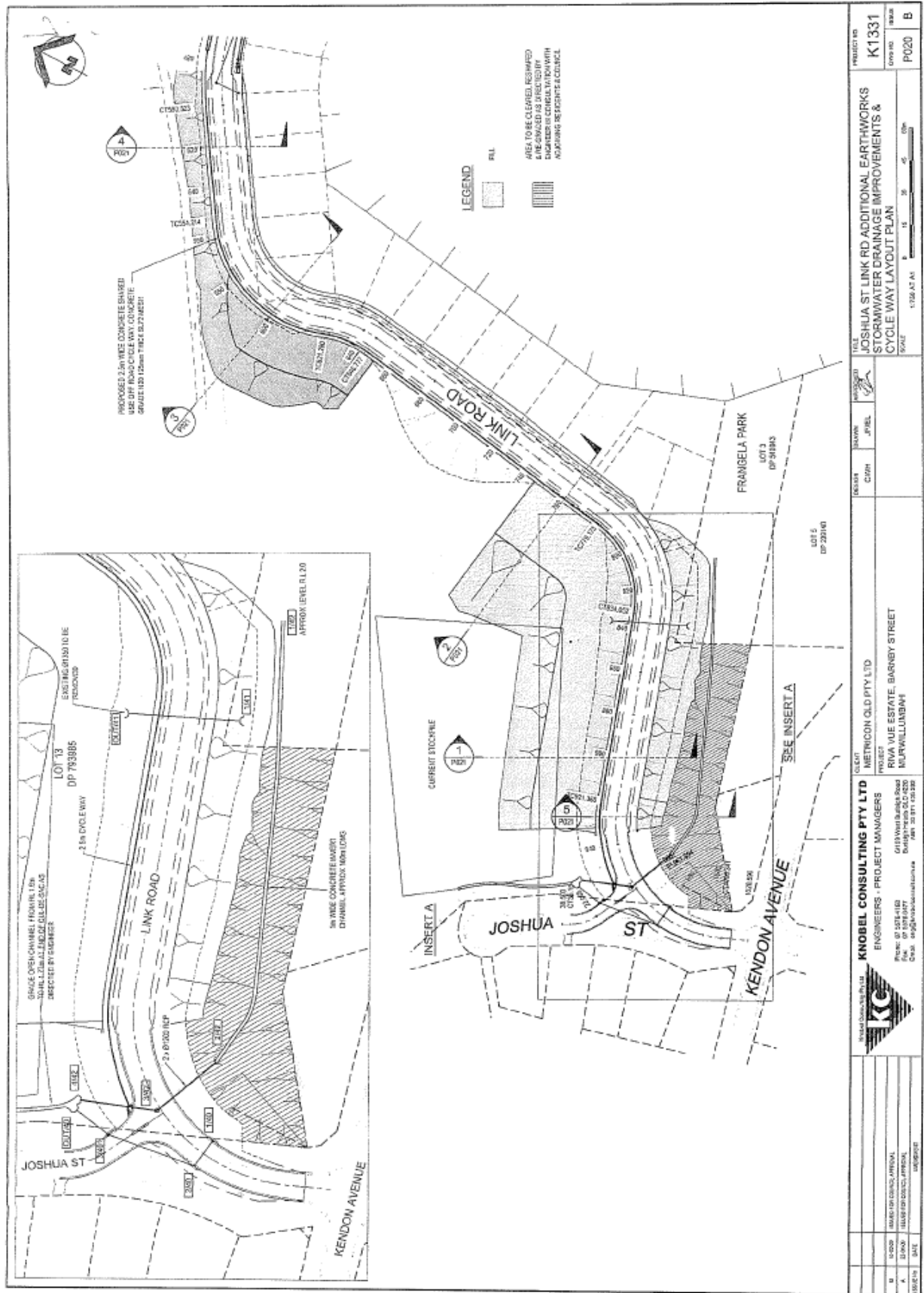




CLIENT METRICON QLD PTY LTD PROJECT RIVA VUE ESTATE, BARRY STREET MURWILLUMBAH		DESIGN CWH		DRAWN JPEL		APPROVED [Signature]		TITLE BULK EARTHWORKS & CIVIL WORKS STAGE 2 ADDITIONAL CUT AREAS, PATHWAY RELOCATION LAYOUT PLAN		PROJECT NO. K1331	
KNOBEL CONSULTING PTY LTD ENGINEERS - PROJECT MANAGERS 6/100 West Esplanade Bundamba QLD 4208 Phone: 07 5526 1418 Fax: 07 5526 8177 E-MAIL: info@knobel.com.au		DATE 22/03/09		SCALE 1:500 AT A1		DATE 22/03/09		SCALE 1:500 AT A1		PROJECT NO. K1331	
DATE 22/03/09		SCALE 1:500 AT A1		DATE 22/03/09		SCALE 1:500 AT A1		PROJECT NO. K1331		PROJECT NO. K1331	

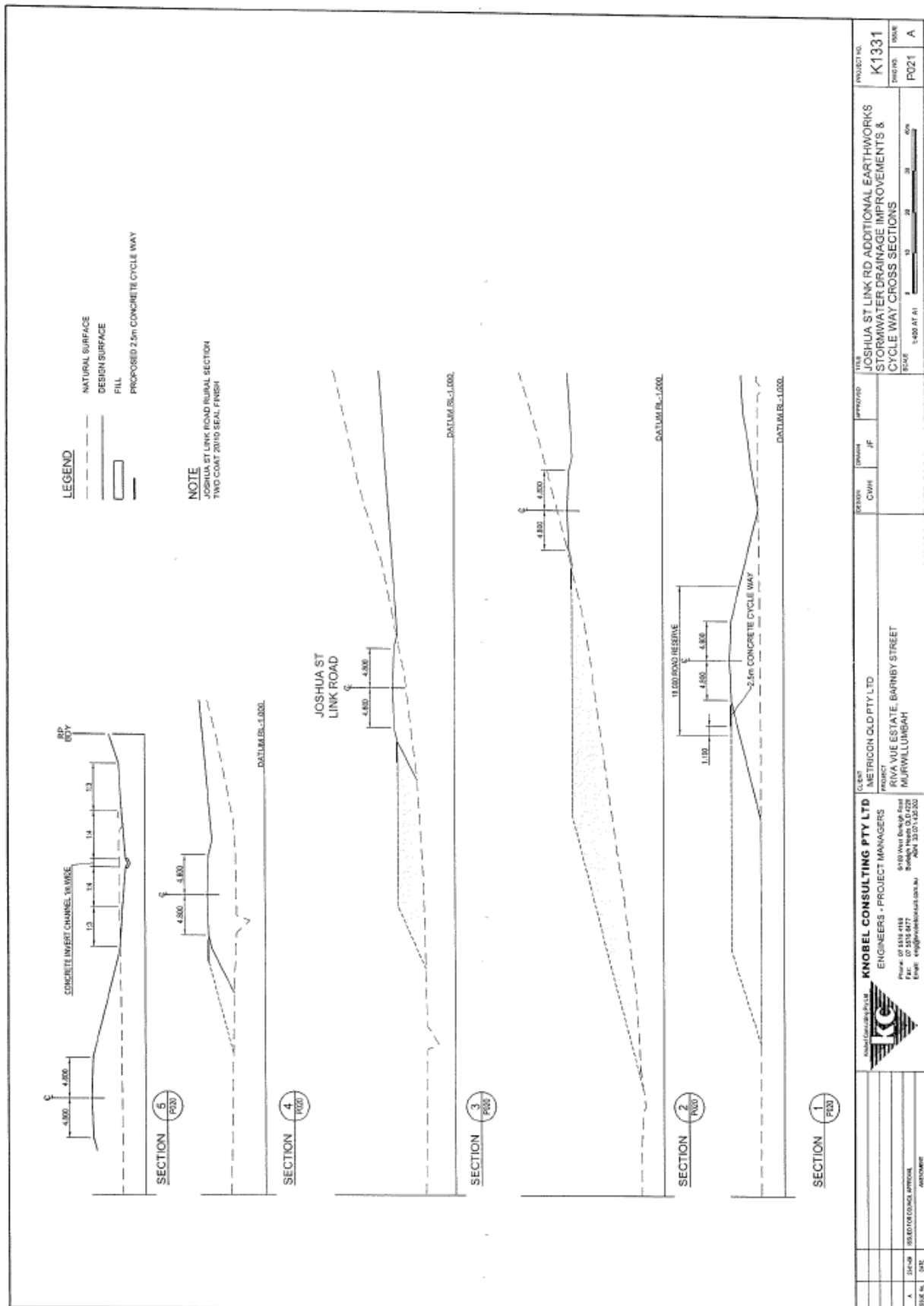


DEVELOPMENT PLAN PROPOSED (S96 - DA08/0308.18):



PREPARED BY KNOBEL CONSULTING PTY LTD ENGINEERS - PROJECT MANAGERS 6/131 West Burleigh Road Burleigh Heads QLD 4225 Ph: 07 5571 4187 Fax: 07 5571 4187 Email: info@knobel.com.au	CLIENT METRICOM QLD PTY LTD PROJECT RIVA VUE ESTATE, BARBURY STREET BURWILLANDRA	DESIGNER CDM	DRAWN JPEL	PROJECT NO K1331	SHEET NO P020
					SHEET TOTAL B

DEVELOPMENT PLAN PROPOSED (S96 - DA08/0308.18):



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

S96(1A) of the Act specifies that a consent authority can modify the development consent only if it is satisfied that the proposed modified development is of minimal environmental impact and is substantially the same as the approved development and that all relevant consultations and submissions have been undertaken.

Having regard for this criteria the applicant has provided that the proposed variations result in substantially the same development on the basis that:

- *The proposed modification essentially relates to administrative matters and practical implementation of the consent. The lot numbers and staging are being revised to coincide with the approved Construction certificate (CC06/0117)*
- *The nature of the proposed modifications is such that the key elements of the design, layout, and density of the subdivision remain unchanged;*
- *The previous S96 modifications issued 21 December 2006 and 21 December 2007) themselves did not alter any other essential elements of the approved subdivision and, as in this case, dealt with matters related to administration and practical implementation.*

The S96 Amendments were forwarded to Council's Development Engineer who provided the following comments (shown in *italics*) regarding each of the proposed amendments;

S96 DA05/0308.17

The applicant seeks Council approval to amend the consent, primarily to revert back to the approved Stage boundaries and lot numbering as per an earlier amended consent issued 21.12.06. It is noted that the current consent is an amended version issued 21.12.07.

No lot sizes or shapes will be altered.

Furthermore, as a consequence of recent works on the site and clarification of the Frangella Park boundary, the proposed pathway to the park will also be relocated. This is addressed in the plan by Brown & Haan – No.20399 Rev.I.

To clarify the intent of this application to amend the consent, I have compared this submission to a previously issued amended consent – and found it to be practically identical. The amended consent issued 21.12.06 is identical except for the lot numbers of the future Council land (the Reserves & sewer pump station site).

While no engineering objections are being raised to the intent of the Sec.96 amendment, the current works being done on the site have prompted re-assessment of the pathway location that currently is shown between proposed Lots 225 and 226.

For consistency with the existing approved plan, the applicant was further requested to show the dual occupancy lots on their revised plan and for the nominated alteration to the naming of the link road - per DA Condition 1B dot point 1 - is shown on the revised plan.

The applicant subsequently amended their plans to amend the location of the pathway.

The path has been relocated however the dual occupancy lots and the road re-naming have not been addressed. These issues are not critical and are already in the consent, but as Condition 1B of the consent references old plans with different lot numbering to the current amendment, some clarification is suggested;

- *Dot point 1 of Condition 1B is to be amended to nominate plan 'Revision I', but should also carry a Note/advice regarding the following dot points (of the condition); "The following referenced drawings show lot numbers that are not consistent with the above-mentioned plan, but are representative of actual dimensions, duplex lot locations, and physical works over the site."*

The re-naming of the link road to Joshua Street was not done but will not be pursued further (TRCP link road not "by" TSC but "to be dedicated to Council as part of Stage 1"- per Condition 1B). The link was always a requirement of the developers to construct, yet the plan indicates a road connection that is not current. There are pertinent conditions within the consent requiring construction of the link road, so Council's concerns are covered. For consistency with the current version of the consent, the road re-naming reference will be retained in the condition.

As a consequence of the proposed amendment, engineering plans will also need to be amended to address;

- *Relocation and/or reconstruction of an IAD stormwater pit in the SE corner of Lot 228, as this pit would now be in the pathway. Other ancillary modifications may also be required to the IAD line. This will be a condition of consent.*
- *Alteration of the finished ground levels at the rear of lots 225 – 228, that also affects ground levels in Frangella Park. This will be addressed in the next Sec.96 application (S96 DA05/0308.18).*
- *Amend the landscaping plans to relocate the path, deleting the proposed stairs in the process. This will be covered as a matter of process during the subdivision works, and does not need to be separately addressed in the amended consent.*

Based on this assessment S96 DA05/0308.17 is considered to result in minor changes to the consent. The S96 will result in substantially the same development to that originally approved and is considered to have minimal environmental impact. The recommendation for approval subject to certain changes in the consent will ensure the integrity of the consent is upheld.

S96 DA05/0308.18

This submission is the end result of the applicant's attempt to utilise excess fill material from the bulk earthworks component of the approved subdivision.

An initial attempt to stockpile excess spoil on rural zoned land met with residents' and Council objections, with legal proceedings a realistic option for Council to pursue.

Subsequent meetings and various correspondence with the applicant has led to this application being submitted – which is generally as agreed with Council as the best way to assess the applicant's proposed use of the excess fill.

The applicant seeks Council consent for:

- 1. Widening along the batters of the rural standard road section of the partially completed Joshua Street link road (Rous River Way).*
- 2. Construction of a cycleway along the western side of the widened link road.*
- 3. Relocation of the existing pipe culvert across the link road to a position closer to the Joshua Street intersection.*
- 4. Re-shaping of the adjoining low lying area adjacent to the link road.*
- 5. Re-shape earthworks at the rear of Lots 225 and 226*

Amended plan: It is noted that the applicant has submitted an amended plan plus ancillary information (regarding the Riparian Buffer) via e-mail on 12.2.09.

This proposal raises no engineering concerns from a civil works perspective, however does take up otherwise vacant (but farmable) rural zoned land. No widths have been provided for the widening works, allowing some flexibility in the extent of the final works. This is acceptable in this instance, as some of the proposed works conflict with the riparian buffer area and the fill will need to be relocated elsewhere.

The land is currently under scrutiny for a rezoning proposal by the applicant, and the proposed works will reduce the leverage of any counter-argument to such a proposal.

The extended batter works could be seen as being pre-emptive of a favourable rezoning determination (as fill would then be required to allow for residential development), but is nevertheless permissible in the zoning as roadworks.

Options:

Council has, in conjunction with the applicant, previously considered other available options for disposal or utilisation of the excess fill.

The proposal to widen the road formation was conceptually agreed as the best overall option, when considering the alternatives of filling over previously worked areas, or trucking off-site.

The Cycleway

The proposed cycleway is the beneficial portion of this proposal. It will provide a functional use for some of the earthworks.. Should a rezoning application be successful, the cycleway will probably need relocation or removal, unless it is constructed to suit a future residential scenario – which will be recommended to incorporate ‘Water Sensitive Urban Design’ principles. This will be addressed as part of the assessment of the construction certificate submission.

Culvert Relocation

This matter is already included in a submission to amend the construction certificate (for Stage 1), which includes localised regrading and improvement of the land on the south side of the link road. While this land is zoned rural, it is totally isolated from any other rural land and was therefore considered to be appropriate for localised regrading and improvement. The culvert is not a specific matter of mention in the DA, and could therefore be assessed under the CC submission. Its relocation is considered to be beneficial from an engineering perspective. This matter is to be excluded from the S96 application.

Frangella park – road batter and regrading

Frangella Park is on a separate property and is not covered by the original consent, and must therefore be excluded from any mention of proposed work as part of this DA.

Consent was previously granted by Council though, to do minor drainage, battering and regrading/improvement works in the north-western corner of the park, which was ancillary to the approved civil works for the subdivision.

The further works intended in the corner of the park (road batter and drainage improvement) will be limited to the benefits attained by Council (regarding maintenance and drainage improvements) for the park. This minor work in the park is deemed to be Exempt Development and will be covered by separate correspondence, in conjunction with an amended construction certificate submission for the civil works.

Frangella park – earthworks

As detailed above Frangella Park is on a separate property and is not covered by the original consent, and must therefore be excluded from any mention of proposed work as part of this DA.

The proposed works in the park are deemed Exempt Development and are being addressed via separate correspondence, in consultation with Council’s Recreation Services. Note that conceptual ‘In Principle’ agreement for these works was previously granted to the applicant during a site meeting on 24.11.08.

Regrading of the lots is inconsequential as far as the formal assessment in the context of the overall subdivision is concerned, and the current proposal to lower the lot levels raises no engineering issues.

Riparian Buffer

TSC DCP Section A5 – sub-section A5.4.7 nominates a 50m riparian buffer for the Rous River.

The northern-most section of the proposed batter works (from approx. ch.485 to ch.600) is likely to encroach in to this 50m riparian buffer, and will therefore have to be modified accordingly to maintain a 50m setback.

This has not been addressed by the applicant in the submission and will therefore be a condition of consent.

Flooding

The site is considered flood liable but the loss of flood storage (due to the proposed fill) was previously taken into consideration by Council when assessing available options for the disposal or utilisation of the fill.

Extensive supplementary investigation (flood affect assessment) and justification of the fill will need to be provided as part of the applicant's rezoning submission.

From a planning perspective the additional fill along the batters of the partially completed Joshua Street link road is defined as earthworks (associated with a residential subdivision) within a 1(b2) Agricultural Protection Zone.

Ancillary sub divisional works within the 1(b2) Agricultural Protection Zone were considered within the original DA and associated Master Plan where it was concluded that: -

The proposed residential subdivision requires the provision of a water quality pond and open space. The applicant has proposed that these be provided on land in the 1(b2) Agricultural Protection zone. As the use is ancillary to and a requirement for the subdivision of the residential zoned land and may be considered with the use of the variable zone boundary for development near zone boundaries this is considered to be an acceptable solution.

Urban stormwater water quality management facilities technically are permissible with consent in the 1(b2) zone providing the facility is considered to be consistent with the zone objectives. The zone primary objective aims at protecting prime agricultural land from fragmentation and the economic pressure of competing land uses.

There is an argument that the 1(b2) Agricultural Protection zone land is already fragmented and highly impacted on by the urban development in the area. With Rous River limiting the extent of the agricultural protection land there is minimal opportunity for the area to be fully utilised as part of a larger agricultural holding. It

may be argued that an urban stormwater quality management facility is permissible with consent in the 1(b2) agricultural protection zone.

The provision of the drainage reserve and open space in the proposed location is considered to have merit when associated with other riparian open space and drainage reserve proposed over the entire future development. The potential to provide a significant buffer to Rous River and enhancement of this space is considered to be appropriate.

In this instance earthworks are permissible with consent in the 1(b2) zone provided the development satisfies the consent considerations within Clause 8 (1) of the Tweed LEP 2000 which includes the need to satisfy the primary objective of the zone which states:

To protect identified prime agricultural land from fragmentation and the economic pressure of competing land uses.

The above arguments are still considered applicable in that the land is already fragmented and highly impacted on by the urban development in the area. Agricultural studies have revealed that the area in question is not of a high agricultural integrity and hence why the applicant is pursuing a re-zoning application.

The placement of fill in this location will resolve a previous compliance matter that may have resulted in 3500 truck loads of material having to be moved off site. Therefore the proposed development is considered to satisfy the consent considerations and adequately meet the zone objectives.

Based on this assessment S96 DA05/0308.18 is considered to result in minor changes to the consent. The S96 will result in substantially the same development to that originally approved and is considered to have minimal environmental impact. The recommendation for approval subject to certain changes in the consent will ensure the integrity of the consent is upheld.

Submissions

S96 DA05/0308.17 was advertised and notified to adjoining property owners and to those people who have previously objected to DA05/0308 generally and any subsequent amendments.

During the exhibition period 24 September 2008 and 8 October 2008 the application did not received any objections.

S96 DA05/0308.18 was also advertised and notified to adjoining property owners and to those people who have previously objected to DA05/0308 generally and any subsequent amendments.

During the exhibition period 25 February 2009 and 11 March 2009 the application did not received any objections (as at the time of writing this report).

OPTIONS:

1. Approve the S96 Applications in accordance with the recommended changes to the consent.
2. Refuse the S96 Applications with reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with the determination of this application they have a right to make an appeal to the Land & Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Each proposed amendment has been assessed on its merits and has been assessed in the context of the variation only, as this is not an opportunity to re-visit the original determination.

Having assessed the S96 Applications against the applicable controls, the application is considered to warrant conditional approval to resolve previous unauthorised works and provide clarity of Council's requirements.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Previous Council Report Compliance Fill Material (ECM 1925232)
 2. Current Conditions of Consent DA05/0308.16 (ECM 1730892)
-



THIS
PAGE
IS
BLANK



P4 [PR-PC] Development Application DA08/0475 for an attached dual occupancy at Lot 2 DP 1075086, No. 29 Vulcan Street Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA08/0475 Pt1

SUMMARY OF REPORT:

This development application is being reported to Council due to the Department of Planning's Circular PS08-014 issued on 14 November 2008 requiring all State Environmental Planning Policy No. 1 (SEPP No. 1) variations greater than 10% to be determined by full Council. Given the Department of Planning have advised Council Officers to be conservative with the application of the 10% rule and it is virtually impossible to calculate 10% of the shadow development standard, officers have resolved to report this application to full Council.

The SEPP No. 1 variation relates to Clause 32B of the North Coast Regional Environmental Plan 1988 which does not permit overshadowing of adjacent open space before 3pm midwinter and 6.30pm mid summer.

The applicant seeks consent to construct an attached dual occupancy and swimming pool. The development contains 1 x 4 bedroom and 1 x 5 bedroom units plus rumpus rooms within a three storey configuration. Each dwelling contains a double garage, deep soil zones and private open space areas on level 1. Levels 2 and 3 contain bedrooms, living areas and balconies.

Two submissions have been received in relation to this proposal.

It is considered that the application is suitable for approval, subject to conditions.

RECOMMENDATION:

That:-

- A. State Environmental Planning Policy No. 1 objection to Clause 32B of the North Coast Regional Environmental Plan regarding overshadowing be supported and the concurrence of the Director-General of the Department of Planning be assumed, and**
- B. Development Application DA08/0475 for an attached dual occupancy at Lot 2 DP 1075086, No. 29 Vulcan Street Kingscliff be approved subject to the following conditions: -**

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos WD-03.01B to WD-03.04B inclusive and WD- 05.01B prepared by Pat Twohill Designs Pty Ltd and dated 16/09/2008, except where varied by the conditions of this consent.
[GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.
[GEN0135]
4. Outdoor security lighting shall be located and designed so as to avoid light spill into the living and sleeping areas of the subject development and to confine light spill to the source property.
[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form, be accompanied by the required attachments and prescribed fee.
Receipt of approval is to be obtained prior to the issue of a construction certificate for works within the development site.
[PCC0075]

6. **Section 94 Contributions**
Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

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

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

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates

applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

(a) Tweed Road Contribution Plan: 6.5 Trips @ \$838 S94 Plan No. 4 Sector6_4	\$5,447
(b) Open Space (Casual): 0.3088 ET @ \$570 S94 Plan No. 5	\$176
(c) Open Space (Structured): 0.562 ET @ \$653 S94 Plan No. 5	\$367
(d) Shirewide Library Facilities: 0.3082 ET @ \$688 S94 Plan No. 11	\$212
(e) Eviron Cemetery: 0.374 ET @ \$131 S94 Plan No. 13	\$49
(f) Community Facilities (Tweed Coast - North) 1 ET @ \$492 S94 Plan No. 15	\$492
(g) Emergency Facilities (Surf Lifesaving): 0.31 ET @ \$200 S94 Plan No. 16	\$62
(h) Extensions to Council Administration Offices & Technical Support Facilities 0.3076 ET @ \$1996.8 S94 Plan No. 18	\$614.22
(i) Cycleways: 0.3068 ET @ \$352 S94 Plan No. 22	\$108
(j) Regional Open Space (Casual) 0.3076 ET @ \$855 S94 Plan No. 26	\$263
(k) Regional Open Space (Structured): 0.3072 ET @ \$2327 S94 Plan No. 26	\$715

[PCC0215]



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

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

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

Water DSP5:	1 ET @ \$10346.9	\$10,346.90
Sewer Kingscliff:	1 ET @ \$4972.1	\$4,972.10

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

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

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

[PCC0265]

- 8. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

- 9. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for any works within the road reserve.

[PCC0885]

- 10. The applicant shall demonstrate to the satisfaction of the General Manager or his delegate that the proposed cut and fill within the eastern and western side setbacks is consistent with the Tweed Development Control Plan Part B - Topography, Cut and Fill, and

will not adversely affect the adjoining properties or developments to the site's east or west.

[PCCNS01]

11. A detailed landscape plan shall be prepared by a landscape architect or landscape consultant to a standard acceptable to the General Manager or delegate. The plan shall include the following documentation -.
- a) A site plan (at 1:100 to 1:1000 scale) showing the existing features, including north point, access road and an outline of buildings indicating doors and windows and extent of carparking. Any trees to remain in the vicinity are to be located to scale and identified by botanical and common names.
 - b) Proposed and existing site services with potential to impact on landscape space, including water, gas, electricity, sewer, stormwater, etc.
 - c) Easements on or adjacent to the site.
 - d) View lines to and from the development and details of pedestrian access and circulation areas within and around the development, including retaining walls, seating, fences, gates, decorative features etc.
 - e) Additional survey plan showing the location, canopy spread, trunk diameter, height and names of those existing tree/s and significant tree/s adjacent to the site likely to be affected by the development. The plan shall also include the existing ground levels at the base of the trunk of the tree/s as well as at the drip lines of the tree/s.
 - f) Existing and proposed ground levels (shown as spot heights and/or contours over the site and direction and degree of slope) indicating the site boundaries, and the base of the trees proposed to be planted or that are to be retained (if applicable).
 - g) Sectional elevations through the site showing the existing and proposed ground lines, building elevations and proposed plantings.
 - h) Construction details of planter boxes (including width and depth), paving, edging, fencing, screening, panels and other hard landscape components. As far as possible deep root zones must be provided for large trees and paving is to be porous. Paving works within 2m of the trunk of the large trees shall be constructed in such a way as to ensure the existing moisture infiltration and gaseous exchange to the tree root system is maintained.
 - i) Planting details for the preparation and planting of tube and potted plants, super-advanced plants, bare-rooted stock and any other planting.
 - j) A detailed plant schedule and plan at a scale of 1:100 to 1:1000 indicating the location of all proposed planting and any existing vegetation to be retained on and adjacent to the site.

The plan is to include a detailed plant schedule which shall include;

- species listed by botanical and common names, with the majority of plants constituting local native species;
- expected mature size of the species at the site, taking in to consideration site specific parameters;
- specific location, planting densities and quantities of each species; pot sizes; the estimated sizes of the plants at maturity, and proposed staking methods, if applicable.
- maintenance methods including the use of drip irrigation and mulching or groundcovers to reduce bare soils areas and including a maintenance schedule for a minimum period of one year after completion of landscaping on site.

[PCCNS03]

12. Prior to the issue of a Construction Certificate, the applicant shall prepare a front fence design which is consistent with the Tweed Development Control Plan.

[PCCNS04]

PRIOR TO COMMENCEMENT OF WORK

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

other inspections that are to be carried out in respect of the building work.

[PCW0215]

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

[PCW0225]

15. Residential building work:

(a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

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

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

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

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

(b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

16. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-

(a) a standard flushing toilet connected to a public sewer, or

(b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

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

(a) showing the name, address and telephone number of the principal certifying authority for the work, and

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

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

[PCW0255]

18. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.
In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.
This sign is to remain in position for the duration of the project.

[PCW0985]

19. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

20. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover NSW, Occupational Health and Safety Regulation 2001.

[DUR0645]

21. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake Works.

[DUR0675]

21. Excavation

- (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.
- (b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

22. If the work involved in the erection or demolition of a building:
- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or



(b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

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

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

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

[DUR0435]

DURING CONSTRUCTION

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

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

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

[DUR0375]

25. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

26. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

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

[DUR0415]

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

[DUR0905]

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

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

[DUR1005]

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

[DUR1875]

31. **Swimming Pools (Building)**

- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2007. (Refer Council's web site www.tweed.nsw.gov.au)
- (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
- (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
- (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.

[DUR2075]

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

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

[DUR2485]

33. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

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

[DUR2505]

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

[DUR2535]

- 36. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.**

[DUR2545]

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

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

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

[DUR2555]

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

[DUR2615]

- 39. Should any items of cultural significance be discovered all site works shall cease immediately and the item/s be reported to the Department of Environment and Climate Change and Tweed Shire Council. Site works shall not recommence without prior written authorisation from Tweed Shire Council.**

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

40. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0205]
41. Prior to the issue of a final occupation certificate adequate proof and/or documentation is to be submitted to the Principal Certifying Authority to identify that all commitment on the BASIX "Schedule of Commitments" have been complied with. [POC0435]
42. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building. [POC0475]
43. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works. [POC1045]

USE

44. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise. [USE0175]
45. **Swimming Pools (Building)**
- (a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).
 - (b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).
 - (c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times. [USE1295]
46. The noise of an air conditioner, pump, or other mechanical equipment shall not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item. [USENS01]



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

[USENS02]

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

[USENS03]



REPORT:

Applicant: Mr D Butler, Mrs K Butler, Mrs H Butler and Mr R Butler
Owner: Mr RL Butler, Mrs HC Butler, Mr DR Butler and Mrs KA Butler
Location: Lot 2 DP 1075086, No. 29 Vulcan Street Kingscliff
Zoning: 2(a) Low Density Residential
Cost: \$700,000.00

BACKGROUND:

The subject site is 904.1m² and is irregular in shape having a staggered 20m frontage to Vulcan Street, a 36.6m eastern boundary, 32m southern boundary and 35.7m western boundary. The site falls from the Vulcan Street frontage at approximately 15m AHD to 13.94m AHD at the southern (rear) boundary. Vehicular access to the site is obtained via Vulcan Street. Council's records do not indicate the site is affected by any title restrictions. The site is situated within an established residential area characterised by dwelling houses and multi dwelling housing. A three storey dwelling adjoining the site at 27 Vulcan Street. A single storey dwelling is situated at 31 Vulcan Street. A reserve (zoned 6a) adjoins the rear of the site which fronts Cudgen Creek.

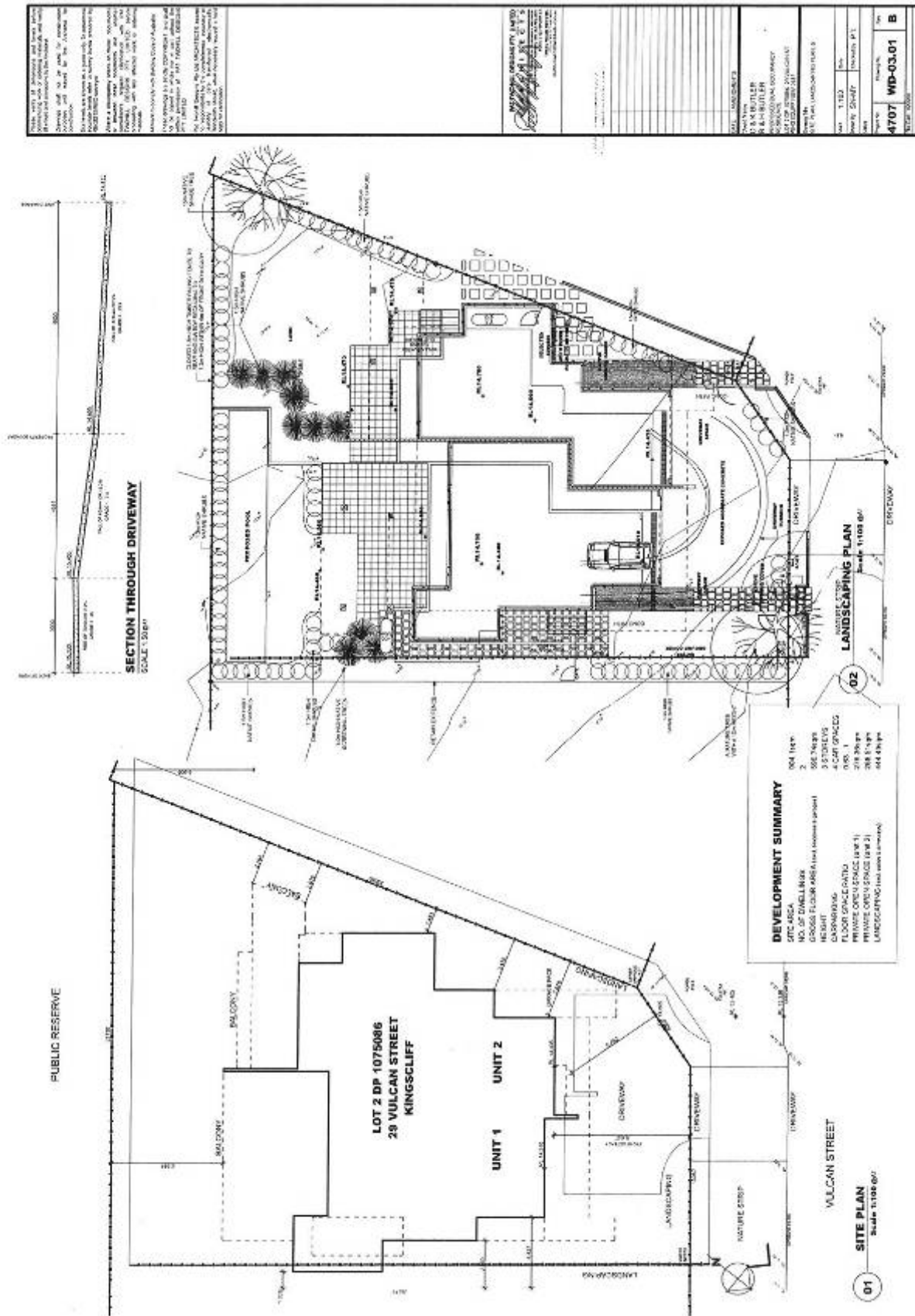
The applicant seeks consent to construct an attached dual occupancy and swimming pool. The development contains 1x5 bedroom and 1x4 bedroom and rumpus rooms within a three storey configuration. Each dwelling contains a double garage, deep soil zones and private open space areas on level 1. Levels 2 and 3 contain bedrooms, living areas and the like and balconies. The existing dwelling and any other ancillary structures on-site are proposed to be demolished.

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL, 2009 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be responsible for any errors, omissions or inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Murumbidgee NSW 2404 Tel: (02) 6670 2408 Fax: (02) 6670 2403</p>	<p><i>Tweed Shire Council</i> Lot 2 DP 1075086 No. 29 Vulcan Street, Kingscliff</p>	<p>Site Plan</p>   <p>Scale: 1:30,000 Sheet: 1 of 1</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

DEVELOPMENT/ELEVATION PLANS:



01 SOUTH ELEVATION
Scale: 1:100 @A

02 WEST ELEVATION
Scale: 1:100 @A

03 NORTH ELEVATION
Scale: 1:100 @A

04 EAST ELEVATION
Scale: 1:100 @A

02 SECTION
Scale: 1:100 @A

01 SECTION
Scale: 1:100 @A

LEGEND

- 04-01 SELECTED MULTITRADE
- 04-02 SELECTED COLoured ROOFING
- FR-01 SELECTED FACE BRICK
- FR-02 SELECTED LIGHT GREY CITY WALL
- FR-03 SELECTED HARVEST BROWN
- FR-04 SELECTED TIMBER CLADDING
- FR-05 SELECTED ROOFING
- FR-06 SELECTED ROOFING
- FR-07 SELECTED ROOFING
- FR-08 SELECTED ROOFING
- FR-09 SELECTED ROOFING
- FR-10 SELECTED ROOFING
- FR-11 SELECTED ROOFING
- FR-12 SELECTED ROOFING
- FR-13 SELECTED ROOFING
- FR-14 SELECTED ROOFING
- FR-15 SELECTED ROOFING
- FR-16 SELECTED ROOFING
- FR-17 SELECTED ROOFING
- FR-18 SELECTED ROOFING
- FR-19 SELECTED ROOFING
- FR-20 SELECTED ROOFING
- FR-21 SELECTED ROOFING
- FR-22 SELECTED ROOFING
- FR-23 SELECTED ROOFING
- FR-24 SELECTED ROOFING
- FR-25 SELECTED ROOFING
- FR-26 SELECTED ROOFING
- FR-27 SELECTED ROOFING
- FR-28 SELECTED ROOFING
- FR-29 SELECTED ROOFING
- FR-30 SELECTED ROOFING

01 SELECTED ROOFING

02 SELECTED ROOFING

03 SELECTED ROOFING

04 SELECTED ROOFING

05 SELECTED ROOFING

06 SELECTED ROOFING

07 SELECTED ROOFING

08 SELECTED ROOFING

09 SELECTED ROOFING

10 SELECTED ROOFING

11 SELECTED ROOFING

12 SELECTED ROOFING

13 SELECTED ROOFING

14 SELECTED ROOFING

15 SELECTED ROOFING

16 SELECTED ROOFING

17 SELECTED ROOFING

18 SELECTED ROOFING

19 SELECTED ROOFING

20 SELECTED ROOFING

21 SELECTED ROOFING

22 SELECTED ROOFING

23 SELECTED ROOFING

24 SELECTED ROOFING

25 SELECTED ROOFING

26 SELECTED ROOFING

27 SELECTED ROOFING

28 SELECTED ROOFING

29 SELECTED ROOFING

30 SELECTED ROOFING

31 SELECTED ROOFING

32 SELECTED ROOFING

33 SELECTED ROOFING

34 SELECTED ROOFING

35 SELECTED ROOFING

36 SELECTED ROOFING

37 SELECTED ROOFING

38 SELECTED ROOFING

39 SELECTED ROOFING

40 SELECTED ROOFING

41 SELECTED ROOFING

42 SELECTED ROOFING

43 SELECTED ROOFING

44 SELECTED ROOFING

45 SELECTED ROOFING

46 SELECTED ROOFING

47 SELECTED ROOFING

48 SELECTED ROOFING

49 SELECTED ROOFING

50 SELECTED ROOFING

51 SELECTED ROOFING

52 SELECTED ROOFING

53 SELECTED ROOFING

54 SELECTED ROOFING

55 SELECTED ROOFING

56 SELECTED ROOFING

57 SELECTED ROOFING

58 SELECTED ROOFING

59 SELECTED ROOFING

60 SELECTED ROOFING

61 SELECTED ROOFING

62 SELECTED ROOFING

63 SELECTED ROOFING

64 SELECTED ROOFING

65 SELECTED ROOFING

66 SELECTED ROOFING

67 SELECTED ROOFING

68 SELECTED ROOFING

69 SELECTED ROOFING

70 SELECTED ROOFING

71 SELECTED ROOFING

72 SELECTED ROOFING

73 SELECTED ROOFING

74 SELECTED ROOFING

75 SELECTED ROOFING

76 SELECTED ROOFING

77 SELECTED ROOFING

78 SELECTED ROOFING

79 SELECTED ROOFING

80 SELECTED ROOFING

81 SELECTED ROOFING

82 SELECTED ROOFING

83 SELECTED ROOFING

84 SELECTED ROOFING

85 SELECTED ROOFING

86 SELECTED ROOFING

87 SELECTED ROOFING

88 SELECTED ROOFING

89 SELECTED ROOFING

90 SELECTED ROOFING

91 SELECTED ROOFING

92 SELECTED ROOFING

93 SELECTED ROOFING

94 SELECTED ROOFING

95 SELECTED ROOFING

96 SELECTED ROOFING

97 SELECTED ROOFING

98 SELECTED ROOFING

99 SELECTED ROOFING

100 SELECTED ROOFING

101 SELECTED ROOFING

102 SELECTED ROOFING

103 SELECTED ROOFING

104 SELECTED ROOFING

105 SELECTED ROOFING

106 SELECTED ROOFING

107 SELECTED ROOFING

108 SELECTED ROOFING

109 SELECTED ROOFING

110 SELECTED ROOFING

111 SELECTED ROOFING

112 SELECTED ROOFING

113 SELECTED ROOFING

114 SELECTED ROOFING

115 SELECTED ROOFING

116 SELECTED ROOFING

117 SELECTED ROOFING

118 SELECTED ROOFING

119 SELECTED ROOFING

120 SELECTED ROOFING

121 SELECTED ROOFING

122 SELECTED ROOFING

123 SELECTED ROOFING

124 SELECTED ROOFING

125 SELECTED ROOFING

126 SELECTED ROOFING

127 SELECTED ROOFING

128 SELECTED ROOFING

129 SELECTED ROOFING

130 SELECTED ROOFING

131 SELECTED ROOFING

132 SELECTED ROOFING

133 SELECTED ROOFING

134 SELECTED ROOFING

135 SELECTED ROOFING

136 SELECTED ROOFING

137 SELECTED ROOFING

138 SELECTED ROOFING

139 SELECTED ROOFING

140 SELECTED ROOFING

141 SELECTED ROOFING

142 SELECTED ROOFING

143 SELECTED ROOFING

144 SELECTED ROOFING

145 SELECTED ROOFING

146 SELECTED ROOFING

147 SELECTED ROOFING

148 SELECTED ROOFING

149 SELECTED ROOFING

150 SELECTED ROOFING

151 SELECTED ROOFING

152 SELECTED ROOFING

153 SELECTED ROOFING

154 SELECTED ROOFING

155 SELECTED ROOFING

156 SELECTED ROOFING

157 SELECTED ROOFING

158 SELECTED ROOFING

159 SELECTED ROOFING

160 SELECTED ROOFING

161 SELECTED ROOFING

162 SELECTED ROOFING

163 SELECTED ROOFING

164 SELECTED ROOFING

165 SELECTED ROOFING

166 SELECTED ROOFING

167 SELECTED ROOFING

168 SELECTED ROOFING

169 SELECTED ROOFING

170 SELECTED ROOFING

171 SELECTED ROOFING

172 SELECTED ROOFING

173 SELECTED ROOFING

174 SELECTED ROOFING

175 SELECTED ROOFING

176 SELECTED ROOFING

177 SELECTED ROOFING

178 SELECTED ROOFING

179 SELECTED ROOFING

180 SELECTED ROOFING

181 SELECTED ROOFING

182 SELECTED ROOFING

183 SELECTED ROOFING

184 SELECTED ROOFING

185 SELECTED ROOFING

186 SELECTED ROOFING

187 SELECTED ROOFING

188 SELECTED ROOFING

189 SELECTED ROOFING

190 SELECTED ROOFING

191 SELECTED ROOFING

192 SELECTED ROOFING

193 SELECTED ROOFING

194 SELECTED ROOFING

195 SELECTED ROOFING

196 SELECTED ROOFING

197 SELECTED ROOFING

198 SELECTED ROOFING

199 SELECTED ROOFING

200 SELECTED ROOFING



3D PERSPECTIVES
 PROPOSED DUAL OCCUPANCY RESIDENCE
 29 VULCAN ST KINGSCLIFF NSW
 15/08/08

PATTWOHILL DESIGNS PTY. LIMITED
ARCHITECTS
 1/117 BRIDGE ST. NEWCASTLE NSW 2300
 PH: 081 422 2222 FAX: 081 422 2223
 1/117 BRIDGE ST. NEWCASTLE NSW 2300
 PH: 081 422 2222 FAX: 081 422 2223
 1/117 BRIDGE ST. NEWCASTLE NSW 2300
 PH: 081 422 2222 FAX: 081 422 2223
 1/117 BRIDGE ST. NEWCASTLE NSW 2300
 PH: 081 422 2222 FAX: 081 422 2223

SHADOW DIAGRAMS:

<p>THIS SHADOW DIAGRAM IS A VISUAL REPRESENTATION OF THE SHADOWS CAST BY THE PROPOSED DEVELOPMENT AT THE TIME OF THE SHADOW STUDY. IT IS NOT A GUARANTEE OF THE ACCURACY OF THE SHADOWS CAST. THE SHADOWS CAST BY THE PROPOSED DEVELOPMENT WILL BE SUBJECT TO VARIATIONS IN WEATHER CONDITIONS AND THE POSITION OF THE SUN AT THE TIME OF THE SHADOW STUDY. THE SHADOWS CAST BY THE PROPOSED DEVELOPMENT WILL BE SUBJECT TO VARIATIONS IN THE POSITION OF THE SUN AT THE TIME OF THE SHADOW STUDY. THE SHADOWS CAST BY THE PROPOSED DEVELOPMENT WILL BE SUBJECT TO VARIATIONS IN THE POSITION OF THE SUN AT THE TIME OF THE SHADOW STUDY.</p>	<p>PROPOSED DEVELOPMENT PROPOSED DEVELOPMENT PROPOSED DEVELOPMENT</p>	<p>DATE OF SHADOW STUDY DATE OF SHADOW STUDY DATE OF SHADOW STUDY</p>	<p>PROJECT NO. PROJECT NO. PROJECT NO.</p>	<p>DATE DATE DATE</p>	<p>SCALE SCALE SCALE</p>	<p>PROJECT NO. PROJECT NO. PROJECT NO.</p>	<p>DATE DATE DATE</p>	<p>SCALE SCALE SCALE</p>	<p>PROJECT NO. PROJECT NO. PROJECT NO.</p>	<p>DATE DATE DATE</p>	<p>SCALE SCALE SCALE</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------	------------------------------------------------------	---------------------------------------------------------	---------------------------------------------------------------------------	------------------------------------------------------	---------------------------------------------------------	---------------------------------------------------------------------------	------------------------------------------------------	---------------------------------------------------------



1.30PM JULY 15TH



3.00PM JULY 15TH



9.00AM JULY 15TH



12 MIDDAY JULY 15TH

This form is to be completed by the applicant and submitted to the Council's Planning Department. It is to be completed in full and returned to the Council's Planning Department. It is not to be used as a substitute for the Planning Application Form. It is to be completed in full and returned to the Council's Planning Department. It is not to be used as a substitute for the Planning Application Form.

WILSON CONSULTING PTY LTD
 10/110 RIVERVIEW DRIVE
 BENTLEY VIC 3084
 PH: 03 9497 1111
 FAX: 03 9497 1112
 WWW.WILSONCONSULTING.COM.AU

Name: **DAVID J. WILSON**
 Title: **PLANNING CONSULTANT**
 Firm: **WILSON CONSULTING PTY LTD**
 Address: **10/110 RIVERVIEW DRIVE, BENTLEY, VIC 3084**
 Phone: **03 9497 1111**
 Fax: **03 9497 1112**
 Email: **dwilson@wilsonconsulting.com.au**

Date: **11/01/2009**
 Time: **11:00 AM**
 Location: **115/300A**
 Project: **115/300A**
 Drawing No: **DA07.2**
 Scale: **1:100**
 Sheet No: **1**
 Total Sheets: **1**



3PM JANUARY 15TH
DAYLIGHT SAVING TIME



6.30PM JANUARY 15TH
DAYLIGHT SAVING TIME



9.00AM JANUARY 15TH
DAYLIGHT SAVING TIME



12 MIDDAY JANUARY 15TH
DAYLIGHT SAVING TIME

SEPP1 OBJECTION:

STATE ENVIRONMENTAL PLANNING POLICY NO.1 OBJECTION

To the Development Standard in Clause 32B(4)(b) of the North Coast Regional Environmental Plan Dwelling – Lot 2
DP 1075086 No.29 Vulcan Street, Kingscliff

Clause 32b(4)(a) and (b) are in the following terms:

4. The Council shall not consent to the carrying out of development –
- (a) On the urban land at Tweed Heads, Kingscliff, Byron Bay Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches and adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time); or
 - (b) Elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 4pm midwinter (standard time) or 7pm midsummer (daylight saving time).

The objectives of the development standard include:

- To ensure that overshadowing of public areas such as beaches and foreshore open space does not occur at such times of the day as would affect the amenity and enjoyment of such areas by the public;
- To ensure that such public areas are not alienated from public use by inappropriate overshadowing caused by urban development.

The proposed development will result in overshadowing of the foreshore area prior to the prescribed times contained within this clause.

It is submitted that the development standard is unreasonable and unnecessary in the circumstances of this case for the following reasons:

- Existing buildings in Vulcan Street and the locality result in overshadowing of the foreshore area prior to the relevant times in both mid winter and mid summer.
- Existing trees on the foreshore areas result in significant overshadowing of the foreshore reserve prior to the relevant times.
- The immediate foreshore areas to be overshadowed are not useable passive open space areas and do not contain any public amenities or facilities at which members of the community would be expected to congregate. The overshadowing will therefore no alienate the physical use of the area. The area to be overshadowed is steep and extensively vegetated.
- The shadows do not extend to the creek area in both winter and summer.

The NSW Government Coastal Policy contains, at Table 3, a strategic action in relation to beaches and waterfront open space, which is referred to in Clause 32B of the North Coast REP. The principle contained in the Coastal Policy is that:

"Beaches and waterfront open space will be protected from overshadowing. The standard to be applied will vary according to local circumstances, however, generally the standard to be applied is:

*In cities or large towns, no overshadowing before 3pm mid winter and 6.30pm summer daylight saving time;
Elsewhere, no overshadowing before 4pm mid winter and 7pm midsummer daylight saving time.*

The policy contains a note relating to this standard which states that:

"The suggested standard in principle may be difficult to apply in highly urbanised environments. An LEP or Development Control Plan which is tailored to local conditions and which has the overriding objective of minimising overshadowing may be required in these situations."

It is apparent from the note to the policy that it is difficult to achieve the objective of nil overshadowing of waterfront open space or beach areas in urban environments and it is therefore submitted that strict compliance with this development standard is not appropriated in the circumstances of this case.

Council is therefore requested to uphold the objection and grant consent to the application.

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**(a) (i) The provisions of any environmental planning instrument****Tweed Local Environmental Plan 2000****Clause 4 - Aims of the Plan**

The proposal is consistent with the aims of the Tweed Local Environmental Plan 2000 (TLEP). The proposal represents sustainable economic development which is consistent with the area's environmental and residential amenity qualities.

Clause 5 - Ecologically Sustainable Development

The proposal is consistent with the principles of ecologically sustainable development. The carrying out of the development will not result in unacceptable cumulative impacts.

Clause 8 - Zone objectives

The subject site is zoned 2(a) Low Density Residential. Multi dwelling housing is permissible within the zone with consent. The primary objective of the zone relates to the provision for and maintenance of low density residential development with a predominantly detached housing character and amenity. The secondary objectives relate to the option of housing diversity and for non-residential development. The proposed development is consistent with the objectives of the zone, the proposal represents attached residential dwellings which provides a variety in housing choice.

Clause 15 - Essential Services

The site is situated within an established residential area. All essential services are available to the site.

Clause 16 - Height of Building

The proposed three storey development is consistent with the limit for the site.

Clause 17 - Social Impact Assessment

Given the minor nature of the proposal a Social Impact Assessment is not considered necessary.

Other Specific Clauses

Clause 51(A) – Multi Dwelling Housing Densities in Zone 2(a)

The clause aims to control the density of multi dwelling housing within the 2(a) zone. The clause requires that multi dwelling housing developments be permitted at a density of one dwelling per 450m². As discussed previously the site is 904.1m², which is consistent with this clause.

North Coast Regional Environmental Plan 1988 (NCREP)

Clause 32B: Coastal Lands

The clause applies as the NSW Coastal Policy 1997 applies. The proposal is consistent with the Coastline Management Manual, and North Coast: Design Guidelines. The proposal will not impede public access to the foreshore.

A strategic objective of the NSW Coastal Policy 1997 relates to waterfront open space being protected from overshadowing. Generally the standard applied is in cities or large towns, is that no overshadowing before 3pm midwinter and 6.30pm summer daylight saving time (DST) (waterfront open space).

Clause 32B of the NCREP reinforces this control and specifies Council must not consent to the carrying out of a development within Kingscliff, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (DST).

The applicant's submission and shadow plans demonstrate that the carrying out the development will result in the 6(a) adjacent open space being overshadowed before 3pm midwinter (standard time) and 7pm midsummer (DST).

The applicant is seeking Council's support to assume the Director-General's concurrence in this instance. This matter is discussed in further detail in the SEPP No. 1 section within this report.

Clause 43: Residential development

This clause requires consideration of a number of factors, of relevance to this application relates to site density and the minimisation of site erosion. The density of the development is suitable for this site and is discussed in further detail later in this report. Site erosion will be minimised throughout the construction phase and will be enforced via conditions of consent.

State Environmental Planning Policies

SEPP No. 1 - Development Standards

As discussed, the applicant seeks to vary the overshadowing development standard as contained within the NCREP Clause 32B. The applicant provides the shadow cast by the development falls within the adjacent open space land to the rear of the site. The shadow plans submitted for 15 July show 29.29m² of shadow within the open space land at 12 midday, 101.06m² at 1.30pm and 257.41m² at 3pm. The plans submitted for 15 January show 110.20m² of shadow within the open space land at 6.30pm. The shadow appears to be contained within the heavily vegetated section of the site and the grassed land adjacent to it. Cudgen Creek is free of shadow as a result of this development.

A SEPP No. 1 submission may be supported where the applicant demonstrates that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case and specifies the grounds of that objection. The applicant must also demonstrate the consistency with the aims of the SEPP.

In support of the proposed variation, the applicant has provided the following:

The proposed development will result in overshadowing of the foreshore area prior to the prescribed times contained within this clause (Clause 32B of the NCREP).

It is submitted that the development standard is unreasonable and unnecessary in the circumstances of this case for the following reasons:

- *Existing buildings in Vulcan Street and the locality result in overshadowing of the foreshore area prior to the relevant times in both mid winter and mid summer.*
- *Existing trees on the foreshore areas result in significant overshadowing of the foreshore reserve prior to the relevant times.*
- *The immediate foreshore areas to be overshadowed are not useable passive open space areas and do not contain any public amenities or facilities at which members of the community would be expected to congregate. The overshadowing will therefore not alienate the physical use of the area. The area to be overshadowed is steep and extensively vegetated.*
- *The shadows do not extend to the creek in both winter and summer.*

It is difficult to achieve the objective of nil overshadowing or waterfront open space or beach areas in urban environments and it is therefore

submitted that strict compliance with this development standard is not appropriated in the circumstances of the case.

Council is therefore requested to uphold the objection and grant consent to the application.

The applicant's entire submission is attached to this report.

Assessment of the applicant's submission:

The following assessment of the SEPP No. 1 is based on the principles set by Chief Justice Preston (*Wehbe v Pittwater Council [2007] NSW LEC 827*).

1. The applicant must satisfy the consent authority that "the objection is well founded", and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Chief Justice Preston has noted 5 ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. In this instance, the first option, being the objectives of the standard are achieved notwithstanding non-compliance with the standard has been adopted.

The objectives of the NCREP are achieved despite the variation to the development standard. The objectives of the NCREP relate to the enhancement of the visual quality of the coastal environment, the provision for appropriate recreational use of beaches, the protection of water quality of the coastal environment, to minimise risks to people and property resulting from coastal processes and changes to coastal processes resulting from development, and to encourage retention of natural areas and regeneration of those natural areas which are already degraded.

The shadow appears to be restricted to the heavily vegetated area immediately adjacent to the site and the adjoining grassed area. Adjoining this site is Cudgen Creek. The proposal will not detract from the visual quality of the coastal environment nor will it affect the recreational use of beaches. The water quality of the coastal environment will be protected via conditions of consent to ensure for example sediment and the like will not enter the creek as a result of construction. The proposed development and future residents are unlikely to be affected by coastal processes given the site is not identified as being within the coastal erosion hazard areas and the site is approximately 120m from Cudgen Creek. The development will not affect the adjoining vegetation.

The applicant's submission in relation to being well founded are supported.

2. The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder

the attainment of the objects specified in s 5(a)(i) and (ii) of the *Environmental Planning & Assessment Act 1979*; and

The objects specified within Section 5(a)(i) and (ii) relate to the promotion and co-ordination of the orderly and economic use and development of land, and the protection, provision and co-ordination of communication and utility services.

It is not considered that the granting of this application would hinder the attainment of such objectives.

3. It is also important to consider:

- a. whether non-compliance with the development standard raises any matter of significance for State or regional planning; and**
- b. the public benefit of maintaining the planning controls adopted by the environmental planning instrument.**

The proposed non-compliance with Clause 32B of the NCREP is not considered to raise any matter of significance for State or regional planning.

The proposal is situated adjacent to a nature reserve. The area to be in shadow does not contain permanent facilities or equipment in which people would use to congregate. In this instance there would be little public benefit by maintaining the development standard, the remaining section of the 6(a) land will continue to be used for recreational purposes.

Chief Justice Preston notes that there is a public benefit in maintaining planning controls. However, the proposed non-compliance with the NCREP is considered to be justified in this instance and is not likely to result in an adverse planning precedent. As such, the granting of this application is unlikely to impact upon public benefit.

It is recommended that Council assume the Director's concurrence.

SEPP No 71 – Coastal Protection

Clause 8 of the SEPP identifies matters for consideration. The proposal is consistent with the aims of the SEPP. Public access to the coastal foreshore will not be affected as a result of the proposal. The protection of cultural heritage has been addressed via a condition of consent, in the event items of cultural significance are discovered all site works shall cease immediately.

The development is suitable for the location in regards to bulk, scale and size, this matter is discussed in further detail later within this report.

Part of the 6(a) land situated to the site's east is identified as being a regional fauna corridor. The corridor does not incorporate the section of the 6(a) land which abuts the subject site. The corridor will therefore not be affected as a result of the development.

The proposed development is not considered to result in adverse cumulative impacts, which is evident throughout this assessment. The proposal is regarded as being energy efficient this matter is discussed in detail below.

SEPP (Building Sustainability Index: BASIX) 2004

The applicant has submitted a BASIX certificate demonstrating the proposal meets the energy target score. The energy saving measures such as water tanks are evident on the plans. The proposal is therefore consistent with the SEPP.

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

A number of shire wide draft LEPs apply however these have no specific relevance to the proposal or subject site.

There are no draft SEPPs or REPPs which apply to the subject site or development proposal.

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

Tweed Development Control Plan

(Adopted 22 April 2008)

A1-Residential and Tourist Development Code

Part B - Dual Occupancy Housing, Granny Flats, Town Houses and Row Houses

The applicable design controls are addressed as follows:

Building Types

Suitable Locations for Dual Occupancy Housing

The site is 904.1m² and is irregular in shape due to its western boundaries. Access to dwellings is clearly identifiable from Vulcan Street the applicant has used pathways and partially covered entries to achieve this. Each dwelling contains a rumpus room at the ground level which leads onto an external patio living area. The surrounding area is predominantly characterised by one to three storey dwelling house developments. The proposed development will complement the existing streetscape.

Public Domain Amenity

Streetscape

The proposal addresses Vulcan Street through the use of landscaping, entry paths into the development being clearly defined, balconies and windows. The proposed

8.647m. setback from the developments' wall to Vulcan Street is compatible with the adjoining dwellings' setbacks which range from 9m and 10m.

The applicant proposes a 1.2m high masonry wall with mail boxes, with articulation. The fence is not consistent with the DCP, as the design control requires a maximum solid fence height of 600mm and an openness ration of 60%. A condition will be imposed requiring an amended front fence which is consistent with the DCP PCC.

The landscaping plan details some landscaping within the front setback including 1.5m native shrubs, native ground cover and a mature tree. A detailed plan including plant species will be required prior to the issue of any construction certificate. The proposed internal driveway has been minimised to enable areas for landscaping. The site does not contain any existing mature trees within the front setback.

The two garages fronting Vulcan Street are consistent with the design of the building. The garages are situated in front of the dwellings however, the Level 2 balconies on the Vulcan Street elevation will overhang the garage doors, shifting the focus from the garage doors to the balconies.

Public Views and Vistas

The development will not result in a significant reduction of public views to dominant landmarks. The dwellings immediately adjoining the site will retain current views to the open space land to the south. Surrounding developments opposite the subject site are unlikely to have views to the open space land. This is largely due to the relatively flat topography of site's within Vulcan Street and mature vegetation situated adjacent to the subject site which acts as a screen.

It is likely that the third storey of the development will be visible from the open space land, however it is anticipated this would be from near the edge of Cudgen Creek.

The development will not unreasonably obscure public view corridors along Vulcan Street.

Site Configuration

Deep Soil Zones

The rear and front deep soil zones (DSZ) proposed are consistent with the design control.

The applicant's plans demonstrate a rear DSZ of 219m² consisting of a minimum width of 32.1m and depth of 6.9m. This area is proposed to contain turf, native shrubs and native screening trees.

The front DSZ is demonstrated as having an area of 48m² within the front setback. The area extends the width of the site minus the driveway area.

It is noted Council has resolved to not require the mature tree within the front/rear setbacks, however the applicant has proposed a mature tree within the front setback.

Impermeable Site Area

The maximum area for impervious surfaces for the site is 542.46m². The calculations for the proposal show the site has an impermeable area of 539.1m² which is consistent with the design control. The applicant has used a range of treatments to reduce the site's impermeability including timber decking, grid paving and landscaped areas.

External Living Areas

The external living areas proposed on the ground floor are located adjacent to living areas to extend the development's useable living area.

The balconies on level 2 are situated within the 4m setback on the eastern and western boundaries. The balconies are not closer than 900mm from the boundaries. The eastern and western sections of the boundaries are obscured with 1.8m high metal privacy screening.

The primary external living areas are orientated south as a result of the subdivision layout. Two secondary balconies are situated on the 2nd floor of the development's northern frontage (Vulcan Street).

Above Ground External Living Spaces, Balconies and Terraces

All primary balconies are located adjacent to the main living areas, are a minimum of 10.2m² and have a minimum depth of 2.8m. These balconies are of sufficient size and configuration to be functional and promote indoor/outdoor living. These balconies are of sufficient area to accommodate outdoor furniture.

The balconies situated on the Vulcan Street elevation on level 2 are of sufficient area to accommodate outdoor furniture and the like. It is noted that these balconies are secondary balconies only and are have been incorporated into the design to reduce the dominance of the garages. The depth of these balconies is 1.5 to 2m and a minimum area of 10.2m. It is noted balconies and terraces off minor rooms have no minimum depth or width requirements as per the DCP.

Landscaping

The applicant has not identified any significant existing vegetation on site.

The design of the proposal provides for external spaces for livability. The ground level patio and swimming pool areas for example are integrated with the rear deep soil zone and landscaped area.

As previously discussed the front DSZ contains a tree, shrubs and ground cover. The landscape elements are anticipated to a maximum of a medium height.

Concrete pavers are proposed along the side setbacks of the dwellings providing pedestrian access to the front and rear of the site.

The design of the development assists in increasing privacy between neighbours. Due to the shape of the allotment and the design limited area is provided along the side boundaries for landscaping. Internal screen planting is proposed between the two units' rear yards.

Topography, Cut and Fill

The design control states cut areas are to be set back from the boundaries at least 900mm and fill areas are to be setback from the boundary a minimum of 1.5m. The applicant has advised *the proposal will involve some minor cut and fill works which will not exceed 300mm high so is consistent with the provisions of this policy (Section A14 of the DCP)*. It is noted Section A14 of the DCP was repealed on 29 April 2008, the proposal was lodged on 30 April 2008.

The plans indicate it is likely cut areas are proposed 900mm from the side boundaries. The applicant has not provided details regarding the placement of fill or how the proposal is consistent with this section of the DCP. A condition of consent has been recommended requiring the applicant to demonstrate that the cut and fill will not adversely affect the adjoining properties/developments to the site's east and west.

The applicant advises the allotment's runoff can be dispersed onto grassed and landscaped areas of the allotment. A rainwater tank is proposed to collect this water and reuse it.

Setbacks

Front Setbacks (Building lines)

In established areas and on infill sites Dual Occupancy Housing is to be consistent with the setback distance of neighbouring buildings and are to be the average of the setbacks of neighbouring dwellings on either side. This setback can be varied up to plus or minus 1m. The proposed setback is consistent with the adjoining dwellings setbacks, House Number 27 Vulcan St and 31 Vulcan Street which are setback 10m and 9m respectively.

The proposal is setback 8.512m from the wall of the development to Vulcan Street. It is noted that the setback is measured from the wall as per the DCP.

From the two balconies situated on the same elevation the setback is 6m. As discussed previously these balconies are considered necessary to reduce the focus of the garage doors.

Side Setbacks

It is noted that DCP does not contain side setback provisions for dual occupancies greater than 2 storeys.

Two storey dual occupancy housing is required to be set back a minimum of 1.5m from the (side) boundary line to the wall of the building. Guttering, eaves, hoods and other similar structures may be constructed within the 1.5m but not closer than 900mm from the boundary.

The eastern side setback as measured from the wall of the proposal ranges from 1.028m to 4.427m. The section of Unit 1 within the 1.028m extends for a length of 5.4m and contains laundry and bathroom on level 1.

The western side setback as measured from the wall of the proposal ranges from 1.481m to 3.679m. The section of Unit 2 within the 1.481m extends for a length of 1m and contains the laundry and bathroom on level 1 and living room on level 2.

The applicant has provided the following in response to this matter:

1. SIDE BOUNDARY SETBACK - East side

Single storey dual occupancy housing is required to be set back a minimum of 900mm from the side boundary whilst two storey dual occupancy housing is required to be set back 1.5m. The reduced setback is justified on the grounds that whilst this building is three storeys high, the part of the building in question is one storey high and has a setback of 1.028m, which is greater than that required for a single storey structure. It achieves the objectives for Design Control 3 as it does not inhibit access to the rear of the lot and facilitates visual and acoustic privacy between neighbouring lots by increasing the distance from the living area on level 1 to the boundary.

2. SIDE BOUNDARY SETBACK - West side

Two storey dual occupancy housing is required to be set back a minimum of 1.5m from the side boundary. The reduced setback is justified on the grounds that the actual setback of 1.481m extends for a maximum of 1m in length and is an insignificant encroachment. It achieves the objectives for Design Control 3 as it does not inhibit access to the rear of the lot and does not compromise visual and acoustic privacy between neighbouring lots, as the adjacent living area on level 2 does not have any windows within this encroachment.

The applicant's justification for the eastern side setback is generally supported, however the single storey setback for this proposal is not supported.

There are no primary windows situated along the side boundaries. Primary windows are situated on the northern and southern (front and rear) elevations.

Rear Setbacks

The building is setback a minimum of 11.6m from the rear boundary which includes the rear DSZ.

Car Parking and Access

Carparking Generally

Section A2 of the Tweed Shire Development Control Plan requires 4 on-site car spaces plus the provision for driveway parking of another vehicle. Two double garages are proposed plus the provision for stacked car parking for 2 vehicles within the driveway.

The driveway width from Vulcan Street to the property boundary is minimal reducing the need for hard surfaces.

As discussed previously the level 2 balconies beyond the wall of the developments' Vulcan Street elevation. This reduces the focus of the garages as the balconies will cast a shadow over this area. The applicant did not wish to re-design the proposal to include single garages. The applicant has provided sketches to illustrate the proposed design is a suitable outcome for the site.

The garage doors represent 53% of the building's frontage to Vulcan Street (the garage doors being 10m and the maximum dwelling elevation is 18.8m).

The design and materials used for garages are in keeping with the main dwelling.

Building Footprint and Attics, Orientation and Separation

Building Footprint and Attics

The proposal has been designed to ensure adequate sunlight will infiltrate through the dwellings due to the placement of windows and balconies.

Building Orientation

The proposal is designed with a street frontage which is oriented to and addresses Vulcan Street. This is achieved through the incorporation of entry ways, balconies and windows which are orientated and evident from Vulcan Street.

The pedestrian entries to the development are clearly visible and accessible from the street. The applicant has used pathways and awnings within the front setback to highlight the entries along this boundary.

Where possible the applicant has orientated bathrooms, laundries and other ancillary room windows to the side boundaries on Level 1. Levels 2 and 3 are situated in the centre of the proposal.

The primary windows of living rooms and open space areas are orientated to the north and south of the site.

Building Separation

The separation between the proposal and adjacent buildings provides for a minimum of 8m between living room windows due to the placement of primary windows/doors of the proposal being on the southern elevation. There is a 9m setback between 31 Vulcan St and the subject site. The primary living areas for 27 Vulcan Street are situated on the eastern elevation of the site therefore there are no separation issues between the dwellings.

The proposal is separated a minimum of 6m between its primary windows/doors from all levels of the building of living rooms to all adjoining windows. As discussed above 31 Vulcan Street is separated by approximately 9m and 27 Vulcan Street is separated by approximately 7m. It is noted the bathroom and laundry situated on the eastern elevation of Unit 1 (Level 1) contains windows along this shared boundary. It is noted a 1.8, timber fence exists.

The proposal is consistent with the Sections' requirements for separation between walls with primary windows/doors of living rooms (on any level of the building) on the side boundaries and the separation between the primary windows of living rooms (on any level of the building) and walls containing no windows.

The separation proposed between walls containing primary windows/doors of living rooms to shared driveways is consistent with the Sections' requirements.

The proposal is consistent with the required 2m separation distance between the windows/doors of non-habitable rooms (on any level of the building).

Height

Building Height

The maximum overall building height permitted is 9m. The applicant proposes a height of 9m to 10.4m proposed (due to pitch of roof).

The maximum wall plate height permitted is 8.5m. The applicant proposes a height of 8.4m to 10m proposed (due to pitch of roof).

The applicant provided the following with regards to the proposed building height:

If the building design was amended in order to comply with the height controls whilst retaining the same floor area, the building would need to have a substantially larger building footprint, reducing the deep soil zone to below the required area and increasing the impermeable site area beyond 60% of the site. We have attached a sketch to demonstrate this. A three storey design will still be compatible with the streetscape as the proposed dwelling on the neighbouring property to the NE is three storeys and it will provide a visual transition between this dwelling and the neighbouring property to the SW. An additional shadow projection plan is attached for 6.30pm summertime. A SEPP 1 objection will be lodged as part of this application.

Ceiling Height

Council's Building Surveyor has not raised an issue with regards to the proposed ceiling heights which range from 2.75m to 3m.

It is encouraged to provide minimum ceiling heights of 2.7m (minimum) from the finished floor level to finished ceiling level for habitable rooms. For habitable rooms with a raking ceiling it is preferable to have at least 30% of the ceiling at 2.7m high. Council resolved that this control is not mandatory, however the proposal is consistent with the control as detailed above.

Building Amenity

Sunlight Access

The northern frontage of the site is situated adjacent to Vulcan Street. Within this elevation contains secondary living areas. The primary areas are situated in the southern section of the site due to the site's orientation.

The private open space situated at the rear of the site will receive sunlight between 9am and 12 noon, parts of this area will be in shade. By 3pm the area will be in shadow. The balconies situated on the northern elevation will receive almost uninterrupted sunlight from 9am to 3pm mid winter.

Windows to north-facing habitable rooms of the subject dwelling are to receive at least 3 hours of sunlight between 9am and 3pm on 21 June over a portion of their surface. This is due to the orientation of the site and the siting and design of adjacent developments.

The proposal will substantially overshadow No. 31 Vulcan Street (located NW of the site) at 9m June 21. By 12 noon a very minor area of shadow is evident on this property this area is confined to the area between the side boundary and garage. The private open space is free of shadow.

The windows of the living areas of 31 Vulcan Street will receive at least 3 hours of sunlight between 9am and 3pm on 21 June.

Visual Privacy

The primary balconies located on level 2 are situated at the rear of the site. The applicant has proposed to implement 1.8m privacy screening along the eastern and western sections of the balconies to reduce the impact on adjoining neighbours.

A perceived privacy loss may be encountered by existing adjoining residents, particularly those at 27 Vulcan St. It is considered that the design outcome is acceptable due to the significant setbacks proposed between the proposal and adjoining developments and the configuration of the proposal itself. Minimal overlooking is likely towards neighbouring properties, views will be orientated towards the open space land and Cudgen Creek to the rear of the subject site.

The distances between side windows have been discussed previously in this assessment. A minimum of 5m to 27 Vulcan St and 9m to 31 Vulcan St is provided.

As discussed previously, the primary windows of the proposal are orientated towards to the front and rear of the site, away from adjoining developments.

Acoustic Privacy

The noise of an air conditioner, pump, or other mechanical equipment must not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item. This may require the item to have a sound proofed enclosure. This matter will be enforced via a condition of consent.

View Sharing

The footprint of the proposed development and that of the proposed development are very similar. The additional height of the proposal will not result in an unreasonable reduction in views enjoyed by nearby residents. Properties situated on the southern side of Vulcan Street enjoy views to the south of the open space land.

Natural Ventilation

All rooms have windows/openings to the development's external wall with the exception of the Level 2 bathrooms.

The proposal incorporates windows, balconies and openings particularly on the northern and southern elevations which will enable cross-ventilation of breezes.

External Building Elements

Side and rear fences

The applicant proposes a 1.5m timber paling fence along the rear and western side boundaries. The western side boundary fence will reduce to 1.2m within 5m of the front boundary. These fences will largely be hidden within the subject site and are considered to be acceptable. The existing fence along the eastern boundary is proposed to be retained.

Front fences

The front fence is a 1.2m high masonry wall which incorporates the proposed mail boxes. The front fence contains some articulation. However it is noted that is not consistent with the DCP, which requires 1.5m high with a maximum solid fence height of 600mm, above the solid wall the fence is to have a min. openness ratio of 60%. A condition of consent has been recommended requiring an amended front fence which is consistent with the DCP.

Roofs, Dormers and Skylights

The proposed roof design creates visual interest in the sky line. The roof includes the provision for articulation and eaves. The roof materials and design is complimentary to adjoining developments' roofs. The roof is not trafficable.

Elevations Visible from the Public Domain

As discussed previously the entries to the development are clearly identifiable from Vulcan Street, this has been achieved via pathways and covered entry areas.

The proportions, materials and windows are proposed are residential in type and scale. The proposed screening and covered entries into the building have been integrated into the developments' design.

Minor Elements

The proposed clothes lines are proposed in the side setback of Unit 1 and the rear setback of Unit 2. It is unlikely the clothes lines will be visible from the street.

The letterboxes are to be incorporated into the proposed front fence as discussed previously in this report.

Outdoor security lighting is to be located and designed so as to avoid light spill into the living and sleeping areas of the subject development and to confine light spill to the source property. This matter will be enforced via a condition of consent.

Building Performance

Energy Efficiency

The applicant has submitted a BASIX certificate which meets the minimum energy targets. Two rainwater tanks are shown on the site plan.

Floor Space Ratio

The maximum FSR is 0.55:1 for attached dwellings. The proposal is consistent with this control, the GFA of 407.71m² and a site area of 904.1m² results in a FSR of 0.45:1.

A2-Site Access and Parking Code

As discussed previously the proposal is consistent with the parking requirements of this section.

A9-Energy Smart Homes Policy

The applicant has provided a BASIX certificate which demonstrates the proposal is consistent with the required energy targets. The SEPP and the DCP have similar energy target goals. As such it is considered that the proposal is also consistent with the DCP.

A11-Public Notification of Development Proposals

Notification of the development was provided to adjoining land owners/properties in accordance with this section. The proposal was placed on exhibition for 14 days from 16 May to 30 May 2008. The matters raised in the two submissions received are discussed later within this report.

B9-Tweed Coast Strategy

The Plan sets objectives for future development concentrating on public services and design principals. This application does not contradict the objectives of this plan.

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

Clause 92(a) Government Coastal Policy

As previously discussed the proposal will result in overshadowing of waterfront open space. With this exception, the proposal is consistent with the goals and objectives outlined within the policy.

Clause 92(b) Applications for demolition

A separate application will be required for the demolition of the existing dwelling and any other ancillary structures on-site.

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

There are no further likely impacts in addition to those previously discussed.

The proposal is consistent with surrounding residential character. The site's suitability has been demonstrated throughout the assessment of the proposal including the assessment of the minimal environmental impacts and consistency with environmental planning instruments and the DCP.

(c) Suitability of the site for the development

The suitability of the site for the development has been demonstrated by way of general consistency with the applicable environmental planning instruments and the Tweed Development Control Plan and minimal environmental impacts. The proposal is consistent with the residential character of the locality.

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

The development application was exhibited for a period of 14 days from 16 May 2008 to 30 May 2008. Two submissions have been received regarding the application. The submissions were forwarded to the applicant however no comment has been received. The issues raised in the submissions are summarised below.

Issue	Submission	Assessment
Amenity Impact	<p>Other developments have been required to relocate dwellings towards the street and to reduce the overall height, so as to minimise the interference with the enjoyment of neighbours.</p> <p>The proposed third storey is larger, higher and intrusive for the residents of Vulcan Street and for those who use the reserve at the rear of the site.</p>	<p>The assessment above concludes the proposed development will not unreasonably reduce the level of amenity enjoyed by residents by way of shadow or privacy.</p> <p>The proposed third storey component (approximately 92m²) is larger than the third storey of nearby dwelling's, this is due to the difference in development's nature being multi dwelling housing.</p>

Objection relates to the proposal due to its height, size and floor area of the top storey, associated overshadowing and the lack of privacy screens on the decks situated on the eastern boundary. The development would overwhelm adjoining developments.

The proposal will also be visible from the nature reserve and would dominate the landscape.

The design and size of the proposal is out of character for the street.

The issues raised have been discussed in detail throughout this report and within the above assessment of the previous submission.

The overshadowing anticipated as a result of the proposal is considered to be acceptable as discussed previously.

The balconies on Level 2 contain privacy screening along the eastern boundary. Screening is not required on Level 3 due to the proposed 9m setback from the boundary.

The proposal is not considered to dominate the landscape.

The proposal is considered to be consistent with the character of the street.

(e) Public interest

The proposed development is generally consistent with the applicable environmental planning instruments and the Tweed Development Control Plan. The development is considered to be in the interest of the general public.

OPTIONS:

1. Resolve to assume the Director-General's concurrence and support the SEPP submission and resolve to approve the development application with conditions; or
2. Resolve to refuse the development application with reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has the option to appeal the matter in the Land and Environment Court should they be dissatisfied with Council's resolution.

POLICY IMPLICATIONS:

Nil



CONCLUSION:

The proposed multi dwelling housing development is consistent with the applicable environmental planning instruments, the Tweed Development Control Plan and policies. The proposal will not result in adverse cumulative impacts. It is considered the site is suitable for the development.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P5 [PR-PC] Development Application DA08/1118 for a Fruit and Vegetable Roadside Stall, Signage and Associated Carparking at Lot 11 DP 835413, No. 2 Boulder Close, Byangum

ORIGIN:

Development Assessment

FILE NO: DA08/1118 Pt1

SUMMARY OF REPORT:

The subject application seeks consent for the construction of a road side fruit and vegetable store.

The application has a SEPP 1 objection in regards to Clause 24 of the Tweed Local Environmental Plan. The SEPP 1 involves a variation to the required setback that is greater than 10% of the required 30m and therefore is to be referred to Council for determination as per Department of Planning issued circular dated 14 November 2008.

The proposed development is considered to demonstrate compliance with the Tweed Local Environmental Plan, apart from the designated setback, the North Coast Regional Environmental Plan and the other relevant State Environmental Planning Policies and associated regulations and is considered to be compliant with the Environmental Planning and Assessment Act 1979. Therefore the application is recommended for conditional approval.

RECOMMENDATION:

That Development Application DA08/1118 for a fruit and vegetable roadside stall and signage at Lot 11 DP 835413, No. 2 Boulder Close, Byangum be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and the following plans-**
 - Site plan and signage plan. Unauthored and dated 3/3/09.**
 - Stall plan. Unauthored and dated 3/3/09,****except where varied by the conditions of this consent.**

[GEN0005]

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

[GEN0115]



3. Provision for hand washing shall be provided to the satisfaction of the General Manager or his delegate.

[GENNS01]

4. Only primary products produced on the property on which the building or place is situated are to be exposed or offered for sale by retail.

5. The total area of the roadside fruit and vegetable store is to be constructed to a maximum twenty (20) square metres.

[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person and shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0215]



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

[PCW0225]

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

(a) showing the name, address and telephone number of the principal certifying authority for the work, and

(b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(c) stating that unauthorised entry to the site is prohibited.

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

[PCW0255]

DURING CONSTRUCTION

10. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -
Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

11. The roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.

[DUR0245]

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

[DUR0375]

13. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

14. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the

Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

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

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

[DUR1005]

- 16. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.**

[DUR1025]

- 17. Provision to be made for a flood free storage area for stock and equipment susceptible to water damage.**

[DUR1395]

- 18. Subject to the requirements of the local electricity authority, all electrical wiring, power outlets, switches, etc, should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level shall be provided with earth leakage devices.**

[DUR1415]

- 19. All shelving, benches, fittings and furniture on which appliances and utensils are positioned within the premises must be of durable, smooth, impervious material capable of being easily cleaned, to the satisfaction of the General manager or his delegate.**

[DUR1605]

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

[DUR1875]

- 21. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.**

[DUR2205]

- 22. Appropriate measures are to be put in place during the construction and/or demolition period to prevent the transport of sediment from the site.**

[DUR2405]



23. The stall is to be designed and constructed to withstand the likely flood impacts applicable to the site.
24. Minimum 13 metre diameter cul-de-sac is required to be constructed within the site for a B99 (similar to a Ford Fairlane) vehicle to enter and exit the site in a forward direction.
25. Construction of a minimum of two car parking bays generally as shown on the proposal plan which are also to comply with AS 2890.1 Off Street Carparking.
26. The proposed sign is to incorporate a left pointing arrow and the word "ENTRY" to indicate the location of the proposed entry.

[DURNS02]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

27. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).
28. Prior to commencement of operations and on completion of fit out an inspection is to be arranged with Council's Environmental Health Officer.
29. The food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations.
30. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.
31. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.
32. No items or goods are to be stored or displayed outside the confines of the premises.
33. The building is not to be used for any habitable commercial or industrial purpose.
34. Any premises used for the storage, preparation or sale of food shall comply with the *Food Act 2003* and Food Safety Standards.
35. The premises shall be maintained in a clean and tidy manner.
36. Fruit and vegetables shall be sold in a whole state and the stall shall not be utilised for the cutting or preparation of fruit and vegetables.

[POC0205]

[POC0615]

[POC0625]

[USE0125]

[USE0225]

[USE0445]

[USE0455]

[USE0835]

[USE0965]

[USENS01]



37. Foods shall be stored clear of the ground (minimum 500mm) and free from contaminants to the satisfaction of the General Manager or delegate.

USENS02]

REPORT:

Applicant: Mr A Mishtler
Owner: Mr A Mishtler
Location: Lot 11 DP 835413, No. 2 Boulder Close Byangum
Zoning: 1 (a) Rural
Cost: \$4500.00

BACKGROUND:

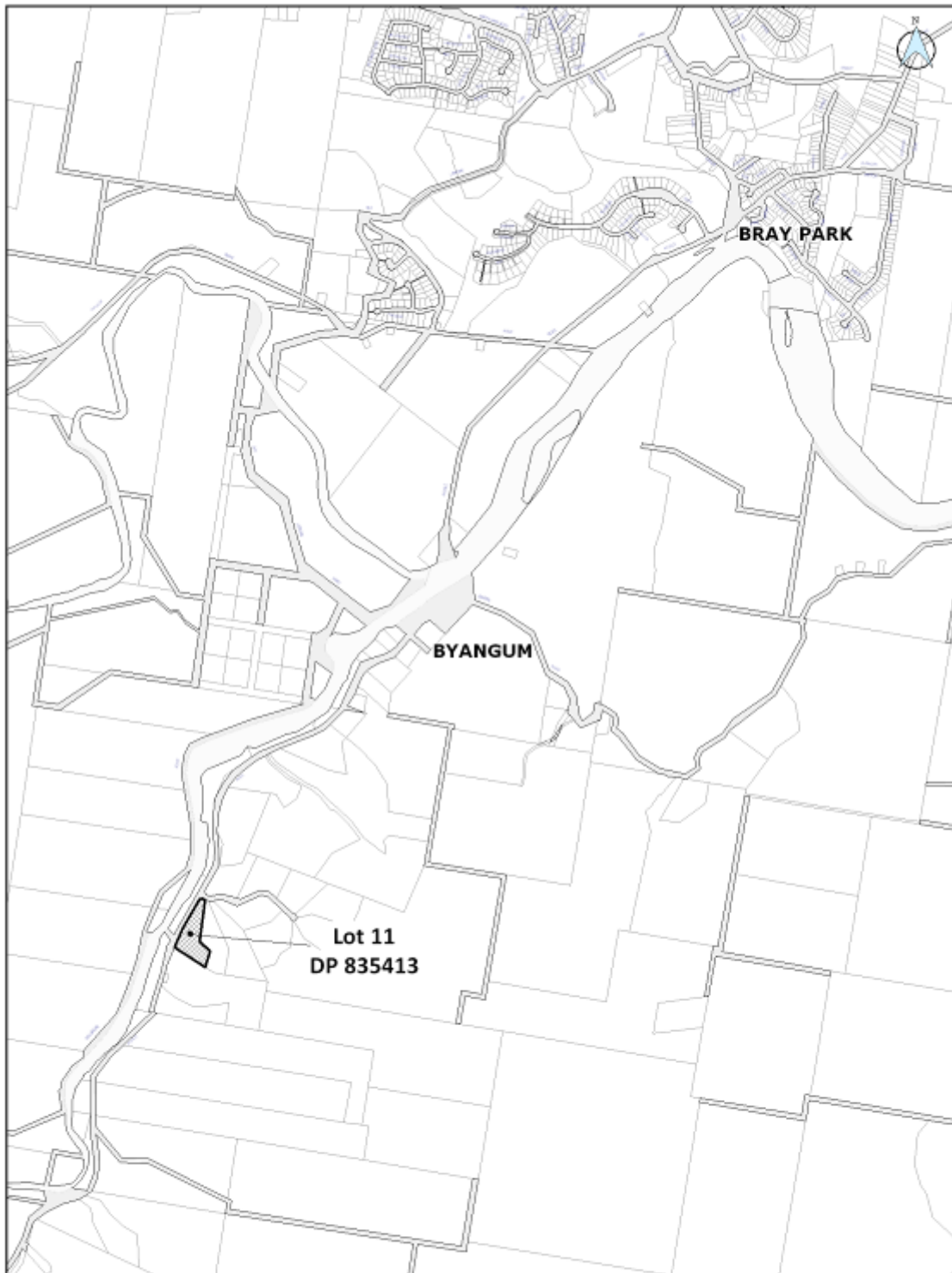
The Council has received a proposed application for a road side fruit and vegetable to be located at Lot 11 DP 835413 No. 2 Boulder Close.

The application proposes a food stall twenty (20) square metres in area, associated signage and on site car parking spaces. The proposed stall will sell certified organic produce grown on-site via the approved green houses insitu; the green houses were approved under DA02/0988.

The proposed stall and signage are located within the stipulated 30m setback (approximately 7m from the frontage of the property) requirement from a designated road, (Kyogle Road) in regards to Clause 24 of the Tweed Local Environmental Plan 2000. The application has a SEPP 1 objection that has greater than 10% variation and therefore is required to be referred to Council for determination as per Department of Planning issued circular dated 14 November 2008.

Three submissions of objection were received in regards to the proposal and twenty submissions of support inclusive of two petitions.

SITE DIAGRAM:



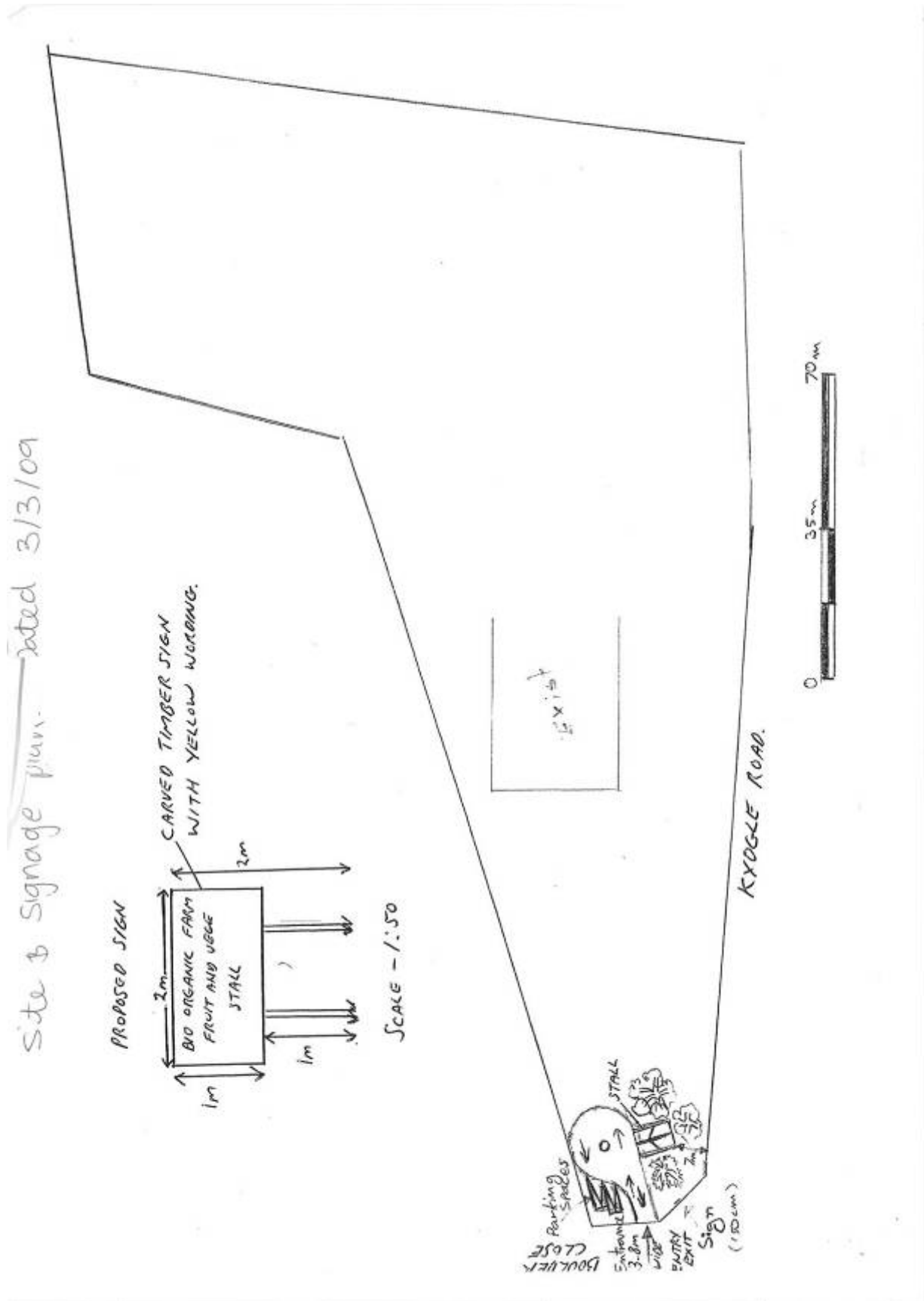
© TWEED SHIRE COUNCIL 2009
 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.
DO NOT SCALE
COPY ONLY - NOT CERTIFIED
 P.O. Box 816 Tel: (02) 6618 2408
 Murwillumbah, NSW, 2484 Fax: (02) 6618 3493

Tweed Shire Council
Lot 11 DP 835413
No. 2 Boulder Close, Byangum
 GDA

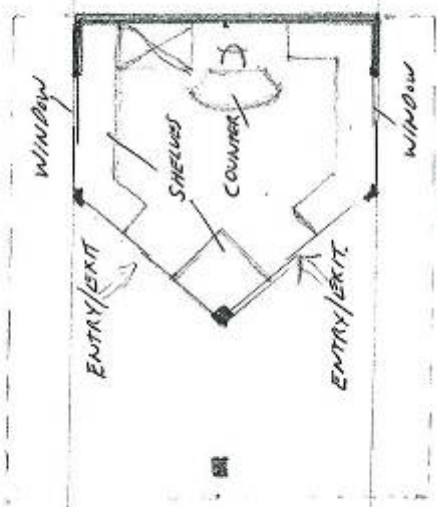
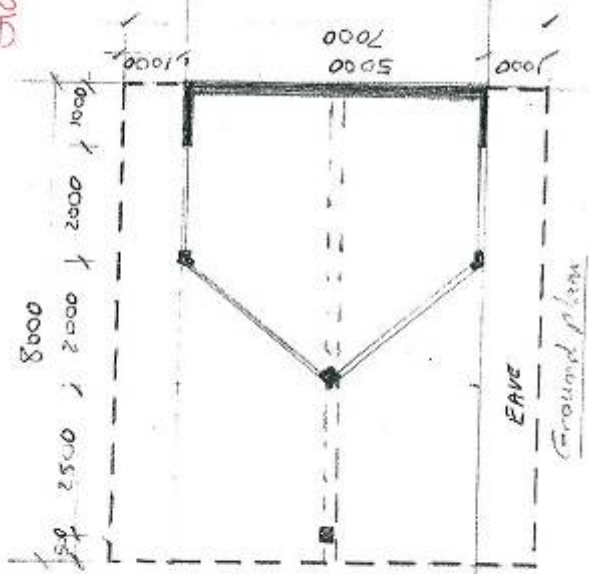
Site Plan

 Scale: 1:20,000
 Date: 09/March/2009
 Author: J. Batchelor
 File: Z:\GIS_Jobs\Site Plan Wor
 Sheet: 1 of 1

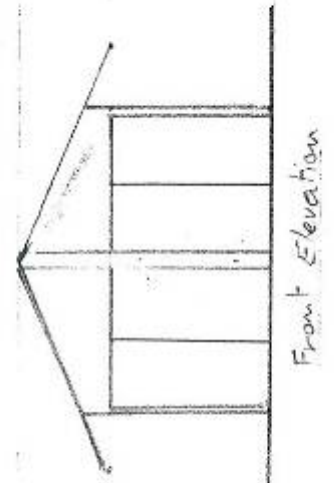
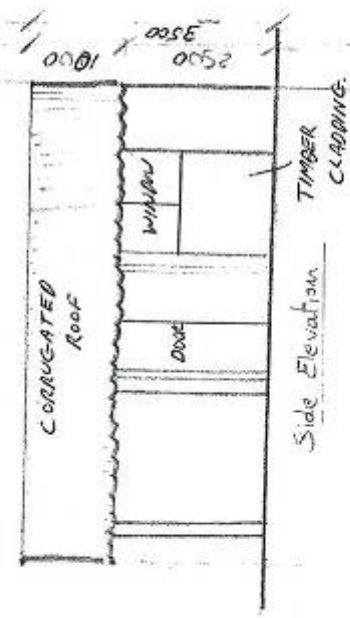
DEVELOPMENT PLANS:



Shall plan. Dated 3/3/09



Area to not exceed 20m²



CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**(a) (i) The provisions of any environmental planning instrument****Tweed Local Environmental Plan 2000**Tweed Local Environmental Plan 2000Clause 4 Aims of this plan

The main objective of Clause 4 is:

“the management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced.”

The subject application seeks consent for the construction of a fruit and vegetable roadside stall to sell organic produce grown on the farm. The subject proposal allows for an economical utilization of the subject property without causing irreversible negative impacts on the natural and developed character of the Tweed Shire.

The proposed development is consistent with the aims of the plan.

Clause 5 - Ecologically Sustainable Development

The proposed development is consistent with the four principles of ecological sustainable development by;

- a) not creating irreversible environmental damage.
- b) the environment is maintained for the benefit of future generations.
- c) the biological diversity and ecological integrity is retained and a fundamental consideration.
- d) the environmental qualities of the locality are retained.

The subject proposal does not involve any clearing of significant vegetation. The proposal is to enable the sale of organic produce that is grown on the property which is a sustainable venture. The proposal does not constitute any changes to the existing environmental qualities of the locality. The proposal is consistent with the four principles of ESD.

Clause 8 - Zone objectives

The consent authority may grant consent to development only if:

- a) it is satisfied that the development is consistent with the primary objectives of the zone within which it is located, and
- b) it has considered those aims and objectives of this plan that are relevant to the development, and
- c) it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.

The subject proposal is consistent with the primary objective of the zone. The subject proposal is for a roadside fruit and vegetable store which is a permissible form of development in the 1(a) Rural zoning. The roadside stall facilitates the sale of the primary product grown on the 1 (a) zoned land. This proposal entails a sustainable and economically viable utilization of the subject site and existing approved growing of certified organic produce. The subject proposal will not result in any unacceptable cumulative impact on the community, locality, catchment or Tweed Shire as a whole.

Clause 11- 1 (A) Rural

The subject site is zoned 1 (A) Rural, the objectives of the zone are outlined as:

Primary Objective

- To enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource utilization purposes and associated development.
- To protect rural character and amenity.

Secondary Objective

- To enable other types of development that rely on the rural or natural values of the land such as agri- and eco-tourism.
- To provide for development that is not suitable in or near urban areas.
- To prevent the unnecessary fragmentation or development of land which may be needed for long-term urban expansion.
- To provide non-urban breaks between settlements to give a physical and community identity to each settlement.

The subject proposal is a permissible form of development as outlined within Item 2; the proposal seeks consent for the construction of a road side stall, signage and ancillary parking.

A roadside stall is defined as a building or place not exceeding 20 sq.m in floor space or area, respectively, where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail.

The proposal is consistent with the definition of a roadside stall. The proposal relies on the rural zoning to enable the sale of goods (organic produce) which are grown on the property. The proposal does not result in any fragmentation of rural land and does not prohibit any potential future urban expansion. The proposed roadside stall is contained within the subject allotment.

Clause 15 - Essential Services

The Objectives of the Clause are outlined as:

- To ensure that development does not occur without adequate measures to protect the environment and the community's health;
- To ensure that development occurs in a coordinated and efficient manner.

The subject proposal is for a non-residential structure that does not require connection to any sewerage or water systems. The proposal will not result in any detrimental impact to the environment or the community's health.

Clause 16 - Height of Building

The subject proposal is for a single storey structure which is permissible in the area. The design of the roadside stall is consistent with that of a rural shed.

Clause 17 - Social Impact Assessment

The subject proposal does not require a social impact assessment; the proposal provides a development that has a social benefit by providing certified organic produce for sale direct from the producer. The proposal therefore has a benefit economically for the farmer by providing additional income and reducing transport costs. The reduction in transport is beneficial in terms of a reduction in carbon emissions. The educational aspect is also applicable to the sale of produce grown locally as people can learn about the production side of the food they choose to purchase and therefore be better informed consumers.

Clause 35 - Acid Sulfate Soils

The subject site is not classified as containing any level of ASS, therefore the Clause is not applicable.

Other Specific Clauses

Clause 22 – Development near designated roads

Council's Designated Road Map identifies Kyogle Road as being a designated road as such the objectives and clause 22 (4) are required to be addressed. The proposed development site has frontage to Kyogle Road with access to the roadside fruit and vegetable stall proposed off Boulder Close.

(1) Objectives

- *to protect and improve the capacity, efficiency and safety of designated roads.*
- *to prevent development on designated roads that would detract from the scenic attractiveness of the area of Tweed.*
- *to prevent or reduce the potential impact of traffic noise on development adjacent to designated roads.*

The points raised in the objective above are addressed in sub-clause 4 below.

Subclause (4);

(4) The consent authority may grant consent to development on land to which this clause applies only if it is satisfied that:

(a) the development (because of its nature, appearance, cumulative effect or illumination, or the intensity or the volume or type of traffic likely to be generated, or for another similar reason) is unlikely to constitute a traffic hazard or materially reduce the capacity or efficiency of the designated road,

The subject proposal was referred to Council's Traffic Engineer and the Development Traffic Advisory Group (DTAG) who both deemed the proposal to be unlikely to constitute a traffic hazard. Both Council's Traffic Engineer and DTAG have proposed conditions of consent if the subject application is approved.

(b) the location, standard and design of access points, and on-site traffic movement and parking arrangements, would ensure that through traffic movement on the designated road is not impeded, and ...

The proposal features access and car parking for the stall off Boulder Close, Council's Traffic Engineer and DTAG both consider that through traffic movement will not be impeded by the proposed stall.

(c) the development, or proposed access to it, will not prejudice any future improvements to, or realignment of, the designated road, and ...

The proposed development is unlikely to prejudice any future improvements or realignment of Kyogle Road as the proposal is located upon private property and would require the acquisition of the private land for any future improvements.

(d) where the land is in Zone 1(a), 5(a), 7(a), 7(d), 7(f), or 7(l), the development is of a type that necessitates a location in proximity to the designated road for reasons other than only commercial advantage, and ...

The subject land is zoned 1 (a) and therefore this sub clause is applicable. The proposal necessitates the proposed location to afford privacy to adjoining allotments, ease of access off Boulder Close and adequate space to provide on site car parking and the required turning circle. The roadside stall is required to be located on the property where the produce is grown.

(e) the development is of a type that is not sensitive to traffic noise or, if it is, it is located or adequate measures are included to ameliorate any potential noise impact, and ...

The development is of a type that is considered not to be sensitive to traffic noise.

- (f) the development would not detract from the scenic values of the locality, particularly from the point of view of road users, and ...**

The subject proposal will not detract from the scenic values of the locality and is a form of development that is consistent with the rural character of the area. Landscaping currently exists on site which shields the proposed roadside stall from direct line of sight from Kyogle Road. The proposed signage is small scale and consistent with the outlined requirements contained within SEPP 64- advertising and signage, the Tweed Local Environmental Plan 2000 and DCP A 4- Advertising and signage.

- (g) where practicable, access to the land is provided by a road other than the designated road, and ...**

The proposed access to the site is off Boulder Close which is not classified as a Designated Road.

- (h) in respect of any application for commercial or retail development near the Pacific Highway in Zone 1 (a), 7 (a), 7 (d), 7 (f) or 7 (l), the development: ...**

- (i) would not compromise the Highway's function as the North Coast's primary inter- and intra-regional road traffic route, and**
- (ii) would not contribute to the need to expend public money on the Highway to overcome the effects of ribbon development, and**
- (iii) would not compromise highway safety and efficiency, and**
- (iv) would not cause or contribute to the shifting of the retail/commercial foci of any town from the town centre to a highway-orientated site.**

Not applicable as the site is not near the Pacific Highway.

Outlined below are the comments received from both Council Traffic Engineer and DTAG:

Comment received from DTAG is as follows-

That DTAG has no objection to the proposal provided an arrow is shown on the proposed sign to indicate the proposed driveway location.

It can be considered from the statement that DTAG do not feel the proposal is in anyway detrimental to Clause 22 of the Tweed LEP 2000.

Comment received from Council's Traffic Engineer is as follows-

- Minimum 13 meter diameter cul-de-sac is required to be constructed within the site for a B99 vehicle (similar to a Ford Fairlane) to enter and exit the site in a forward direction.

- Construction of two parking bays generally as shown on the proposal plan which are also to comply with AS 2890.1 Off Street Car Parking.
- Standard conditions are to be applied if the development is approved.
- The proposed sign is to incorporate a left pointing arrow and the word "ENTRY" to indicate the location of the proposed entry.

Conditions have been included in the recommendation reflecting the above.

Clause 24- setback to designated roads

The required setback from a designated road for a roadside stall is 30m; in this regard the applicant has submitted a SEPP 1-objection to this control. See SEPP 1 Section.

Clause 34- Flooding

The subject site is classified as being flood affected. The subject proposal is for a non-habitable structure of small scale. If approved, conditions of consent will be included to ensure the structure is built to the required engineering standard to withstand flood events. All electrical outlets will be required to be positioned above flood level. The same will be required of all stock sold from the roadside fruit and vegetable stall.

It is unlikely that people would be visiting the stall at times of flood so there is limited risk for human safety.

Clause 47 advertising signs

The subject proposal seeks consent for the construction of a 1m x 2m high sign at the frontage of the property. The sign is still positioned within the subject allotment and will have the following wording 'Bio Organic Farm Fruit and Veg Stall'.

Advertising is permitted in a rural zone if the principal purpose of the sign is to direct the travelling public to that building or place. The proposal is consistent with this requirement contained within the Clause.

Additionally the sign does not lead to clutter and is consistent with the rural and scenic qualities of the area of Tweed.

The subject proposal is consistent with the requirements of the Clause.

North Coast Regional Environmental Plan 1988

Clause 12: Impact on agricultural activities

The council shall not consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

Adjoining development primarily consists of smaller landholdings that are not viable to undertake any intensive agricultural activities. The subject allotment contains greenhouse structures which house organic produce. The proposal will not create any undesirable cumulative impact on any agricultural activities due to physical separation from any intensive activities.

Clause 15: Rivers, streams and wetlands

The council shall not consent to an application to carry out development for any purpose within, adjoining or upstream of a river or stream, coastal or inland wetland or fishery habitat area or within the drainage catchment of a river or stream, coastal or inland wetland or fishery habitat area.

The subject allotment is proximate to the Tweed River, an approximate distance of 200m, the proposal is for a non-habitable structure. All run off from the roof catchment will be suitably controlled via conditions of consent. During construction sediment and erosion control measures will be implemented.

State Environmental Planning Policies

SEPP No. 1 - Development Standards

This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act.

Where development could, but for any development standard, be carried out under the Act (either with or without the necessity for consent under the Act being obtained therefore) the person intending to carry out that development may make a development application in respect of that development, supported by a written objection that compliance with that development standard is unreasonable or unnecessary in the circumstances of the case, and specifying the grounds of that objection.

The subject application contained a SEPP 1 objection in regards to the setback requirements as outlined within Clause 24 of the LEP- setback to designated roads. The application proposed to set the stall back 7m from the property boundary. The setback requirement as outlined within Clause 24 of the LEP is a 30m setback distance and therefore the proposal constitutes a variance to a planning control greater than 10%.

In accordance with the new 5 part test outlined by Chief Justice Preston in recent decision *Wehbe v Pittwater Council* (2007) NSW LEC 827. He also rephrased the assessment process as follows:

1. *The applicant must satisfy the consent authority that “the objection is well founded” and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*

The applicant provided the following reasons as to why the standard was considered to unreasonable and unnecessary in their particular case-

- There are other structures located adjacent to the subject property that encroaches closer to the designated road than that of the proposed stall. Other structures along Kyogle Road have also been constructed within the 30m setback. In particular the existing fruit and vegetable stall (Guineas stall) approximately 200m further down the road is closer, to the road.
 - The structure is of a minor scale that is consistent with the existing built form and character of the rural locality that is unlikely to significantly detract on traffic safety along Kyogle Road.
 - Vehicular access to the stall will be provided from Boulder Close where an approved driveway exists. Suitable car parking on the property is also provided.
 - Existing mature vegetation between the stall and the boundary, which will not be removed, will act as a screen making it difficult to clearly see the structure along Kyogle Road.
2. *The consent authority must be of the opinion that “granting of consent to that development application is consistent with the aims of this Policy as set out in clause 3”.*

The aims of the policy are as follows:-

“This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in section 5 (a) (i) and (ii) of the Act”.

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,

The proposed development will not affect the proper management, conservation of natural resources as it is on cleared land. The proposed development is considered to be an orderly and economic use of the land, by enabling the landholder to sell their produce from their farm. The decreased setback does not impact the social and economic welfare of the community but in contrast provides a social and economic benefit both to the landholder and the community.

3. *The consent authority must be satisfied that a consideration of the matters in clause 8(a) “whether non-compliance with the development standard raises any matters of significance for State or regional environmental planning; and (b) the public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

The proposed non-compliance does not raise any matters for state or regional planning, further as the non-compliance complies with the overall objectives there is not considered any public benefit to maintain the planning controls.

Preston expressed the view that there are five different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

In accordance, with the judgment by Chief Justice Preston “development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives.” Therefore in accordance with clause 24 the development will not be detrimental to future development along Kyogle Road. Further the development will not detract from the scenic values of the locality. Therefore the development standards are considered unreasonable and unnecessary and the development complies with the objectives.

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

In this instance if compliance was enforced the applicant would be unable to achieve the required car parking spaces and turning circle. Issues may also arise with the adjoining landholder and the proximity of the stall to the property boundary.

4. *The development standard has been virtually abandoned or destroyed by the Council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

The standard has not been virtually abandoned or destroyed exclusively by Council but in this particular case south of the proposed roadside fruit and vegetable stall is an existing roadside stall that has been positioned within the designated setback distance. The cumulative impact of the existing stall and the proposed organic roadside stall is unlikely to be negative.

Compliance with the standard in this instance is seen to be unnecessary and unreasonable.

5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

This is not relevant to the subject development as the zoning is considered appropriate.

The SEPP 1 objection is considered acceptable as the development standard is considered unreasonable and unacceptable for the proposed development.

SEPP No. 64 – Advertising and Signage

The SEPP outlines the following in regards to signs in areas that are zoned rural-

the advertisement relates to the land on which the advertisement is to be displayed, or to premises situated on that land or adjacent land, and

(ii) specifies one or more of the following particulars:

- (A) the purpose for which the land or premises is or are used,
- (B) the identification of a person residing or carrying on an occupation or business on the land or premises,
- (C) a description of an occupation or business referred to in sub-paragraph (B),
- (D) particulars of the goods or services dealt with or provided on the land or premises, or

The subject signage is consistent with the requirements of the SEPP in that the sign is displayed on the premises to which the proposal is applicable to, identifies the business and proprietor. The subject proposal is consistent with the SEPP.

SEPP (Rural Lands) 2008

The SEPP outlines the following seven planning guidelines for rural lands-
Rural Planning Principles

The Rural Planning Principles are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,

Comment: The proposed roadside fruit and vegetable stall achieves a sustainable economic activity on the subject site and is therefore consistent with the first provision.

- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,

Comment: The subject proposal is enabling the continuation of agricultural activities on the subject allotment and is supportive of the increasing demand for consumers wishing to purchase organic produce.

- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

Comment: The subject proposal does not sterilise the subject site for any future rural usage and is a positive contribution to the social and economic benefit of rural land use and development.

- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,

Comment: This subclause is not specifically applicable to the proposal due to the scale of the proposed development.

- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,

Comment: The subject proposal, if approved, is unlikely to pose a detrimental impact on any natural resource in the vicinity.

- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

Comment: This subclause is not specifically applicable to the proposal due to the scale of the proposed development

- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,

Comment: Not applicable.

- (a) (ii) The Provisions of any Draft Environmental Planning Instruments**
Draft amendment 21 of the Tweed Local Environmental Plan 2000 is relevant to the subject site but does not have any direct impact upon the proposal.

(a) (iii) Development Control Plan (DCP)Tweed Development Control PlanA2-Site Access and Parking Code

Comments from Council's Traffic Engineer in regards to the proposal are as follows:

- Minimum 13 metre diameter cul-de-sac is required to be constructed within the site for a B99 vehicle to enter and exit the site in a forward direction.
- Construction of a minimum of two parking bays generally as shown on the proposed plan which are also to comply with AS 2890.1 Off Street Carparking.
- Standard conditions DUR0995, DUR 1875 and PCC 0865 should be applied if the development is approved.
- The proposed sign is to incorporate a left pointing arrow and the word "ENTRY" to indicate the location of the proposed entry.

The subject application is consistent with the outlined requirements within the DCP for Access and Car parking.

A3-Development of Flood Liable Land

The subject site is classified as being flood affected. The subject proposal is for a non-habitable structure of small scale. If approved conditions of consent will be included to ensure the structure is built to the required engineering standard to withstand flood events and that all electrical outlets are positioned above flood level. The same will be required of all stock.

It is unlikely that people would be visiting the stall at times of flood so there is limited risk for human safety.

A4-Advertising Signs Code

The DCP outlines the following in regards to rural signage:

- To preserve the rural amenity of the locality within which the sign is to be displayed.
- To eliminate the proliferation of signs.
- To ensure that those signs which are displayed are in character with the existing and likely future amenity of the rural locality.
- To minimise the visual impact of signs.
- To prevent distraction to motorists and a reduction in traffic safety on roads.
- To co-ordinate tourism signs.

The subject sign is consistent with the outlined requirements of the DCP and is consistent with the rural amenity of the locality and will not contribute to the proliferation of signage in the area. The subject signage is unlikely to be a distraction to passing traffic as it is not overly garish.

A11-Public Notification of Development Proposals

The subject application was initially notified from the 5th December 2008 to the 19th of December 2008, an extension of timeframe was sought. The timeframe was extended from the 24th December 2008 to the 14th of January 2009. During this timeframe a total of twenty three (23) submissions were received. Out of the twenty three (23), three (3) submissions were in objection of the proposal and the remaining twenty (20) were submissions of support. The issues raised within the submissions are discussed in a later section of this report.

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

Not applicable.

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

Context and Setting

The proposed location of the roadside fruit and vegetable stall is positioned to enable access off Boulder Close which is a permissible access form than from Kyogle Road. The proposed stall facilitates the owner of the subject allotment to sell the produce grown for their farm, which cuts costs in terms of transport to external sources and time. The proposal is context specific due to requiring the produce that is sold to be specifically grown on the property.

Access, Transport and Traffic

The subject development has been assessed by Council's Traffic Engineer. No issues were raised with the subject development and it is considered to be an acceptable form of development in the context.

Flora and Fauna

The subject site is a cleared allotment that is utilized for agricultural and residential purposes. There is no flora and fauna of significance on the subject site. If the proposed development is approved, compliance with the conditions of consent will ensure nil impact occurs to any adjacent significant flora and fauna.

(c) Suitability of the site for the development

Surrounding Landuses/Development

Surrounding land use is primarily rural residential and will not be overly impacted upon by the roadside stall. Conditions will be imposed in regards to limiting the impact upon adjoining landholders.

Flora and Fauna

The subject site is cleared of any significant flora and fauna. If the development is approved conditions of consent will be included to ensure no negative externalities occur to any natural systems in the locality, catchment or Tweed Shire as a whole.

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

The subject application was originally notified from the 5th December 2008 to Friday 19th of December. The subject application was re-notified via the Tweed Link from Wednesday 24th December till the 14th of January 2009. The re-notification and extension of timeframe was granted following community representations at the meeting held 16 December 2008.

During the notification period 23 submissions and two petitions were received. The petitions received contained 1 x 15 signatures and 1 x 40 signatures in support. Three (3) objections in regards to the proposal were received; the objections are addressed below-

Objection	Response
<p>The two huge buildings each as big as Bunnings Warehouse on Lot 2 Boulder Close we think have not been certified by a certifier. Has not been built by a registered builder. Has not been checked or signed by a qualified engineer. The most important part is that when the original plan to build 2 large warehouses was approved it was on the condition that no produce was to be sold to the public from that property.</p>	<p>The previous approval for the greenhouse structures is not being revisited in this application. A condition of consent was incorporated into the consent for DA stating that no produce could be sold from the property. The current application seeks consent for the construction of a fruit and vegetable roadside stall to sell the organic produce grown on the property.</p>
<p>The proposed vegetable stall is not a roadside stall. It is on a property which is situated on a flood plane-when floods occur there will be fruit boxes and vegetables all over the place and will be dangerous to traffic.</p>	<p>The property is flood prone; the proposal is for a small non-residential structure as discussed within this report if the development is approved conditions of consent will be incorporated to ensure the structure can withstand flood events and the storage of goods is above the flood level applicable to the site.</p>
<p>The corner of Kyogle Road and Boulder close is a very dangerous intersection and traffic generated by cars coming in and out will be a traffic hazard.</p>	<p>The application has been referred to Council's Traffic Engineer and DTAG who both raised no issues with safety at the intersection.</p>



<p>The so-called vegetable stall will be situated about 200 meters from a real roadside stall which has been in that position for more than 20 years. We really do not need two vegetable stalls so close together.</p>	<p>The market will dictate the choice for people. One stall being certified organic and the other selling non organic produce will attract a different clientele. There is no planning reason why two roadside stalls could not coexist.</p>
<p>The construction would be uncharacteristic in maintaining rural character.</p>	<p>The proposal is a permissible form of development in the 1 (a) zone.</p>
<p>Would create a residential impact, with vehicles constantly accessing the fruit and vegetable stall from the gate on Boulder Close. This gate is a narrow access route and would create traffic hazard from traffic moving along Kyogle Road at the designated speed of 100km/h. This would also be a hazard to school children who cross the road in the morning at this point and alight in the afternoon. Traffic safety is a major concern and cannot be ignored by Council.</p>	<p>Traffic issues have been assessed and deemed to be satisfactory. The fruit stall is likely to attract passing traffic and not be a major traffic generating destination.</p>
<p>The proposed site of this fruit stall is flood prone site and when flooded the entire site would be underwater as it was in the February 2008 flood and all previous floods. It is a low lying area. The proponent has stated there will be no landfill involved, however he has previously used extensive landfill to increase the height of land when he built previous greenhouse structures. We believe that landfill will again occur to construct the site for the fruit stall and car park. Previous landfill on this property has unnaturally diverted water off the proponents land to be collected on our property and in our dam which has now become infected with nutrient loaded runoff. We have major stormwater and drainage aggravation from Mr. Mischlers property, as he has inadequately dealt with drainage, despite promises through his previous DA and to Council after numerous inspections re this. The result of his inadequate control of</p>	<p>No fill has been proposed within the application. The structure will be built to engineering standards to withstand flood events. If approved appropriate sediment and erosion control conditions will be included in the consent.</p>



<p>stormwater creates a cascade of water across our bottom paddock which adjoins Mr. Mischlers property and a torrent of water at our gate when it rains heavily.</p>	
<p>By approving this DA the rural amenity of this region is compromised, as the site becomes solely commercial/retail. Does this comply with the current zoning?</p>	<p>The roadside stall is a permissible form of development in a area zoned 1 (a) Rural. The proposal is consistent with the rural character of the area as it enables the sale of organic produce grown on the property.</p>
<p>We believe the development does not meet the 30m setback. We believe this setback should be maintained in order to maintain rural amenity. As stated the Guineas fruit stall is within this 30m setback, no less than 150m from this site. We believe it is unnecessary to have 2 fruit stalls so close together, whether or not one is supposed to be organic.</p>	<p>The applicant has submitted a SEPP 1 objection in regards to varying the setback from designated roads. The setback has not been created to preserve 'rural amenity' but specifically to control development along designated roads in terms of the line of sight and traffic safety. As noted within this report Council's Traffic Engineer has no objection to the proposal in this regard.</p>
<p>The proponent has stated that this development falls under commercial, retail, industrial, tourist and recreation. The neighboring property is grazing only- as it should be. We believe that this development would have a negative effect on housing and community infrastructure (human service facilities and access)</p>	<p>The applicant has outlined that they found the development application form confusing to fill in. They were not implying that the proposal was industrial, tourist, commercial or retail. The applicant is applying for a roadside stall to enable the sale of organic fruit and vegetable grown on the farm which is consistent with the rural character of the area. The objectors' statement about negative effect on housing and community infrastructure is unclear and does not indicate how the proposal will directly impact upon housing and community infrastructure.</p>
<p>The proponent states that minimal impact will occur on the existing and likely future amenity of the locality. We disagree strongly on this point. The applicant has made no attempts to maintain or indeed replace supposed screening plants which died from lack of maintenance. There are merely green plant bags with dead plants in them on the boundary with 4 Boulder Close. We believe the applicant has limited concern for ecological communities as defined in the Threatened Species Conservation Act 1995. We believe this development will have adverse environmental</p>	<p>No endangered ecological communities have been identified on the subject property; if the development is approved compliance with the conditions of consent will ensure minimal impact on any natural, built, social or built environments. The proposal is physically separated from the Tweed River by the road reserve and Kyogle Road it is unclear how any impact will be directly caused by the proposal. No trucks will be loading or unloading produce as under the definition of roadside stall only produce grown on the property can be offered for sale.</p>

<p>impact by threatening to impede the wildlife corridor which abounds the riparian areas of the Tweed River access site opposite Boulder Close. Many residents of Boulder Close have worked tirelessly over the past few years as members of the “friends of the Wollumbin land care group”, trying to replant and regenerate native species of the Mt Nullum area, in order to create a safe corridor for native wildlife accessing the river at this side.</p> <p>This will further impede the riparian zone by increasing heavy human impact as well as automotive impact including trucks loading and unloading produce.</p> <p>We believe that the development will create topsoil degradation and disturbance and also erosion factors.</p>	
<p>The site is heavily affected by flooding which means if the proponent does not intent to use landfill then the structures will instantly wash away with the next flood into the Tweed River. Consequently we believe that the impacts from this development would be negative and include social and economic impacts which are for personal gain for the applicant and no gain for the community,</p>	<p>No fill is proposed. The structure will have to be constructed in accordance with Australian standards for structures in flood prone areas.</p>
<p>The proposed position of the fruit and vegetable stall is dangerous. The stretch of Kyogle Road at the Boulder Close junction is a designated 100k speed limit. At peak times AM and PM it is a very busy and fast piece of road. Up to 8 children use this junction to catch and demount from the school bus.</p> <p>It is highly unlikely that there would generally be a maximum of 3 parked cars as suggested in the DA- more likely 6+(often seen at the Guinea fruit and vegetable stall) and the public are more likely to park on Boulder Close</p>	<p>As previously outlined the traffic impacts have been assessed and deemed to be acceptable.</p>



<p>rather than drive in to park on Lot 2 in front of the proposed stall especially in wet weather when it is muddy.</p>	
<p>It will not be a fruit and vegetable stall it will be an event. The amount of traffic interchange and the likelihood of blaring radio noise all day long will make it a constant hub of activity disrupting the peace of the locality. Already the peace is disrupted by day long radio noise from the organic farm.</p> <p>The original DA for the organic farm specified that there would be no selling taking place directly from the property, how can this be disregarded and overruled?</p> <p>The zoning for the proposed fruit and vegetable stall is rural residential. We live here. Is not this level of agricultural production and proposed selling from an organic farm more suitable to industrial zoning?</p> <p>The proposal of a stall here is unjust to the Guinea Farm fruit and vegetable stall (only metres down the road) which is long established and well run and not dangerous and poses no threat to peace in the locality.</p> <p>The proposed fruit and vegetable stall is in floodplain. I have seen this property underwater 3 times in recent years. A great deal of vigilance will need to be employed prior to and during flood rains to prevent any proposed fruit and vegetable stall and/or accessories becoming floating debris which will end up on Kyogle Road and ultimately in the Tweed River . This requires serious consideration. Any run off from roof or overflow from tank (s) will need proper water management systems in place, especially in flood rain.</p> <p>On occasions Boulder Close is used as a parking area for groups of Friends of Wollumbin Landcare consultants, workers and</p>	<p>The proposed roadside stall if approved will be conditioned to be a maximum of twenty square meters in area and only sell produce grown on the farm. Trade is likely to be generated from passing traffic which is unlikely to be directly increased due to the roadside stall.</p> <p>The radio noise is a separate issue; any consent issued will include conditions to ensure the amenity of neighbors is not impacted upon. The original DA is not being revisited in this application; the issue of the condition in the previous consent has been discussed above.</p> <p>The zoning of the property is 1 (A) Rural, the roadside stall is a permissible form of development in the zone. The proposal is not of a industrial scale but rather a small scale stall that enables the sale of produce grown on the farm.</p>

volunteers for stretches at a time, as it is used also for groups of TAFE students with one or two TAFE teachers or supervisors who come to work on Lot 9 for a day.

This is a considerable volume of traffic at this busy and dangerous junction and would add to the event of a proposed fruit and vegetable stall. Although only taking place on occasion, not weekly, this requires serious consideration.

Twenty letters of support were received during the notification time frame; reasons of support are outlined as-

- Fruit and vegetable stall will be an asset.
- Additional income for the farmer in hard financial and industry times.
- Combined Tweed Rural Industries Association is in support of the proposal.
- Benefit of 'green tourism' for the shire.
- Reduction in food miles, increased availability of certified organic produce
- Increased availability of affordable organic produce locally.
- Valuable and unique development servicing the local community and tourists.

In regards to the weight of submissions and the response received it would appear that the proposed roadside fruit and vegetable stall is highly supported within the community. The objections raised have been taken into consideration and adequately addressed and do not present strong argument for the refusal of the subject application.

(e) Public interest

Submissions received have been noted and it is considered that the proposal is within the public interest to receive conditional approval from Council. The proposal is a permissible form of development in the 1 (a) zone and is suitable for the site.

OPTIONS:

1. Resolve to adopt the recommendations made and approve the development application.
2. Resolve to refuse the development application for specified reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If the applicant is dissatisfied with the determination a right of appeal exists in the Land and Environment Court.

POLICY IMPLICATIONS:

Nil

CONCLUSION:

The subject application is considered to generally comply with statutory and policy requirements. The development standard clause 24 designated road setbacks was considered unreasonable and unnecessary in this instance and therefore the SEPP 1 objection is concurred with. The proposed development is considered to not have a significant impact on flora and fauna, agricultural activities or the social, cultural and economic environment. The site features existing landscaping that will screen the proposal from designated road and therefore is considered suitable for the subject site. The impact of the proposal in terms of traffic has been assessed and determined to be acceptable. Additionally the weight of submissions in support of the proposal would indicate that the subject organic roadside fruit and vegetable store is highly supported and welcomed.

Therefore the proposed development is recommended for approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P6 [PR-PC] Development Application DA08/1012 for the Addition of Three (3) New Industrial Buildings to an Existing Industrial Development at Lot 229 DP 1122768, No. 90-92 Quarry Road South Murwillumbah

ORIGIN:

Development Assessment

FILE NO: DA08/1012 Pt1

SUMMARY OF REPORT:

This Development Application is being reported to Council due to the Department of Planning's circular PS08-014 issued on 14 November 2008 requiring all State Environmental Planning Policy No. 1 variations greater than 10% to be determined by full Council.

The applicant seeks development consent for the addition of three (3) new industrial buildings (numbered 6-8) to an existing industrial development on current lot 229 in DP 1122768.

The applicant has lodged an objection under SEPP 1 to Clause 14 - Development near zone boundaries of the Tweed Local Environmental Plan 2000. The objective of Clause 14 is to provide flexibility where detailed investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site.

This clause applies to development being carried out in respect of development permissible in the adjoining 4(a) zone, within 50m of the boundary between the 4(a) zone and the 1(b2) zone, subject to council being satisfied in relation to certain criteria contained in Clause 14(4).

Part of units seven (7) and eight (8) as proposed are outside of the 50m zone boundary requirement as determined under Clause 14. The proposed industrial units are located a maximum distance of 66m from the zone boundary, exceeding the limit by a maximum 16m. The total area of the proposed buildings which falls outside of the 50m zone boundary is 261sqm.

In accordance with Development Control Plan A11 – Public Notification of Development Proposals – the Development Application was notified for a period of 14 (fourteen) days from 29 October 2008 to 12 November 2009. No submissions were received by Council within this timeframe.

Following an assessment of the relevant Council and State planning requirements, as well as the general planning merits, it is considered that the proposal is suitable for approval, subject to conditions.

RECOMMENDATION:

That Development Application DA08/1012 for the addition of three (3) new industrial buildings to an existing industrial development at Lot 229 DP 1122768, No. 90-92 Quarry Road South Murwillumbah be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 3-6 and dated 11/02/09, except where varied by the conditions of this consent. [GEN0005]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia. [GEN0115]
3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property. [GEN0135]
4. The development is to be carried out in accordance with Councils Development Design and Construction Specifications. [GEN0265]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

5. Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. [PCC0065]
6. **Section 94 Contributions**
Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

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

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

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



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

- (a) Tweed Road Contribution Plan:
 - 24.15 Trips @ \$1559 \$37,650
 - S94 Plan No. 4
 - Sector10_4

[PCC0215]

7. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council. Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

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

Water DSP2:	0.805 ET @ \$10346.9	\$8,329.30
Sewer Murwillumbah:	0.805 ET @ \$4972.1	\$4,002.50

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

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

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

[PCC0265]

8. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

9. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary,

perimeter drainage is to be provided. The construction of any retaining wall or cut/fill batter must at no time result in additional ponding occurring within neighbouring properties.

All earthworks shall be contained wholly within the subject land. Detailed engineering plans of cut/fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

10. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
- (a) All building materials used below Council's design flood level must not be susceptible to water damage.
 - (b) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water.
 - (c) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[PCC0705]

11. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
 - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.

[PCC1105]

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

[PCC1155]



13. Medium density/integrated developments will be required to provide a single bulk water service at the road frontage. Individual metering beyond this point shall be managed by occupants. Application for the bulk metre shall be made to the supply authority detailing the size in accordance with NSW Code of Practice - Plumbing and Drainage and BCA requirements.

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

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

[PCC1185]

[PCC1195]

PRIOR TO COMMENCEMENT OF WORK

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

[PCW0015]

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

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

[PCW0215]



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

[PCW0225]

18. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

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

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

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

[PCW0255]

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

[PCW0665]

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

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

22. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site. [PCW0985]
23. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by the General Manager or his delegate prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges. [PCW1065]
- [PCW1075]

DURING CONSTRUCTION

24. All proposed works are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications. [DUR0005]
25. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans. [DUR0015]
26. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -
Monday to Saturday from 7.00am to 7.00pm
No work to be carried out on Sundays or Public Holidays
The proponent is responsible to instruct and control subcontractors regarding hours of work. [DUR0205]
27. The roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building. [DUR0245]
28. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made). [DUR0375]
29. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council. [DUR0395]
30. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979. [DUR0405]
-

31. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.
[DUR0415]
32. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan, Part A5 - Subdivision Manual and Development Control Plan, Part A14 - Cut and Fill on Residential Land to the satisfaction of the Principal Certifying Authority.
Please note timber retaining walls are not permitted.
[DUR0835]
33. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council General Manager or his delegate.
[DUR0985]
34. All work associated with this approval is to be carried out so as not to impact on neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind
- [DUR1005]
35. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.
[DUR1025]
36. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.
[DUR1685]
37. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.
[DUR1705]
38. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all
-

warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

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

[DUR1875]

40. Where the kerb is to be removed for driveway laybacks, stormwater connections, pram ramps or any other reason, the kerb must be sawcut on each side of the work to enable a neat and tidy joint to be constructed.

[DUR1905]

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

[DUR1945]

42. All retaining walls in excess of 1metre in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction. Certification from a suitably qualified engineer experienced in structures is to be provided to the PCA prior to the issue of an Occupation/Subdivision Certificate.

[DUR1955]

43. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.

[DUR2185]

44. Appropriate measures are to be put in place during the construction and/or demolition period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.

[DUR2405]

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

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

[DUR2485]

46. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.



- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage. [DUR2495]
47. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard. [DUR2535]
48. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR2545]
49. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR2555]
50. House drainage lines affected by the proposal are to be relocated to Council's satisfaction. Prior to the relocation of any plumbing and drainage lines, a plumbing permit and the relevant plumbing permit fee is to be submitted to Council. Inspection of drainage works prior to covering is required [DUR2565]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

51. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans. [POC0005]
52. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0205]
53. Redundant road pavement, kerb and gutter or foot paving including any existing disused vehicular laybacks/driveways or other special provisions shall be removed and the area reinstated to match adjoining

works in accordance with Councils adopted Development Design and Construction Specifications.

[POC0755]

54. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

55. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

USE

56. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

[USE0145]

57. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]

58. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

[USE0225]

REPORT:

Applicant: Mr WJ Dickinson
Owner: Mr WJ Dickinson, Ms D Dickinson, Mr LJ Dickinson and Mrs CS Dickinson
Location: Lot 229 DP 1122768, No. 90-92 Quarry Road South Murwillumbah
Zoning: 1(b2) Agricultural Protection
Cost: \$160,000.00

BACKGROUND:Subject Site

The subject site is known as Lot 229 DP 1122768, Quarry Road, Murwillumbah. The subject site has a land area of 4323sqm and contains an existing industrial building, which comprises of 5 units totalling a floor area of 1365sqm. The existing industrial units are located along the northern boundary.

The subject site is a relatively level elevated lot and contains no native vegetation. The adjoining lot 228 has a land area of 61.73ha and is used for cane production and is relatively low lying.

To the north of the site is a forested hill which is zoned 4(a) Industrial and contains a number of dwelling houses.

To the east of the site is land development for industrial purposes. To the south of the site is land used for sugar cane production and to the west is the Murwillumbah airport.

Proposed Development

The application proposes the addition of three (3) new industrial buildings (numbered 6-8) to an existing industrial development on current lot 229 in DP 1122768. The proposed industrial buildings are to be constructed of Colorbond cladding and will be consistent with the existing colour scheme, being dark green. One (1) of the new Industrial buildings (Unit 6) is proposed to adjoin the western side of the existing units numbered 1-5. Units 7 and 8 are to be constructed in the south-eastern corner of the site and will be physically attached.

Site History

The subject site was created as part of an industrial subdivision, which created 56 industrial lots (DA02/1685), the application was granted consent 03/03/2004.

The following development applications have been granted consent on the subject allotment.

- Development Application DA07/0327 for 2 lot subdivision (proposed boundary adjustment) erection of an industrial building & ancillary office was granted consent 20/06/07.
- Development Application DA07/0346 for the construction of a sewer rising main was granted consent 19/07/07.



- Development Application DA07/0346.02 amendment to Development Consent DA07/0346 for the construction of sewer rising main was granted consent 17/12/07.

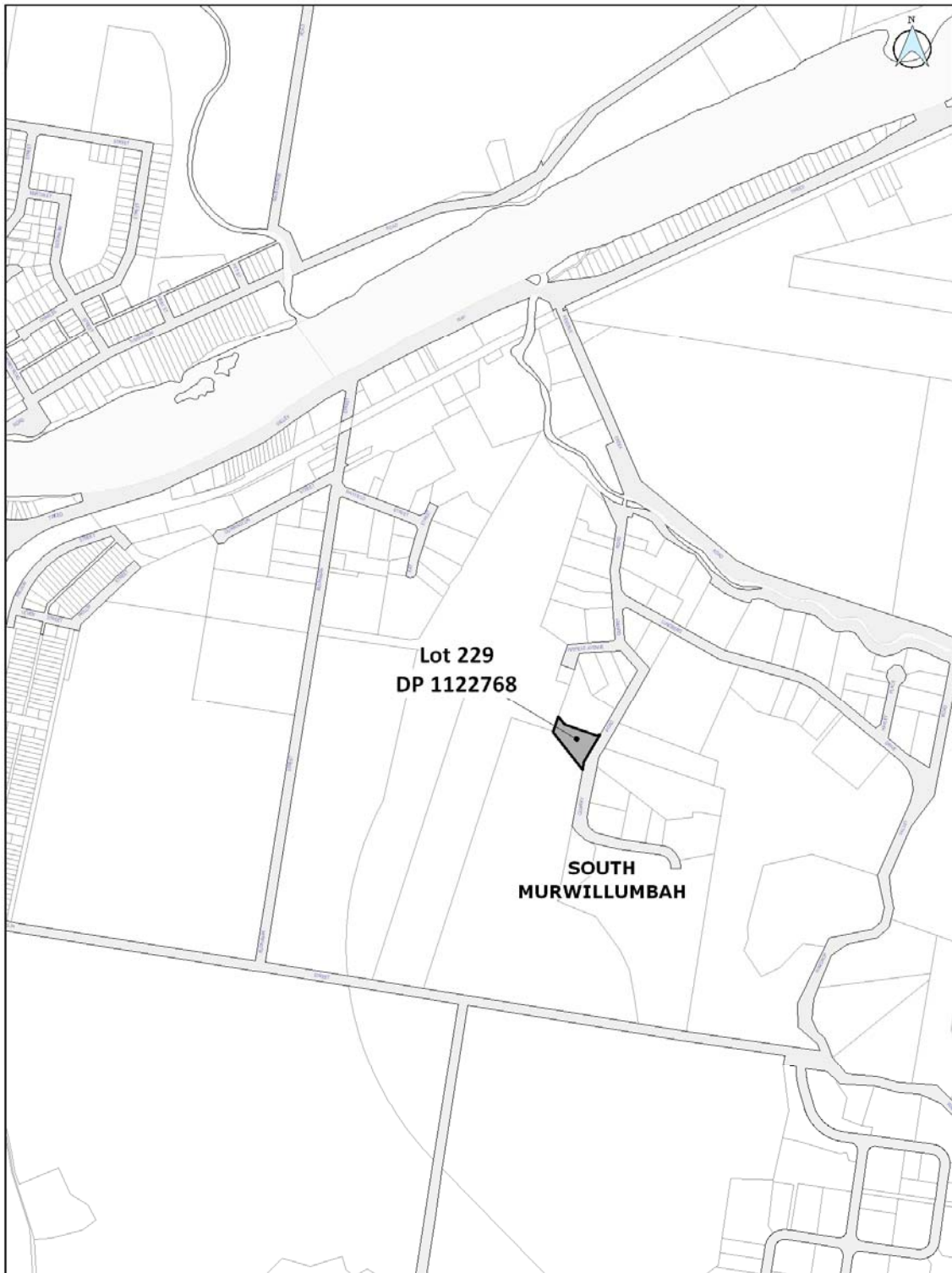
Public Submissions


The application was advertised and notified for a period of 14 days from 29 October 2008 til 12 November 2008. During this time no submissions were received.

Summary

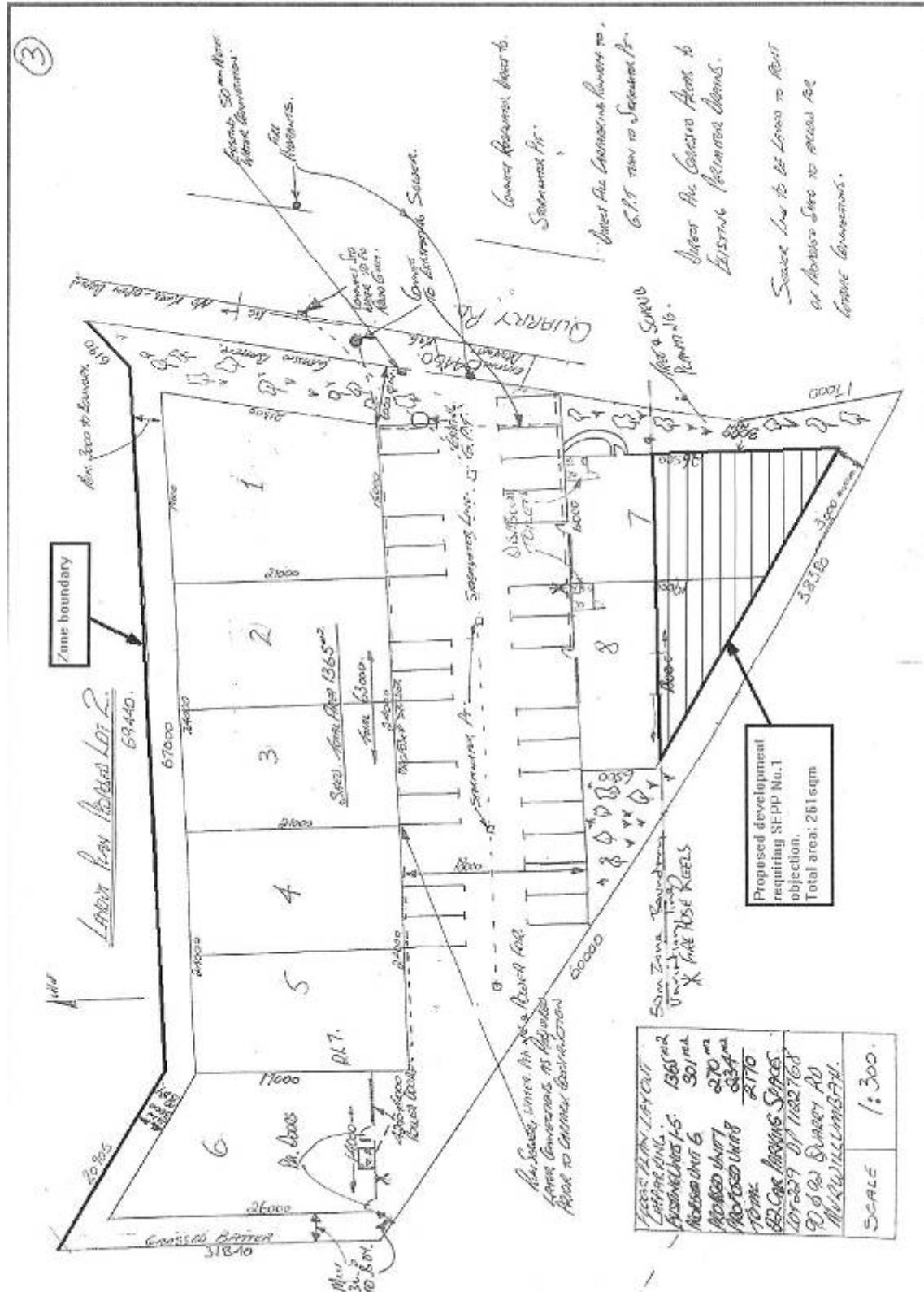
The proposal has been investigated and is considered to be suitable to the site; unlikely to cause any significant long term negative impacts to the surrounding built and natural environment and meets all of Council's applicable requirements within the Tweed Local Environmental Plan and relevant Development Control Plans. The application has been assessed by Council's technical officers; with no objections being raised subject to the applied conditions of development consent. The proposed addition of three new industrial buildings to an existing industrial site and associated SEPP No.1 objection is therefore considered to warrant approval.

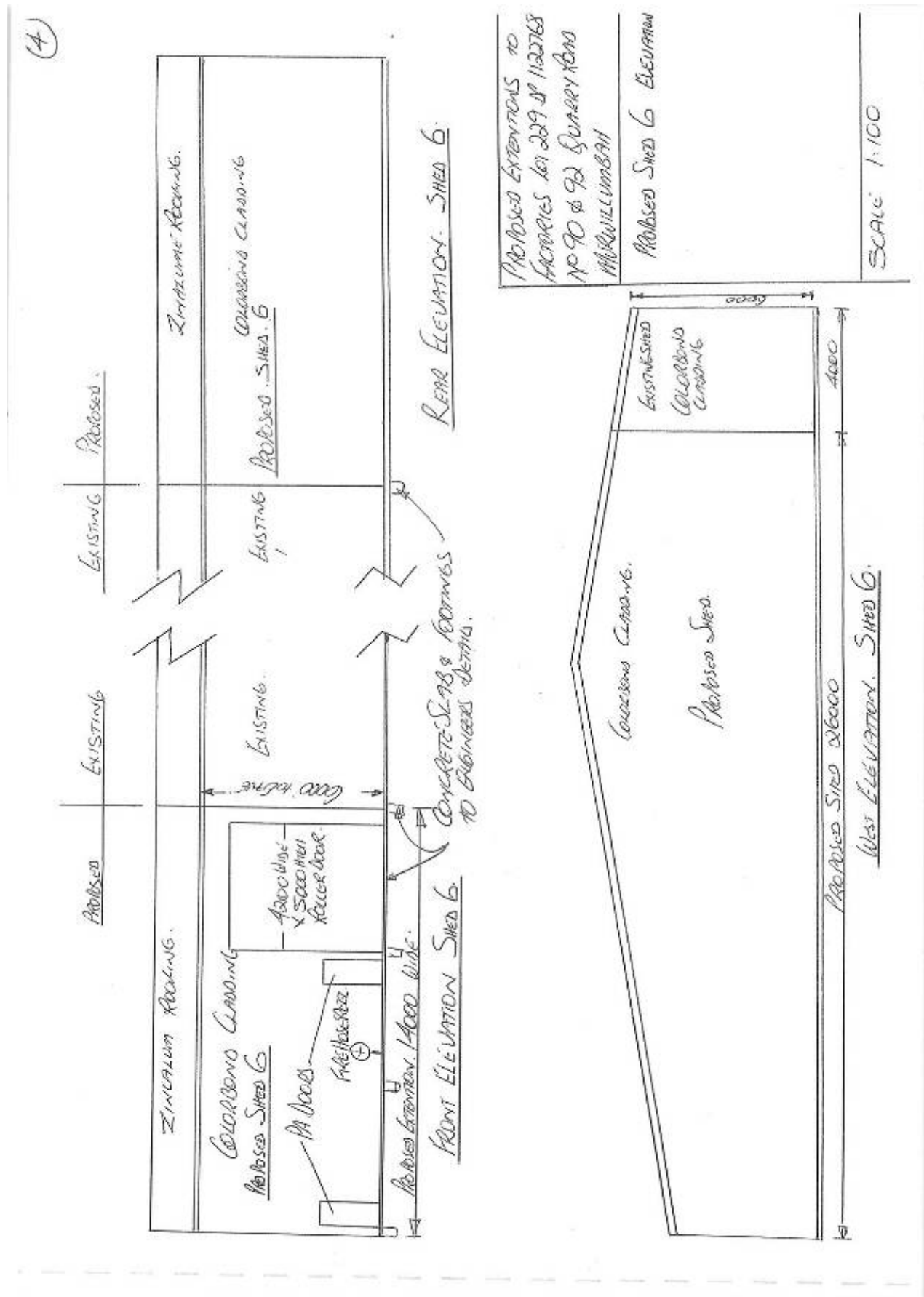
SITE DIAGRAM:



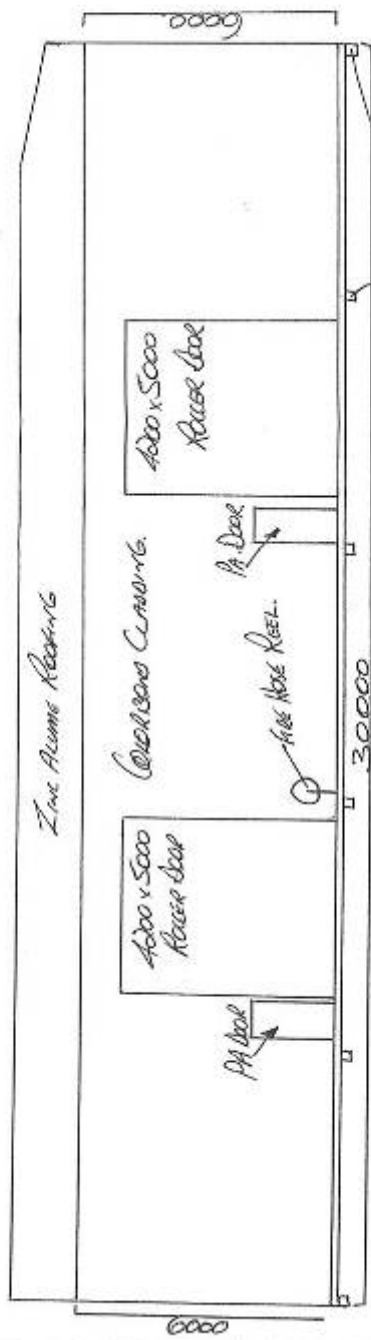
<p>© TWEED SHIRE COUNCIL 2009 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. COPY ONLY - NOT CERTIFIED P.O. Box 816 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2403</p>	<p><i>Tweed Shire Council</i></p> <p>DA08/1012 - Lot 229 DP 1122768 No. 90-92 Quarry Road, South Murwillumbah</p>	<p>Site Plan</p>  <p>Scale: 1:10,000 Sheet: 1 of 1</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------

DEVELOPMENT ELEVATION PLANS:





(5)



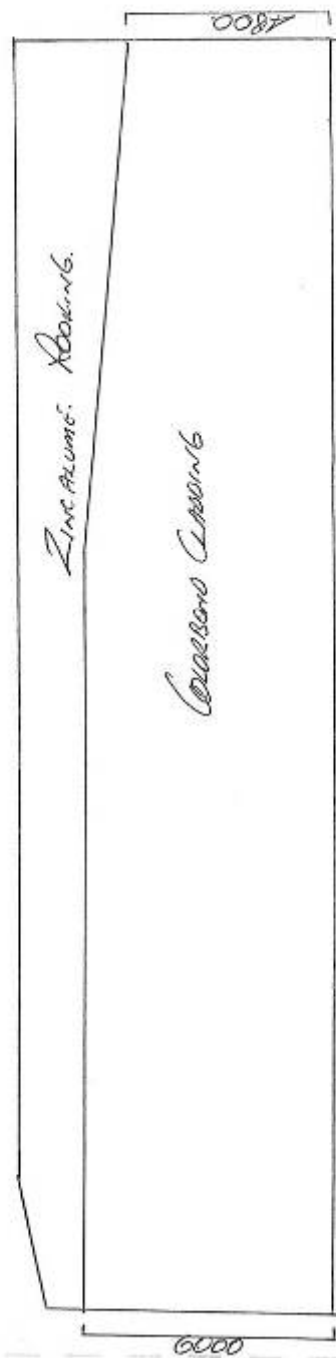
FRONT/NORTHERN ELEVATION.

Requires a Seal to Engineers Design.

Address Extensions to
Addresses Lot 22790 & 22791
110 Rd & 92 Duncraig Rd
MURUMBidgee NSW.

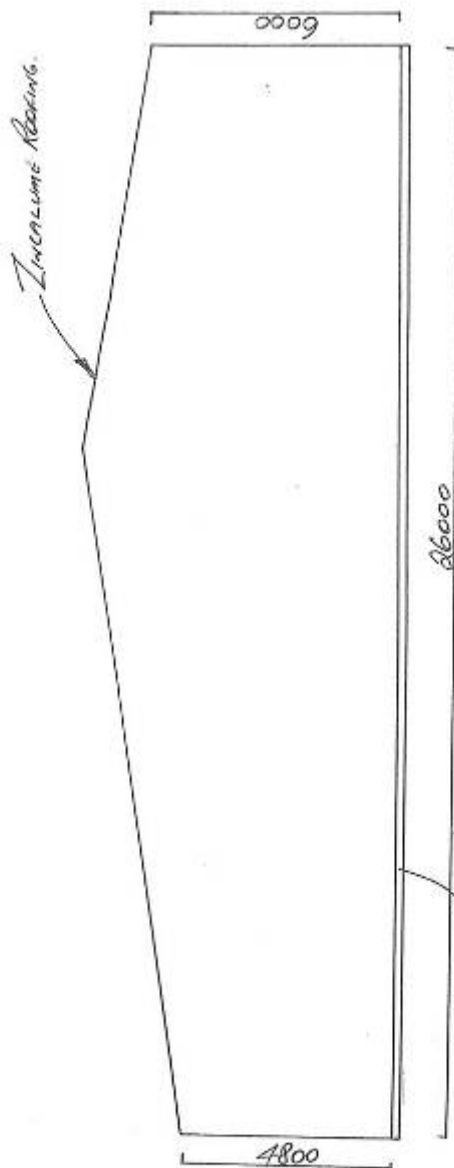
Address Sites 7 & 8
Elevations

Scale 1:100.



REAR/SOUTH ELEVATION.

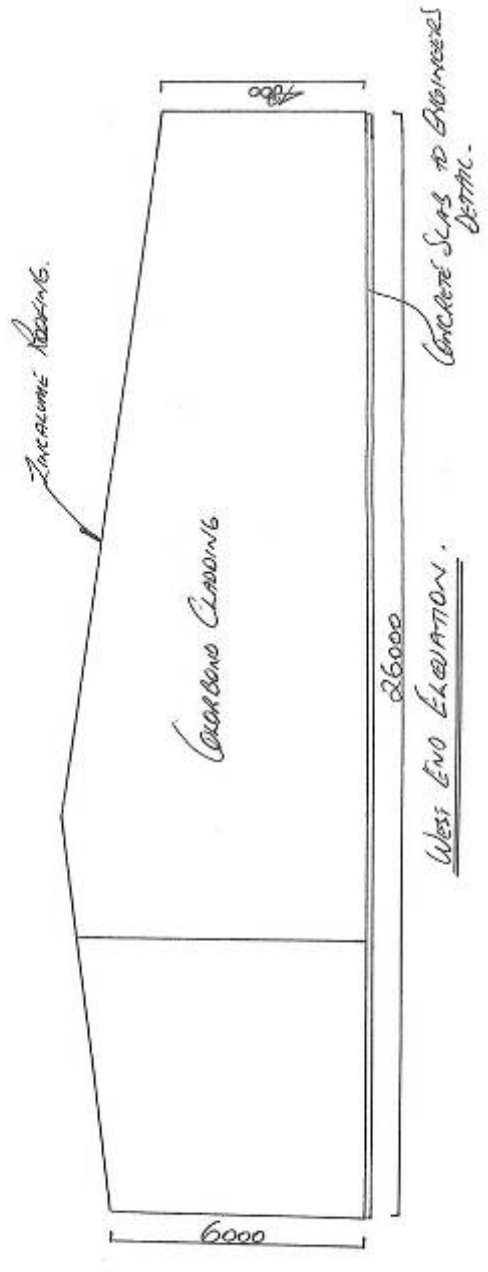
6.



PROPOSED EXTENSIONS TO
 FACILITIES LOT 239 DP1162768
 1090 & 92 QUINCY RD
 MURUMBidgeE UNIT 10/11.

PROPOSED SHEETS 7 & 8
 ELEVATIONS.

SCALE 1:100



CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**(a) (i) The provisions of any environmental planning instrument****Tweed Local Environmental Plan 2000****Clause 4 - Aims of the Plan**

Clause 4 illustrates that the aims of the TLEP 2000 are to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan. The vision of the plan is *"the management of growth so that the unique natural and developed character of the Tweed Shire is retained, and its economic vitality, ecological integrity and cultural fabric is enhanced"*. Clause 4 further aims to provide a legal basis for the making of a DCP to provide guidance for future development and land management, to give effect to the Tweed Heads 2000+ Strategy and Pottsville Village Strategy and to encourage sustainable economic development of the area which is compatible with the Shire's environmental and residential amenity qualities.

The proposed development is considered to be compatible with the areas environmental and predominately industrial amenity qualities. The site is clear of native vegetation and has only maintained grassland, therefore no removal of native vegetation from the allotment is required. Further a landscape report is to be submitted to Council prior to the issuing of an occupation certificate. The subject development application is considered suitable & in keeping with the above, particularly given its location within the Murwillumbah Industrial area.

Clause 5 - Ecologically Sustainable Development

The TLEP aims to promote development that is consistent with the four principles of ecologically sustainable development, being the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms.

Broadly, the subject proposal is considered consistent with the above criteria, as the development is not likely to have significant ramifications for ecologically sustainable development given the development is the addition of industrial buildings to an already established industrial site.

Clause 8 - Zone objectives

This clause specifies that the consent authority may grant consent to development (other than development specified in Item 3 of the table to clause 11) only if:

- (a) it is satisfied that the development is consistent with the primary objective of the zone within which it is located, and
- (b) it has considered that those other aims and objectives of this plan (the TLEP) that are relevant to the development, and

- (c) it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.

In this instance, the subject site is zoned 1(b) Agricultural protection, the primary objective of which is to protect identified prime agricultural land from fragmentation and the economic pressure of competing land uses.

The proposed development is not considered in keeping with the objectives of the 1(b) zone, however the development is being considered under Clause 14 development near zone boundaries of the TLEP.

The adjoining zone is a 4(a) Industrial zone, the primary objective of which is to provide land primarily for industrial development and to facilitate economic activity and employment generation.

The proposed development is considered in keeping with such an objective as it will contribute to the availability of services for the community.

The proposed development is not required to meet the requirements of Clause 8(2) as the development is not specified in table 3 of the table to clause 11.

Clause 11 – Zone objectives

The land to which this application relates is zoned 1(b2) Agricultural Protection under the TLEP 2000. The objectives of this zone are:

Primary objective:

- To protect identified prime agricultural land from fragmentation and the economic pressure of competing land uses.

Secondary objective:

- To allow other development that is compatible with agricultural activities.

Development for the purposes of 'industries' are prohibited in the 1(b2) zone.

However, Clause 14 of the TLEP2000 (development near zone boundaries) has the effect of permitting the development, with consent, subject to Council upholding a SEPP 1, in respect of the 50m development standard referred to in this clause. Therefore the proposed industrial development is permissible with consent in the adjoining 4(a) zone.

For further information regarding this Clause please refer to the 'Other Specific Clause' section in this report.

Clause 14 – Development Near Zone Boundaries

In summary this clause provides that development may be carried out in respect of development permissible in the adjoining 4(a) zone, within 50m of the boundary between the 4(a) zone and the 1(b2) zone, subject to council being satisfied in relation to certain criteria contained in Clause 14(4).

The following table addresses those criteria:

Criteria	Comment
Planning and Design Considerations:	Lot 229 is located within an area which is predominantly characterised by industrial development and the lot directly adjoins land zoned 4(a) Industrial to the north. All necessary infrastructure is provided to the site and it is physically suitable for the intended purpose. Furthermore the site is already developed for industrial purposes.
Ownership:	The subject site was previously owned by the Stainlay family and since has changed ownership to be under the current ownership of the Dickinson family. The adjoining lot 228 is intended to be sold to Mr Bill Stainlay and will be used for agricultural purposes.
Servicing:	The site is fully serviced with reticulated sewer, reticulated water supply, power and telephone, is accessed via a two lane, bitumen sealed road with underground drainage. Kerb and gutter is constructed for the site's frontage. All necessary urban infrastructure is available to the site to facilitate its use for industrial development.
Other:	Lot 229 comprises an elevated and level building pad of approximately 4000sqm. The area of the lot is considered unsuitable for any agricultural purposes.

Clause 15 - Essential Services

This clause of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent.

The subject land is provided with power, town water and reticulated sewerage services.

Clause 16 - Height of Building

A maximum building height of three stories applies to this site.

The proposed buildings are single storey and comply with this requirement.

Clause 17 - Social Impact Assessment

The objective of Clause 17 is to ensure proper consideration of development that may have a significant social or economic impact and deems that where a proposal is likely to have a significant social or economic impact it must be accompanied by a socio-economic impact statement.

The proposed storage depot will generally contribute positively to the amenity of the locality and the natural environment. It is therefore unlikely to have a significant social or economic impact and is subsequently compliant with Clause 17 of the LEP.

Clause 35 - Acid Sulfate Soils

The site is not classified on Council's Acid Sulphate Planning Maps as being land with the potential for Acid Sulphate Soils

Clause 34 – Flooding

Council's flooding map indicates that the site is affected by flooding. The subject site is mapped as having a 1 in 100 year flood level of 6.3m AHD and an adopted minimum floor level of 6.8m AHD.

The objectives of clause 34 are to minimise future potential flood damage by ensuring that only appropriate compatible development occurs on flood liable land and to minimise the adverse effect of flooding on the community.

The consent authority must not grant consent to development on flood liable land unless the following has been considered.

- (a) the extent and nature of the flooding hazard affecting the land, and
- (b) whether or not the development would increase the risk or severity of flooding of other land in the vicinity, and
- (c) whether the risk or severity of flooding affecting the development could be reasonably mitigated, and
- (d) the impact of the development on emergency services, and
- (e) the provisions of Section A3 - Development of Flood Liable Land of *Tweed Development Control Plan*.

The proposed industrial development is not considered to increase the risk or severity of flooding, will not have an impact on the capacity of the SES to gain access to the site and is considered consistent with Section A3 Development of flood liable land (as discussed under separate title in this report).

Clause 39A – Bushfire Protection:

Council's Bushfire Hazard maps indicate that the site is affected by the buffer area of a potential bushfire hazard, thereby triggering Clause 39A of TLEP2000.

The objective of this Clause is:

To minimise bushfire risk to built assets and people and to reduce bushfire threat to ecological assets and environmental assets.

The proposed development does not compromise subdivision of a special fire protection purpose and therefore does not require a bushfire safety authority for the purposes of S100B of the Rural Fires Act 1997.

Also, the proposed development does not require assessment against the Rural Fire Service Guideline titled Planning for Bushfire Protection (PFBF) 2001, as it does not constitute residential development. Notwithstanding this, it is considered that the development is not at significant risk from bushfire and the development is in general in accordance with the matters for consideration contained in the Planning for Bushfire Protection Guideline for the following reasons:

- The elevated hill to the north of the site contains the only forested land in close proximity to proposed lot 229, other surrounding lands are used for sugar cane production and industrial uses.
- Bitumen sealed roads provide two way access from the site.
- Sheds are of full metal construction.
- Fire hose reels are to be provided within the development.
- The surrounding area is principally industrial development.
- Reticulated water supply is available.

It is therefore considered that the proposal complies with the requirements set out in this clause.

North Coast Regional Environmental Plan 1988

Clause 12: Impact on agricultural activities

This clause outlines that the council shall not consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

The statement of environmental effects details that lot 228 will continue to be used for sugar cane production, whilst lot 229 is used for industrial purposes. The subject site is already operating as an industrial site, the proposed development is considered in keeping with the existing context of the area, thereby meeting the objectives of this clause.

Clause 47 Principles for Commercial and Industrial Development

This clause outlines that land used for industrial and commercial development should be located where it can be adequately serviced by the transport system and is accessible from urban areas.

The subject site is located within an established industrial estate, in close proximity to the Tweed Valley Way. The site is easily accessible from the surrounding urban area (Murwillumbah). The proposed development is considered to comply with Clause 47.

State Environmental Planning Policies

SEPP No. 1 - Development Standards

The applicant has submitted a SEPP 1 which relates to the 50m zone boundary variation development standard, which applies to land zoned 4(a) and 1(b) pursuant to Clause 14 of the TLEP2000.

Clause 14 - Development near zone boundaries states:

- (1) *To provide flexibility where detailed investigation of a site and its surroundings reveals that a use allowed on the other side of a zone*

boundary would enable a more logical and appropriate development of the site.

- (2) This clause applies to land which is:*
 - (a) within 20 metres of a boundary between any two of Zones 1(c), 2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 3(a), 3(b), 3(c), 3(d), 3(e), 4(a), 5(a), 6(a) and 6(b), or*
 - (b) within 50 metres of a boundary between Zones 1(a) and 1(b), or*
 - (c) within 50 metres of a boundary between any zone referred to in paragraph (a) and any zone referred to in paragraph (b).*
- (3) Development that would otherwise be prohibited may, with consent, be carried out on land to which this clause applies if the development may be carried out (with or without consent) in the adjoining zone.*
- (4) Consent may be granted to development referred to in subclause (3) only if the consent authority is satisfied that the proposed development is more appropriate, due to planning, design, ownership, servicing or similar criteria, than the development that would otherwise be allowed.*

In summary the applicants submission states:

It is submitted that upholding the objection would be consistent with the aims of State Environmental Planning Policy No.1 in that strict compliance with the 50m zone boundary development standard, would unreasonably preclude the appropriate development of the site in accordance with the adjacent 4(a) zoning.

In addition, upholding the objection would be consistent with the objectives of the Act in that it will facilitate more efficient use and management of the land, based on the lot boundary locations approved under DA07/0237.

The circumstances of non-compliance with the development standard is well founded and upholding the objection is considered to be in the public interest and consistent with the objects of the Act and the aims of State Environmental Planning Policy No. 1.

Compliance with the development standard is unreasonable and unnecessary for the following reasons:

- No loss of sugar cane results from the proposal
- No physical disturbance to the landform
- No additional lots created
- The proposed development is consistent with the purpose for which the lot was created
- The use of lot 229 for industrial purposes is a logical and efficient use having regard to the disposition of the site and available infrastructure.

The proposed application exceeds the 50m requirement for development assessed against Clause 14 – Development near zone boundaries of the Tweed Local Environmental Plan 2000 by a maximum of 16m.

The proposed development consists of the addition of three new (3) industrial buildings to an existing five (5) unit Industrial development. The proposed

industrial buildings have a combined Gross Floor Area of 805sqm. Part of units seven (7) and eight (8) as proposed are outside of the 50m zone boundary requirement as determined under Clause 14. The total area of the proposed buildings which falls outside of the 50m zone boundary is 261sqm.

The technical non compliance reflects the fact that the total area of Lot 229 is slightly greater than 50m from the zone boundary as required under Clause 14 of the Tweed Local Environmental Plan 2000, however the subject site was created as part of a 56 lot industrial subdivision and the site already hosts 5 industrial units.

As such it is considered that the non compliance with the development standard is well founded

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

There are no draft Environmental Planning Instruments on exhibition that are a relevant matter for consideration in the assessment of this application.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

Under Section A2 of the Tweed Development Control Plan 2007 the proposed development is defined as industry and is calculated at a rate of 1 car space per 100sqm GFA.

Development Description	Floor Area	Requirement	Application Provides:
Industrial/Depot building	805sqm	1/100sqm = 8.05 spaces	8 spaces

The proposed development has a combined area of 805sqm. Therefore an additional 8 (8.05) car parking spaces are required.

Carparking **approved under DA07/0237**

Development Description	Floor Area	Requirement	Application Provides:
Industrial/Depot building	1365sqm	1/100sqm = 14 spaces	
Office building	145sqm	1/40sqm = 4 spaces	
		TOTAL = 18 spaces	TOTAL = 26 spaces

Development Application DA07/0237 provided a total of 26 spaces, exceeding the requirement by 8 spaces. As the proposed extension to the site requires 8 spaces, the development is considered to comply with Section A2.

A3-Development of Flood Liable Land

The subject site is partially mapped as being flood affected on Councils GIS system. The subject site has a 1 in 100 year flood level of 6.3m AHD and an adopted minimum floor level of 6.8m AHD.

Council's infrastructure engineer has provided comments on the proposal and Councils Development Assessment Engineer has reviewed the application in this regard and indicated that the proposal is compliant with the DCP requirements, the relevant conditions for flood compatibility have been entered to the consent.

A11-Public Notification of Development Proposals

In accordance with the policy, the application was notified and advertised from 29 October until 12 November 2008. During this period no submissions were received and is discussed later in this report.

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

Clause 92(a) Government Coastal Policy

The proposed site is not located within the area covered by the Government Coastal Policy.

Clause 92(b) Applications for demolition

There is no demolition proposed as part of the application

Clause 93 Fire Safety Considerations

None required.

Clause 94 Buildings to be upgraded

None required.

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

Context and Setting

The subject site is generally level and contains no native vegetation other than managed grasslands. There are existing industrial buildings on the site and the surrounding area is predominately industrial. The proposed development is considered to comply with the existing area.

Access, Transport and Traffic

Council's Development Engineer reviewed the application and raised no concerns subject to appropriate conditions of consent.

Flora and Fauna

No significant impacts anticipated as a result of the proposed development.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The proposed development is considered to fit in with the surrounding developments. The industrial buildings are compatible with the adjoining and nearby industrial uses.

Topography and site orientation

It is considered that the subject site is suitable for the proposed development. The land was approved as a 56 lot industrial subdivision and is currently host to five (5) industrial units.

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

The application was advertised and notified for a period of 14 days from 29 October 2008 until 12 November 2008. During this time no submissions were received.

(e) Public interest

The proposed development is considered to be consistent with the surrounding uses and has been designed to be compatible with the existing industrial development, therefore the proposal is considered to be in the wider public's interest.

OPTIONS:

1. Approve this application in accordance with recommendation for approval and support the SEPP 1 objection.
2. Refuse the development application stating reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with the imposed conditions of consent they have the right to appeal the decision in the NSW Land and Environment Court.

POLICY IMPLICATIONS:

There are no policy implications in relation to this development.

CONCLUSION:

The subject land is generally considered to be suitable for the proposed development. The proposed development is considered to be generally consistent with the applicable Planning Instruments and Development Control Plans.



UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

P7 [PR-PC] Development Application DA08/0831 for a Dwelling, Attached Garage & Swimming Pool at Lot 358 DP 1087716, No. 33 Cylinders Drive Kingscliff

ORIGIN:

Building & Environmental Health

FILE NO: DA08/0831 Pt1

SUMMARY OF REPORT:

An application has been received to construct a two (2) storey dwelling with a basement car park and in-ground swimming pool on the subject property. The property is situated on the eastern side of Cylinders Drive, Kingscliff and backs on to the coastal foreshore of South Kingscliff Beach.

The applicant has lodged a SEPP No. 1 variation as the proposed development will result in overshadowing of the foreshore.

This development application is being reported to Council due to the Department of Planning's Circular PS08-014 issued on 14 November 2008 requiring all State Environmental Planning Policy No. 1 variations greater than 10% to be determined by full Council. Given that the Department of Planning has advised Council Officers to be conservative with the application of the 10% rule, the difficulties of calculating 10% of the shadow development standard (as it is time based), it has been decided to report this application to Council.

No submissions have been received in relation to the proposal. It is considered that the subject application is suitable for approval.

RECOMMENDATION:

That:

- A. State Environmental Planning Policy No. 1 objection to Clause 32B of the North Coast Regional Environmental Plan regarding overshadowing be supported and the concurrence of the Director-General of the Department of Planning be assumed.**
- B. Development Application DA08/0831 for a dwelling, attached garage & swimming pool at Lot 358 DP 1087716, No. 33 Cylinders Drive Kingscliff be approved subject to the following conditions: -**

GENERAL

1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.
[GEN0015]
2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.
[GEN0115]
3. New construction shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas' Level 2. New construction of the western façade shall comply with Australian Standard AS3959-1999 'Construction of buildings in bushfire-prone areas' Level 1.
4. Screen-less door systems, including glazing and supporting framework shall be designed and constructed to withstand 19kW/m² of radiant heat flux to prevent the entry of embers into the building. Draught excluders, seals and door furniture shall be manufactured from materials having a flammability index no greater than 5 (with the exception of intumescent seals which are permissible) and ensure that there are no gaps >2.0mm in diameter when the door is closed.
5. Roller doors, tilt-a-doors and the like shall be sealed to prevent the entry of embers into the building.
6. No brushwood (or the like) or treated pine timber fencing shall be used.
7. At the commencement of building works the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and appendix 5 of *Planning for Bush Fire Protection 2006* and the NSW Rural Fire Service's document '*Standards for asset protection zones*'.
8. Water, electricity and gas are to comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*.
9. To aid in fire fighting activities, unobstructed pedestrian access to the rear of the property shall be provided and maintained at all times.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for **SUBDIVISION WORKS OR BUILDING WORKS** shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first

instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

11. Stormwater

- (a) Details of the proposed roof water disposal, including surcharge overland flow paths are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate. These details shall include likely landscaping within the overland flow paths.
- (b) All roof water shall be discharged to infiltration pits located wholly within the subject allotment.
- (c) The infiltration rate for sizing infiltration devices shall be 3m per day:
 - * As a minimum requirement, infiltration devices are to be sized to accommodate the ARI 3 month storm (deemed to be 40% of the ARI one year event) over a range of storm durations from 5 minutes to 24 hours and infiltrate this storm within a 24 hour period, before surcharging occurs.
- (d) Surcharge overflow from the infiltration area to the street gutter, inter-allotment or public drainage system must occur by visible surface flow, not piped.
- (e) Runoff other than roof water must be treated to remove contaminants prior to entry into the infiltration areas (to maximise life of infiltration areas between major cleaning/maintenance overhauls).
- (f) If the site is under strata or community title, the community title plan is to ensure that the infiltration areas are contained within common land that remain the responsibility of the body corporate (to ensure continued collective responsibility for site drainage).
- (g) All infiltration devices are to be designed to allow for cleaning and maintenance overhauls.
- (h) All infiltration devices are to be designed by a suitably qualified Engineer taking into account the proximity of the footings for the proposed/or existing structures on the subject property, and existing or likely structures on adjoining properties.
- (i) All infiltration devices are to be designed to allow for construction and operation vehicular loading.
- (j) All infiltration devices are to be located clear of stormwater or sewer easements.

[PCC1135]

12. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices

- **erosion and sediment control works**

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

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

[PCC1145]

PRIOR TO COMMENCEMENT OF WORK

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

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

[PCW0215]

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

[PCW0225]

15. Residential building work:
- (a) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - * in the name and licence number of the principal contractor, and
 - * the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - * the name of the owner-builder, and
 - * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.
 - (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

16. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every fifteen (15) persons or part of fifteen (15) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

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



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

[PCW0255]

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

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

DURING CONSTRUCTION

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

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

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

[DUR0205]

20. The roof cladding is to have low reflectivity where it would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.

[DUR0245]

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

[DUR0375]

22. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

23. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

24. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Occupational Health and Safety Regulation 2001.
[DUR0415]
25. The finished floor level of the building should finish not less than 225mm above finished ground level.
[DUR0445]
26. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Tweed Shire Councils Design and Construction Specifications, Development Control Plan, Part A5 - Subdivision Manual and Development Control Plan, Part A14 - Cut and Fill on Residential Land to the satisfaction of the Principal Certifying Authority. Please note timber retaining walls are not permitted.
[DUR0835]
27. The development is to be carried out in accordance with the current BASIX certificate and schedule of commitments approved in relation to this development consent.
[DUR0905]
28. All work associated with this approval is to be carried out so as not to impact on neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind
- [DUR1005]
29. All landscaping is to comply with the 88B Instrument pertaining to the site.
[DUR1055]
30. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
[DUR1875]
31. No portion of the structure may be erected over any existing sillage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.
[DUR1945]
-

32. **Swimming Pools (Building)**
- (a) The swimming pool is to be installed and access thereto restricted in accordance with Australian Standard AS 1926.1 - 2007. (Refer Council's web site www.tweed.nsw.gov.au)
 - (b) Swimming pools shall have suitable means for the drainage and disposal of overflow water.
 - (c) The pool pump and filter is to be enclosed and located in a position so as not to cause a noise nuisance to adjoining properties.
 - (d) Warning notices are to be provided in accordance with Part 3 of the Swimming Pool Regulations 2008.
- [DUR2075]
33. Backwash from swimming pool is to be connected to the sewer in accordance with Australian Standard AS 3500.2 Section 10.9.
- [DUR2085]
34. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
- [DUR2185]
35. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
- (a) internal drainage, prior to slab preparation;
 - (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
 - (c) external drainage prior to backfilling.
 - (d) completion of work and prior to occupation of the building.
- [DUR2485]
36. **Plumbing**
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
 - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.
- [DUR2495]
37. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993.
- [DUR2515]
38. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.
- [DUR2545]
39. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-
- * 43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.
-



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

[DUR2555]

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

[DUR2705]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

- 41. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).**

[POC0205]

- 42. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property. The street number is to be on a white reflective background professional painted in black numbers 100mm high.**

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

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

[POC0435]

USE

- 44. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.**

[USE0175]



45. The building is to be used for single dwelling purposes only. [USE0505]
46. The keeping of dogs, cats or other animals on the property is to be in accordance with any relevant 88B Instrument requirements. [USE1245]
47. **Swimming Pools (Building)**
- (a) It is the responsibility of the pool owner to ensure that the pool fencing continues to provide the level of protection required regardless of and in response to any activity or construction on the adjoining premises. Due regard must be given to the affect that landscaping will have on the future effectiveness of the security fencing. (Section 7 Swimming Pool Act 1992).
 - (b) The resuscitation poster must be permanently displayed in close proximity to the swimming pool. (Section 17 Swimming Pool Act 1992).
 - (c) Warning notices required under Part 3 of the Swimming Pool Regulations 2008 shall be maintained at all times. [USE1295]
48. The swimming pool is not to be used for commercial purposes without prior Development Consent. [USE1305]

REPORT:

Applicant: Ace Homes Pty Ltd
Owner: Linkways Pty Ltd
Location: Lot 358 DP 1087716, No. 33 Cylinders Drive Kingscliff
Zoning: 2(f) Tourism
Cost: \$1,800,000.00

BACKGROUND:

The property is zoned 2(f) tourism under Tweed Local Environmental Plan 2000 and is located on the eastern side of Cylinders Drive, Kingscliff. The property is bounded by residential land to the north, an unformed lane way to the south and to the east a coastal reserve (waterfront open space).

An application has been received to construct a two (2) storey dwelling with a basement car park and in ground swimming pool on the subject property. The property is situated on the eastern side of Cylinders Drive Kingscliff and backs on to the coastal foreshore of South Kingscliff Beach

A SEPP No. 1 is sought for a variation to the North Coast Regional Environmental Plan 1988 relating to overshadowing of waterfront open space, as the proposed two storey dwelling will cast a shadow on the adjacent waterfront open space.

In terms of the assessment of this application it should be noted that Council has previously resolved the following in respect of the imposition of the controls of Tweed Development Control Plan Section A1:


"The provisions of Tweed Development Control Plan Section A1 in relation to single dwelling houses not be applied to applications received prior to close of business on Monday 30th June 2008 and this decision be notified in the Tweed Link".

In this instance the proposed development application was lodged with Council on 30 June 2008 and therefore has been designed to comply with Council's development requirements that were applicable before the introduction of A1.

SITE DIAGRAM:



**Lot 358
DP 1087716**

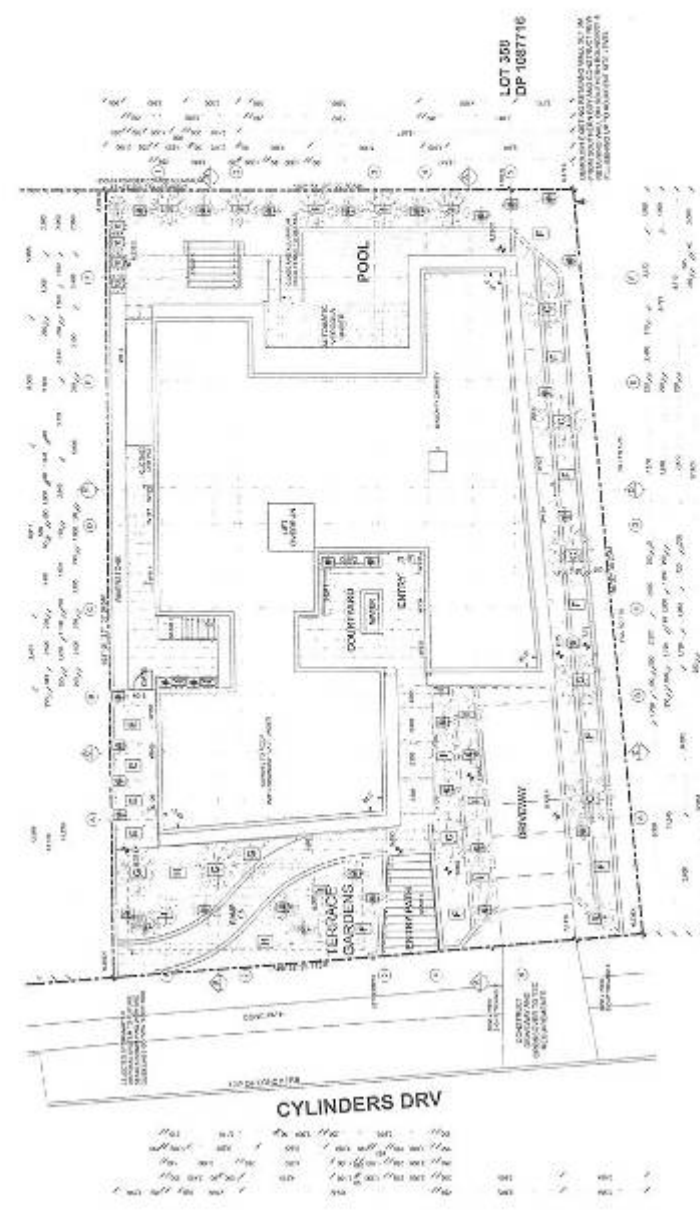
<p>© TWEED SHIRE COUNCIL 2009 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2403</p>	<p><i>Tweed Shire Council</i> Lot 358 DP 1087716 No. 33 Cylinders Drive, Kingscliff</p>	<p>Site Plan  Scale: 1:5,000 Sheet: 1 of 1</p>
<p>File: Z:\GIS_Jobs\Site Plan.Wor Author: J. Batchelor Date: 04/March/2009</p>		

DEVELOPMENT/ELEVATION PLANS:

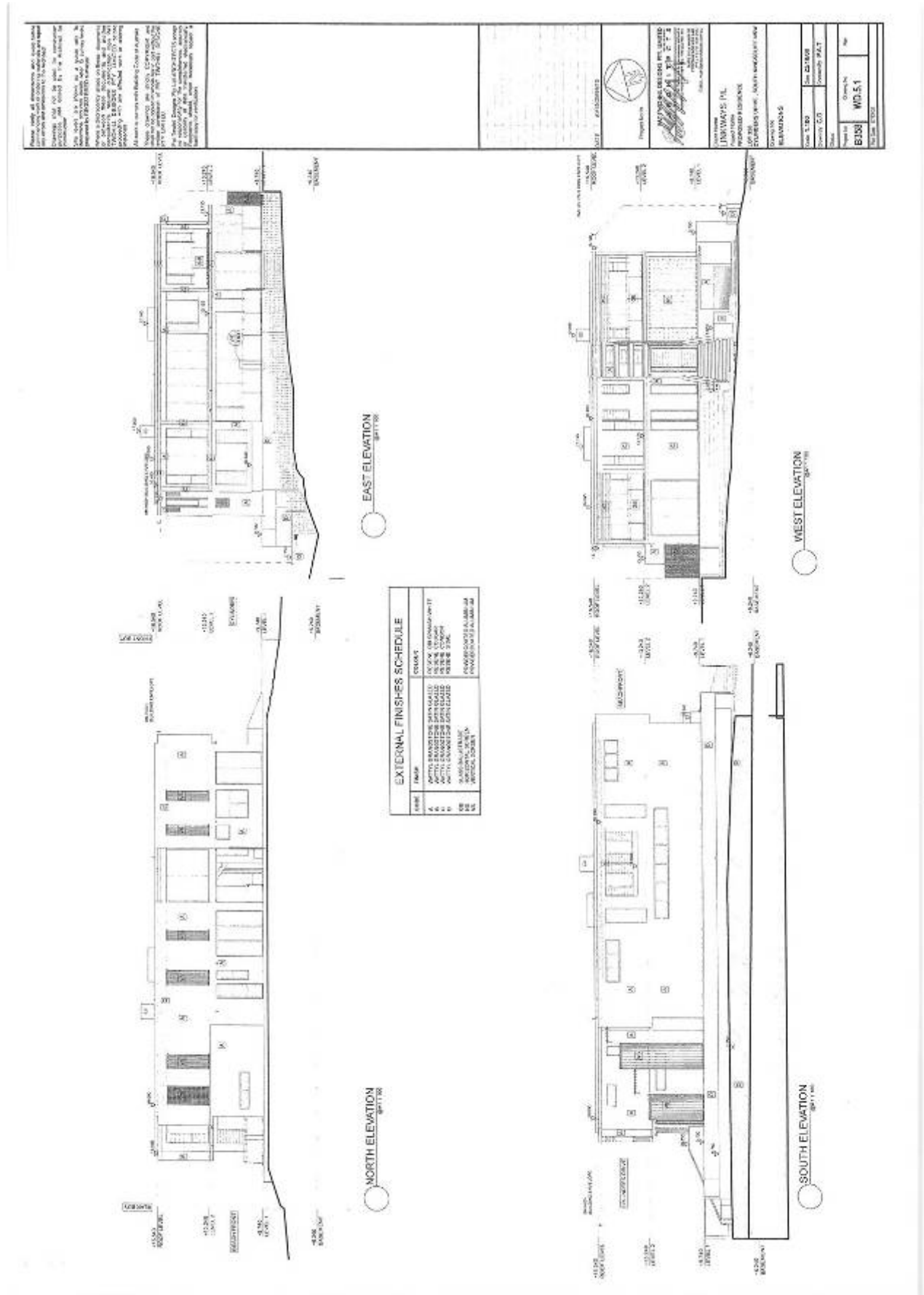
<p>These plans are prepared in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2007. The plans are prepared in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2007. The plans are prepared in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2007.</p>	<p>LOT 300 DP 1087716</p>	<p>WILSON & PARTNERS PT. LAKE 111 C.T.S. 111 C.T.S. 111 C.T.S.</p>
<p>WILSON & PARTNERS PT. LAKE 111 C.T.S. 111 C.T.S. 111 C.T.S.</p>		
<p>WILSON & PARTNERS PT. LAKE 111 C.T.S. 111 C.T.S. 111 C.T.S.</p>		
<p>WILSON & PARTNERS PT. LAKE 111 C.T.S. 111 C.T.S. 111 C.T.S.</p>		
<p>WILSON & PARTNERS PT. LAKE 111 C.T.S. 111 C.T.S. 111 C.T.S.</p>		
<p>WILSON & PARTNERS PT. LAKE 111 C.T.S. 111 C.T.S. 111 C.T.S.</p>		
<p>WILSON & PARTNERS PT. LAKE 111 C.T.S. 111 C.T.S. 111 C.T.S.</p>		
<p>WILSON & PARTNERS PT. LAKE 111 C.T.S. 111 C.T.S. 111 C.T.S.</p>		
<p>WILSON & PARTNERS PT. LAKE 111 C.T.S. 111 C.T.S. 111 C.T.S.</p>		
<p>WILSON & PARTNERS PT. LAKE 111 C.T.S. 111 C.T.S. 111 C.T.S.</p>		

CODE	SCIENTIFIC NAME	COMMON NAME
1	ACACIA SP.	WATTLE
2	ADONIS SP.	ADONIS
3	ADONIS SP.	ADONIS
4	ADONIS SP.	ADONIS
5	ADONIS SP.	ADONIS
6	ADONIS SP.	ADONIS
7	ADONIS SP.	ADONIS
8	ADONIS SP.	ADONIS
9	ADONIS SP.	ADONIS
10	ADONIS SP.	ADONIS

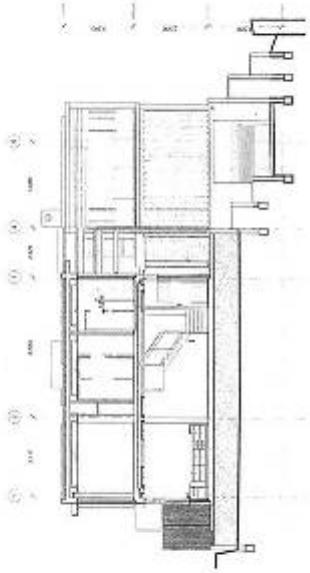
NO.	DESCRIPTION	QUANTITY
1	BRICK	1000
2	CONCRETE	500
3	WOOD	200
4	PAINT	100
5	GLASS	50
6	IRON	20
7	STEEL	10
8	ALUMINUM	5
9	COPPER	2
10	ZINC	1



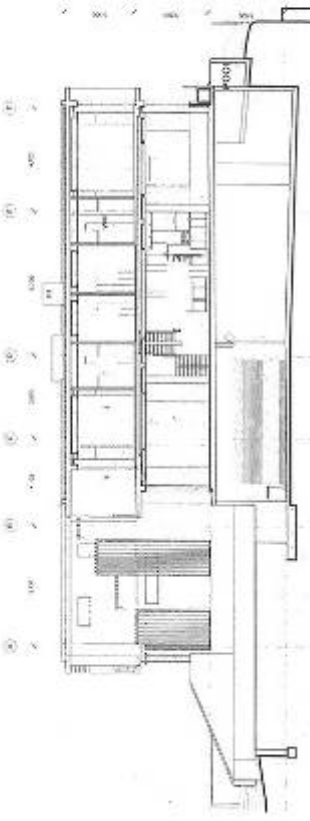
LANDSCAPING & GROUND FLOOR PLAN



Please note: all dimensions are based on the information provided in the contract documents. The Council is not liable for any errors or omissions in the contract documents. The Council is not liable for any errors or omissions in the contract documents. The Council is not liable for any errors or omissions in the contract documents.



SECTION C-C THRU BUILDING



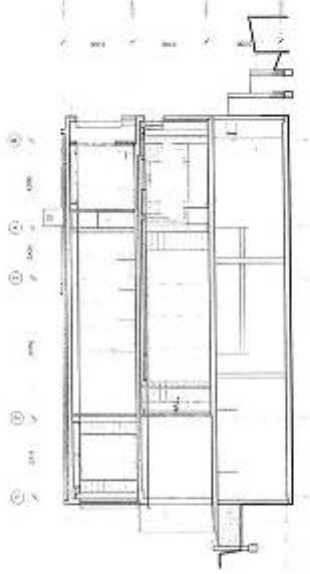
SECTION A-A THRU BUILDING

SECTION NOTES

1. All dimensions are based on the information provided in the contract documents. The Council is not liable for any errors or omissions in the contract documents. The Council is not liable for any errors or omissions in the contract documents.

2. The Council is not liable for any errors or omissions in the contract documents. The Council is not liable for any errors or omissions in the contract documents.

3. The Council is not liable for any errors or omissions in the contract documents. The Council is not liable for any errors or omissions in the contract documents.



SECTION D-D THRU BUILDING



SECTION B-B THRU BUILDING

REGISTERED PROFESSIONAL ENGINEER PROJECT NO. 09/001 DRAWING NO. 09/001/01 DATE: 17/03/09	
CLIENT: WYNDHAM DISTRICT COUNCIL PROJECT: WYNDHAM DISTRICT COUNCIL DRAWING NO: 09/001/01	DRAWING NO: 09/001/01 DATE: 17/03/09
PROJECT NO: 09/001 DRAWING NO: 09/001/01	DRAWING NO: 09/001/01 DATE: 17/03/09
DRAWING NO: 09/001/01 DATE: 17/03/09	DRAWING NO: 09/001/01 DATE: 17/03/09

Please refer to drawings and notes before making any alterations to this drawing. Any alterations must be approved by the Architect.

This drawing is a preliminary drawing and is not to be used for construction purposes. It is intended for use as a guide only.

The client, architect and contractor are responsible for ensuring that the drawing is accurate and complete.

This drawing is the property of the architect and is not to be used for any other purpose without the architect's written consent.

All dimensions are in millimeters unless otherwise stated.

The architect's name and contact details are as follows:

ARCHITECT
 J. J. J. ARCHITECTS
 10/11 THE SQUARE
 SYDNEY NSW 2000
 TEL: (02) 9550 1234
 FAX: (02) 9550 1235
 WWW: www.jjjarchitects.com.au

CLIENT
 J. J. J. ARCHITECTS
 10/11 THE SQUARE
 SYDNEY NSW 2000
 TEL: (02) 9550 1234
 FAX: (02) 9550 1235
 WWW: www.jjjarchitects.com.au

DATE
 10/11/09

PROJECT
 J. J. J. ARCHITECTS

DRAWING NO.
 10/11/09

SCALE
 1:100

DATE
 10/11/09

BY
 J. J. J. ARCHITECTS

CHECKED BY
 J. J. J. ARCHITECTS

DATE
 10/11/09

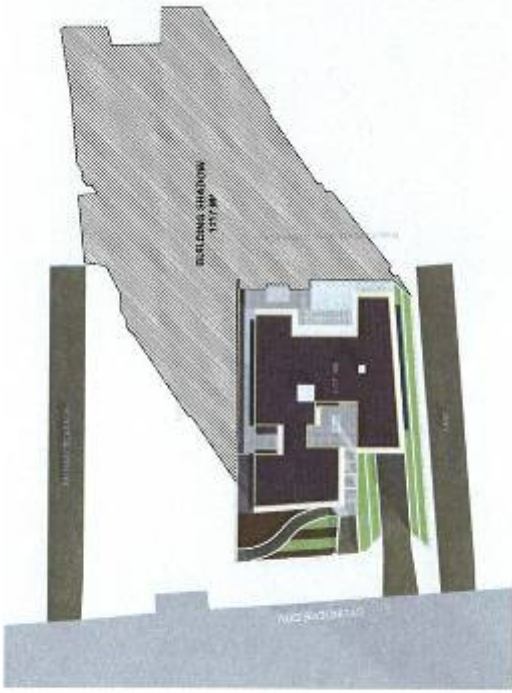
PROJECT NO.
 10/11/09

DATE
 10/11/09

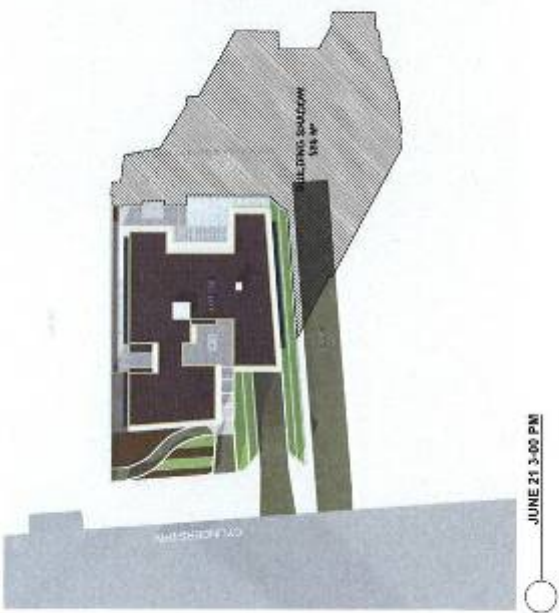
BY
 J. J. J. ARCHITECTS

CHECKED BY
 J. J. J. ARCHITECTS

DATE
 10/11/09



DEC 21 6:30 PM



JUNE 21 3:00 PM

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:**(a) (i) The provisions of any environmental planning instrument****Tweed Local Environmental Plan 2000****Clause 4 - Aims of the Plan**

The subject site is zoned 2(f) Tourism. The primary objective of the zone relates to the provision of integrated tourist development and uses associated with, ancillary to or supportive of the tourist development.

The secondary objectives relate to the provision of high quality residential development being integral and supportive of the primary intent of this zone. The proposed development is consistent with the secondary objective of the zone

Clause 15 - Essential Services

All essential services are available within the area

Clause 16 - Height of Building

The proposed height of the development (8.3m) complies with the 2 storey and 9m maximum height limitation affecting the subject site.

Clause 17 - Social Impact Assessment

A social impact assessment is not required given the minor nature of the proposal

Clause 35 - Acid Sulfate Soils

The area contains class 4 acid sulfate soils, which exist at a depth of greater than 2 metres below surface level. As approximately 2 metres of fill was placed on the site at subdivision stage, the depth of Acid soils would be approximately 4 metres below current surface level. It is not anticipated that the development will impact on the acid soils in the area.

Other Specific Clauses**Clause 36 - Coastal Erosion Hazard Outside Zone 7(f)**

The proposal is consistent with the considerations of this clause. The proposed development will not affect the beach or dune system and landscape or scenic quality of the locality, other than in relation to shadowing which is discussed in detail later in this report.

Council's mapping records indicate the subject site is clear of the 100 year hazard line.

Clause 39A – Bushfire Protection

Council's records indicate the site is bushfire prone. The proposal is consistent with the considerations of this clause. Conditions placed on this consent are in keeping with the conditions of consent requested by the NSW Rural Fire Service for neighbouring properties with a similar bush fire exposure.

North Coast Regional Environmental Plan 1988

Clause 32B: Coastal Lands

Clause 32B – Development Control applies as the NSW Coastal Policy 1997 applies to the subject site.

The proposal is consistent with the NSW Coastal Policy 1997, Coastline Management Manual and North Coast: Design Guidelines.

The proposal will not impede public access to the foreshore.

The applicant's submission and shadow plans demonstrate that the carrying out the development will result in the waterfront open space to the east of the site being overshadowed before 3pm midwinter (standard time) and 6.30pm midsummer (daylight saving time).

The applicant is seeking Council's support to assume the Director-General's concurrence in this instance. This matter is discussed in further detail in the SEPP No. 1 variation section within this report.

Clause 33: Coastal hazard areas

The development will have minimal impact on coastal processes. The proposal is not inconsistent with the Coastline Management Manual.

State Environmental Planning Policies

SEPP No. 1 - Development Standards

An objection has been lodged under SEPP 1 to vary the development standard provided by clause 32B (4) of the North Coast Environmental Plan 1988(NCREP 1988), which prohibits overshadowing of the coastal reserve at the times of 3pm mid winter and 6.30 pm midsummer to be unreasonable. The shadow diagrams submitted show that the building will overshadow the coastal reserve to the east at both of these times.

The proposal seeks a variation to the extent of shadow impacts to the adjacent foreshore reserve to the east. The property adjoining the site is

zoned 7(f) environmental protection and is considered to be waterfront open space pursuant to this clause. The application was accompanied with a SEPP 1 variation and the applicant has provided the following reasons as to why this standard is unreasonable or unnecessary;

- *Other dwellings that will be constructed along the foreshore allotments will also be constructed at two stories and will also cast shadows over the public reserve area.*
- *In the nearby Casuarina Beach locality there are dwellings and units that have been constructed that result in overshadowing of the foreshore which are prior to the relevant times in both mid winter and mid summer.*
- *Existing trees on the foreshore dunal areas result in significant overshadowing of the foreshore reserve and beach prior to the relevant times.*
- *The immediate area to be overshadowed is a drainage area and cycle/footpath. The area to be overshadowed although used by the public is not really an area where people will congregate. The overshadowing will therefore not alienate the physical use of the area.*
- *The shadows do not extend to the dunal or beach area.*
- *The impact of the development on the public reserve and dune areas would have been addressed when the subdivision approval was being dealt with.*

Generally, the above points are agreed to and it is considered in this instance that the standard is unreasonable for the following reasons.

Whilst the dwelling will overshadow the coastal reserve, the area of the coastal reserve that will be affected comprises a grassed area and coastal dune vegetation and a cycle way. The shadow will not impact on areas used for formal recreational activities.

It should be noted that the shadows cast by the trees in the reserve located immediately behind the subject property will have a greater impact on the beach than the dwelling under consideration and in the most part intercept the dwelling shadows. The beach is over 100 metres from the rear of the property.

Council has granted many other approvals for dwellings along the Tweed Coast, particularly in the Salt subdivision that have similar minor overshadowing encroachments into the coastal foreshore and it is considered that in this instance Council should also support this request.

SEPP No 71 – Coastal Protection

The development is generally consistent with the objectives of SEPP 71 and will not impact on the public's enjoyment and access to the foreshore.

SEPP (Building Sustainability Index: BASIX) 2004

The applicant has provided a BASIX certificate for the proposal which is consistent with the required energy target.

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

None apparent

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

In regards to compliance with the design controls outlined in section A1, when DCP Section A1 was adopted Council resolved that:

- The provisions of Tweed Development Control Plan Section A1 in relation to single dwelling houses not be applied to applications received prior to close of business on Monday 30th June 2008 and the this decision be notified in the tweed link.

In this instance the development application was lodged with Council on the 30th June 2008 and therefore has been designed to comply with Council's development requirements that were applicable before the introduction of A1.

Notwithstanding the above the requirements of A1 have been considered in the assessment of the application.

It should be noted that the most recent amended plans and supporting information were received by Council on the 19th December 2008 and these plans were the result of information requested during the assessment of the application.

Section A1 of Tweed DCP introduced detailed parameters for improved site outcomes including the provision of deep soil zones, impermeable site area, private open space, landscaping, car parking, setbacks and general street presence. These are addressed below.

External Building Elements Part A – Dwelling Houses, Alterations and Additions to Dwelling Houses, Garages, Outbuildings, Swimming Pools

Public Domain Amenity

Streetscape

The proposed development is consistent with the desired future character of the area whilst being sympathetic to the surrounding developments.

The dwelling is clearly visible from Cylinders Drive and the dwelling is setback 6m from the street which is consistent with the surrounding developments.

Public Views and Vistas

The proposal will not result in an unreasonable view loss of the beach and foreshore given the 2 storey limitation as specified in the Tweed Local Environmental Plan 2000 and the 9 metres height in A1. The proposed dwelling provides view corridors for dwellings located on the western side of Cylinders Drive, between dwellings and side boundary set backs.

Site Configuration

Deep soil zones (DSZs)

The property contains two areas of deep soil zones, one at the front of the dwelling and the other at the rear of the dwelling adjacent to the eastern property boundary.

The deep soil zone in the front yard of the property extends across the entire length of the site, and excludes the concrete driveway and entrance path, which is consistent with the design control requirements.

The second deep soil zone extends across the entire width of the property adjacent to rear eastern boundary and has a width of 3 metres while this is less than the required 5.5 metres under the more recent controls it is consistent with the 3 metres setback requirement outlined in the 88b instrument for the subdivision and is therefore considered acceptable.

Impermeable Site Area

The current provisions of A1 limit the maximum allowable impervious surface area of the site to 60% for allotments over 750m². The area of the subject site is 856m² and therefore the maximum impermeable area permitted at the completion of the development would be 513m².

The proposal has a calculated impervious area of 69.75% which is in excess of the current requirements by 9.75%.

Although the impermeable area is slightly above the current requirements, the objectives are considered satisfied as all the roof water is to be discharged on site into infiltration pits and a 5000L water tank will be installed. In addition, this requirement is not strictly enforceable as the application is subject to previous design controls which did not directly address this issue.

External Living Areas

The dwelling makes provision for external living areas in the form of a patio and terrace areas adjacent to the pool providing adequate solar access to the dwelling and private open space.

Landscaping

The applicant has provided a landscape plan in conjunction with the proposal, providing screening plants along the southern side boundary and shrubs within the front and rear setbacks.

The proposal is generally consistent with this design control.

Topography, Cut and Fill

The property is a sloping site with an approximate 10% fall from the northern side boundary to the southern side boundary. As part of the construction of the subdivision the site was cut and filled and a retaining wall provided along the northern side property boundary and another wall parallel to the southern side property boundary but located 3 metres within the property, to provide a level building platform for the proposed dwelling. As part of the application it is also proposed to demolish this wall and construct two smaller walls forming a terraced arrangement with landscaping behind each wall to help reduce the visual impact of the walls.

The building platform is generally flat, but has an approximate fall of 10% from the building platform to the eastern rear and western front property boundaries. A significant excavation is proposed on the site to create a 7 car basement car park beneath the dwelling and therefore carparking & numbers of carparking spaces will comply with the current design controls.

Setbacks

The proposal is consistent with the set back controls being 6 metres from the front boundary, 0.9 metres to 2.1 metres from the northern side boundary and 3 metres from the southern side boundary.

The set back from the rear boundary while not the required 5 metres nominated in A1, is 3 metres which is consistent the prescribed set back requirement in the 88b instrument for the subdivision and Councils requirements prior to the introduction of A1.

Car Parking and Access

The design control requires the proposed vehicle access and parking to be consistent with Section A2 of the DCP. Seven (7) off street car parking spaces are provided behind Council's 6 metre building line beneath the dwelling in a basement car park. Vehicle access to these spaces is considered adequate.

Height

Building Height

The maximum height of the dwelling is 8.3 metres which is consistent the current maximum design control of 9 metres.

Ceiling Height

The control encourages a minimum ceiling height of 2.7m for habitable rooms. The architectural plans show a minimum floor to ceiling height of 2.7m which satisfies the current requirements of the DCP.

Building Amenity

Sunlight Access

Private open space for the dwelling will receive sufficient access to sunlight. The dwelling includes the provision of terraced areas orientated north adjacent to the pool area and eastern rear boundary.

To the south of the subject property is a 5 metre wide unformed lane way which is part of a larger yet to be constructed residential subdivision.

Overshadowing impacts on any proposed southern side dwelling will be minimal, with the proposed dwelling standing 3 metres from the southern side boundary and the lane way being a further 5 metres wide which will result in a minimum 8 metres separation between the proposed dwelling and any future dwelling to the south of the subject site.

Notwithstanding the above extent of overshadowing could be reasonably expected, as the proposed development is in keeping with the bulk and scale of existing dwellings in the area.

Visual Privacy

Overlooking into adjoining properties has been minimized with the provision of suitable screening and strategic window positioning along both sides of the dwelling.

Acoustic Privacy

The applicable control relates to air conditioning and other mechanical equipment. A condition of consent has been recommended stating the noise of an air conditioner, pump or other mechanical equipment shall not exceed the background noise level by more than 5dB(A) when measured in or on any premises in the vicinity of the item.

View Sharing

This matter has been discussed previously in this report.

Natural Ventilation

The design of the dwelling provides for adequate natural ventilation.

Building Orientation

The dwelling has been sited on the property to optimize solar access and coastal views as well as providing an acceptable street presentation

Fences and Walls; Front, Side and Rear

The submitted architectural plans show only minimal fencing is proposed with the development. The proposal incorporates a 1.8m high slatted rear boundary fence and 1.8 metre high masonry side boundary fences. Fencing for the proposal is consistent with the design controls outlined in A1.

Roof

The design of the roof being generally flat is consistent with the design requirements of section A1. A condition regarding the implementation of non-reflective roof materials has been recommended in the conditions.

Building Performance

The proposal is consistent with this design control. As discussed previously the proposal is consistent with the SEPP (Building Sustainability Index: BASIX) 2004.

Swimming Pools

The proposed swimming pool is set back behind Council's Building line and 1.5 from the eastern side property boundary and is consistent with the design control objectives for swimming pools in Section A1.

Floor Space Ratio (FSR)

The current A1 provisions control the maximum allowable floor area of a dwelling in relation to the total area of the site as a means of matching the building scale with the capacity of the site and local area.

The proposed building has a site cover of 416m² which represents less than 50% of the total site area. Under the current A1 requirements the maximum FSR allowable for this scenario is 0.65:1.

In this case the proposed dwelling has an approximate 'floor area' as defined by the DCP of 600m² which equates to 44m² greater than the current prescribed allowance applying the 0.65:1 ratio.

This excess is not considered to adversely impact on objectives of the section as the proposed dwelling is consistent with the bulk and scale of other dwellings in the area and the expectations of the community for the local area.

The proposal is also consistent with the design requirements applicable at the time of lodgement of the application.

A2-Site Access and Parking Code

The development will comply with the requirements of section A2 in relation to vehicle access and parking. Seven car spaces have been provided beneath the dwelling in a basement car park.

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

Clause 92(a) Government Coastal Policy

The proposal is consistent with the goals and objectives outlined within the policy.

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

Context and Setting

The property is within a residential subdivision which has been specifically created for residential development. The proposed development is an architect designed building of high quality and will be in keeping with the architectural style and residential character of the area.

Access, Transport and Traffic

Minimal impact is envisaged, the proposal is a single residence within an approved residential subdivision.

Flora and Fauna

Minimal impact is envisaged, the site has been cleared during the creation of the subdivision.

(c) Suitability of the site for the development

Surrounding Land uses/Development

It is considered that the site is suitable for the proposed development. The property is located within an existing residential area and utilities of reticulated water, public sewer and power are provided to the site.

The design of the dwelling is in keeping with the residential character of the area

Topography

The building platform was created at subdivision stage and is generally flat, but has an approximate fall of 10% from the building platform to the eastern rear and western front property boundaries.

Site Orientation

The building has been centrally located on the property 6 metres back from the front property boundary. The site is rectangular in shape with the western front boundary facing Cylinders Drive, the northern side boundary adjoining another residential property, the eastern rear boundary adjoins a coastal reserve and the southern side boundary adjoins an unformed lane way, which is part of a large proposed residential development.

The living areas of the dwelling have been mainly orientated to the east and north to optimize ocean views and solar access to the north.

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

None apparent.

(e) Public interest

The development will not prejudice the public interest.

OPTIONS:

1. Council resolve to assume the Director-General's concurrence and resolve to approve the development application.
2. Council not resolve to assume the Director General's concurrence and resolve to refuse the development application, providing reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with the determination they have the right to appeal the decision in the Land and Environment Court.

POLICY IMPLICATIONS:

Nil

CONCLUSION:

The proposed development is consistent with the applicable environmental planning instruments with an acceptable variation of Clause 32B of the NCREP, and is generally consistent with the applicable Council policies. The proposal represents quality urban development which will make a positive contribution to the locality.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.



THIS
PAGE
IS
BLANK

THIS
PAGE
IS
BLANK

P8 [PR-PC] Proposed Activity PTV08/0002 for a construction of a new sewerage scheme over the subject site and roads and land zoned as 2(d) Village in the Village of Mooball and Burringbar at Lot 1 DP 1054857 Pottsville Road, Mooball; Tweed Valley Way

ORIGIN:

Development Assessment

FILE NO: GS6/9BBAR Pt 3

SUMMARY OF REPORT:

Council is proposing the implementation of a new sewerage scheme to service land within Burringbar and Mooball zoned 2(d) Village in accordance with the provisions of Tweed Local Environmental Plan 2000 (TLEP 2000). The proposal involves the construction of a new sewage treatment plant (STP), associated sewer collection and transport mains, pump stations, and the discharge of treated effluent to Burringbar Creek. While the potential for effluent reuse via irrigation has been investigated it does not form part of the subject application.

The consideration of the implementation of the scheme commenced in 2002 and has been subject to a series of consultation exercises with the local community.

The proposed development is permissible without development consent in accordance with the provisions of State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).

The subject Part 5 Application, including the Review of Environmental Factors prepared on behalf of Council by HLA Envirosciences Pty Limited, was placed on public exhibition for a period of fourteen (14) days from 26 March 2008 to 9 April 2008. A total of five (5) submissions were received on behalf of four (4) property owners. The issues raised in the submissions are addressed in this report and include concerns regarding: potential impacts on Platypus habitat; potential impacts on water quality and groundwater; potential soil contamination from the adjacent cattle dip site; potential impacts associated with flooding; potential visual impacts; potential impacts on surrounding dwelling houses in terms of noise and odour; potential impacts on 7(l) zoned land; and concerns regarding the adequacy of the STP to cater for existing rural residential subdivisions and potential future expansion of the villages.

Council engaged Kate Singleton Pty Ltd and Peter Parker Environmental Consultants Pty Ltd to provide an independent assessment of the application. This report contains that assessment.

It is concluded on the basis of the environmental assessment undertaken in accordance with the provisions of Section 111 of the EP & A Act 1979, and Clause 228 of the

Regulation that the proposed development is unlikely to result in significant adverse impacts on the environment and is unlikely to have a significant effect on threatened species, populations, ecological communities or their habitats. It is therefore concluded that the proposed development does not warrant the preparation of an Environmental Impact Statement or Species Impact Statement.

The proposal to implement a new sewerage scheme for the villages of Burringbar and Mooball is recommended for approval subject to the imposition of appropriate conditions.

RECOMMENDATION:

That proposed activity PTV08/0002 for a construction of a new sewerage scheme over the subject site and roads and land zoned as 2(d) Village in the Village of Mooball and Burringbar at Lot 1 DP 1054857; Pottsville Road Mooball, Tweed Valley Way Mooball and Tweed Valley Way Burringbar be approved subject to the following conditions: -

- 1. The development shall be completed in accordance with the *Burringbar Mooball Sewerage Scheme Review of Environmental Factors* prepared by HLA Envirosiences Pty Limited dated 27 January 2005, except where varied by the conditions of this consent.**

The following amendments to the Sewage Treatment Plant design and operation are required. Details of the amendments are to be submitted for the approval of the Director of Planning & Regulation prior to the commencement of works.

- Relocation of the discharge point to Burringbar Creek in accordance with the recommendation contained in the report prepared by Peter Parker Environmental Consultants Pty Ltd dated March 2009.**
 - The deletion of the earth bund located adjacent to the proposed access road.**
- 2. Prior to commencement of work, detailed design must be submitted and separate construction approvals must be obtained for the works proposed by this approval at Lot 1 DP 1054857, Pottsville Road, Mooball**
 - 3. All infrastructure associated with the Sewage Treatment Plant on Lot 1 DP 1054857 is to be sited a minimum of 200 metres from the existing cattle dip yard (Cadens) to the satisfaction of the Director of Planning & Regulation.**
 - 4. Soil testing in relation to the proposed sewerage pipelines or works involving excavation beyond 1 metre below ground level or within 200m of the existing cattle dip yard (Cadens) is to be undertaken to the satisfaction of the Director of Planning & Regulation.**
 - 5. Environmental Management Plans are to be prepared for the construction and operational phases of the development. In this regard**
-

the Environmental Management Plans are to be prepared in accordance with the Review of Environmental Factors and are to detail the proposed mitigation measures, modelling and monitoring programs. The plans are to have regard for the Department of Water & Energy guidelines for controlled activities including in-stream works, laying pipes and cables in watercourses, outlet structures, riparian corridors, and vegetation management plans as relevant. The plans are to be submitted for the approval of the Director of Planning & Regulation prior to the commencement of works.

6. Prior to the commencement of construction a Landscaping Plan is to be submitted for the approval of the Director of Planning & Regulation. The plan is to incorporate mature native tree planting to screen the proposed Sewage Treatment Plant from Pottsville Road and surrounding residences. The landscaping works are to be carried out prior to the commencement of the operation of the Sewage Treatment Plant.
7. A Vegetation Management Plan is to required to be submitted for the approval of the Director of Planning & Regulation prior to the commencement of works. The plan is to include planting along the riparian zone to Burringbar Creek and rehabilitation including weed control undertaken by suitably qualified bush regenerators of disturbed areas.
8. The proposed chemical storage area is to be appropriately banded. Detailed design to be submitted for the approval of the Director of Planning & Regulation prior to the commencement of works.
9. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 must be prepared by an RTA accredited person and must be submitted to the Director Planning and Regulation prior to the commencement of works. Safe public access shall be provided at all times.
10. Prior to the issue of Construction Approval the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Director Planning and Regulation for approval.

Four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:

- earthworks
 - roadworks/furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
-

- sedimentation and erosion management plans
- location of all service conduits (water, sewer, Country Energy and Telstra)

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

11. Waste material (soil, concrete, timber, masonry, steel and the like) generated by the development shall be disposed of in accordance with a Waste Management Plan which shall be submitted to and approved by the Director Planning and Regulation PRIOR to the commencement of work.

The Plan shall specify how the waste is to be treated and/or where the waste is to be disposed of.

12. Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works" and in accordance with the recommendations contained in the Review of Environmental Factors.
 13. Non-structural (effluent and sludge storage ponds) and structural infrastructure shall be constructed so as to prevent groundwater inflows to those structures or discharges/infiltration to groundwater.
 14. Prior to the commencement of work involving excavation greater than 1m below current ground level, detailed site investigation shall be carried to determine whether acid sulfate soils are present on the site and whether groundwater will be intercepted as a result of the proposed redevelopment.
 15. Irrigation of effluent shall not occur without the prior written approval of Council.
 16. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.
 17. The proposal shall plan for a background noise level of 30 dB(A). Noise shall not exceed 35 dB(A) at the nearest receiver. Details demonstrating this is achieved are required to be submitted to Director Planning & Regulation prior to the commencement of the operation of the Sewage Treatment Plant.
 18. Odour from the Plant shall not be permitted to exceed the limits for sensitive receptors set by the NSW Department of Environment and
-

Climate Change. The dispersion modeling detailed in the Odour Investigation for the Burringbar Mooball Sewage Treatment Plant report prepared by MWH dated 5 February 2009 is to be re-performed once the wastewater treatment processes have been fixed. Details are to be submitted to the satisfaction of the Director of Planning & Regulation prior to the commencement of the operation of the Sewage Treatment Plant. Should the modelling indicate that improvement is necessary, any recommendations of the report must be undertaken to the satisfaction of the Director Planning and Regulation.

19. The Plant shall be operated in accordance with the license or operational requirements of the NSW Department of Environment and Climate Change
20. All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.
21. Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.
22. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
 - A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
 - B. Long term period - the duration.

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

A permit under s198-202 of the *Fisheries Management Act 1994* for dredge and reclamation activities be obtained prior to the commencement of the works unless works are approved under another appropriate government approval such as a licence from the Department of Lands.



23. Sections 219-220 of the *Fisheries Management Act* 1994 require appropriate fish passage to be provided when designing, modifying or constructing watercourse crossings. Consultation with DPI with respect to the provision of fish passage and any statutory approval is to be obtained prior to the commencement of work issue of a construction certificate.



REPORT:

Applicant: Tweed Shire Council
Owner: Tweed Shire Council
Location: Lot 1 DP 1054857; Pottsville Road Mooball, Tweed Valley Way Mooball, Tweed Valley Way Burringbar
Zoning: 1(a) Rural (Sewage Treatment Plant Site) 1(a) Rural, 2(d) Village, 5(a) Special Uses Railway (associated sewer collection and transport mains and pump stations)
Cost: \$7.1 Million

BACKGROUND:

Council is proposing the implementation of a new sewerage scheme to service land within Burringbar and Mooball zoned 2(d) Village in accordance with the provisions of Tweed Local Environmental Plan 2000 (TLEP 2000). The proposal involves the construction of a new sewage treatment plant (STP), associated sewer collection and transport mains, pump stations, and the discharge of treated effluent to Burringbar Creek. While the potential for effluent reuse via irrigation has been investigated it does not form part of the subject application.

The villages of Burringbar and Mooball are presently not serviced by reticulated sewerage and wastewater management is generally provided via septic tanks. Overflow of wastewater to the stormwater system has been reported. In 2002 the then Department of Public Works and Services (DPWS) prepared a report titled "Burringbar / Mooball Sewerage Scheme: Revised Options Report". The report concluded that the construction of a STP on the subject site and a combined low pressure and modified gravity sewage collection and transport system was the most suitable sewerage upgrade option.

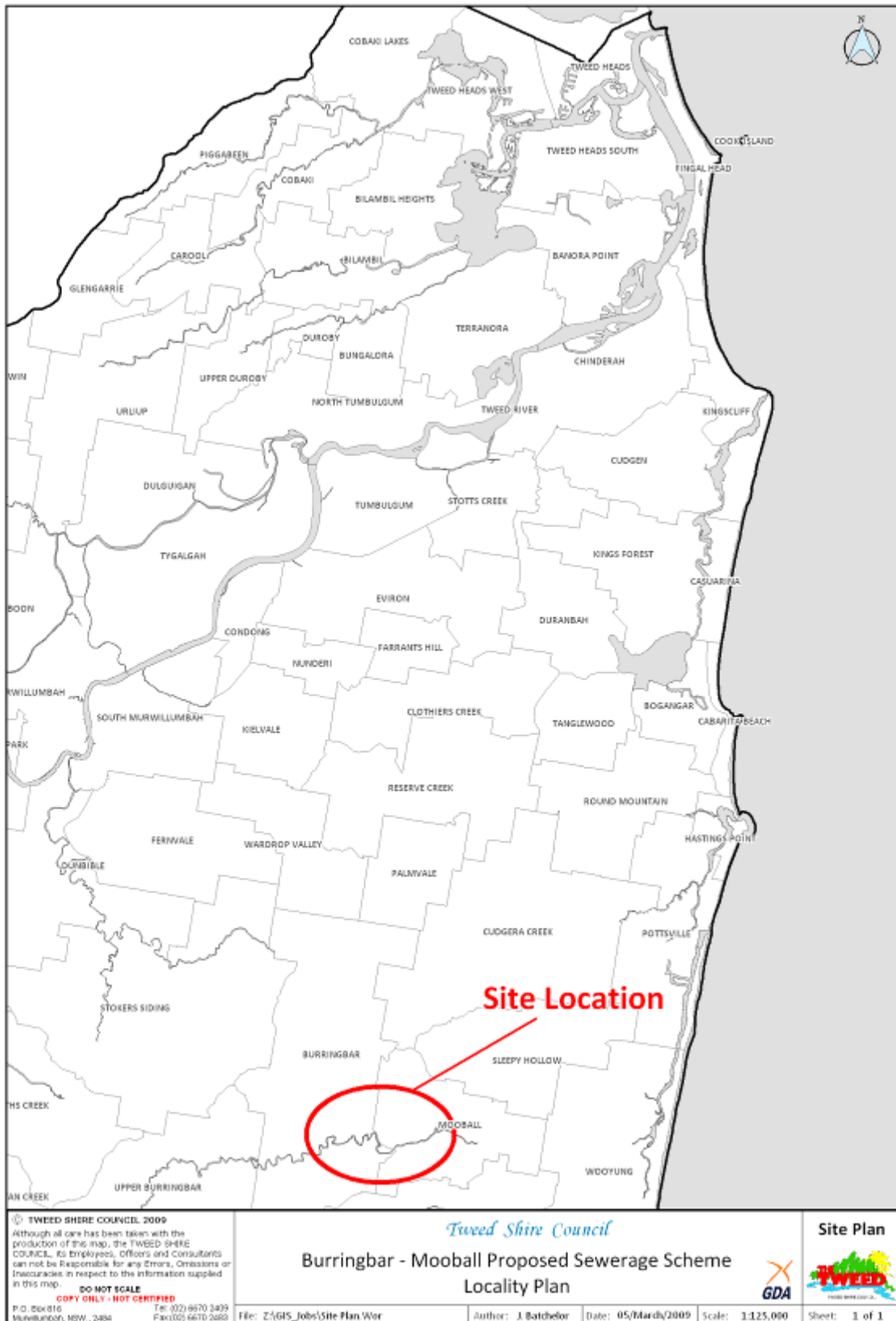
Following the exhibition of the options report it was adopted by Council in 2002. HLA Envirosiences Pty Limited was commissioned to prepare a Review of Environmental Factors (REF) in 2004. While the REF was completed in January 2005 the Part 5 Application was not submitted for determination due to funding and work program related issues. The reconsideration of the scheme commenced in December 2007 with further community consultation.

A number of submissions have been received in relation to the proposed scheme and are addressed in detail later in this report.

Consultation with relevant government agencies has also been undertaken and is detailed later in this report.

The proposed development is permissible without development consent in accordance with the provisions of State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).

SITE DIAGRAM:

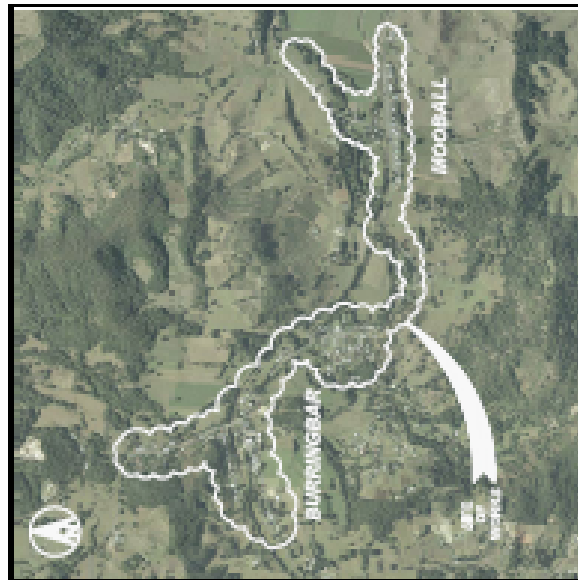


PROPOSED SEWERAGE TREATMENT PLANT SITE:



DEVELOPMENT/ELEVATION PLANS:

**TWEED SHIRE COUNCIL
BURRINGBAR - MOOBALL
PROPOSED SEWERAGE SCHEME**



LOCALITY SKETCH

APPROVALS
(INDICATED BY SIGNATURE)

DESIGNED BY:	PROJECT LEAD:	DESIGN NUMBER:
DRAWN BY:	DATE:	

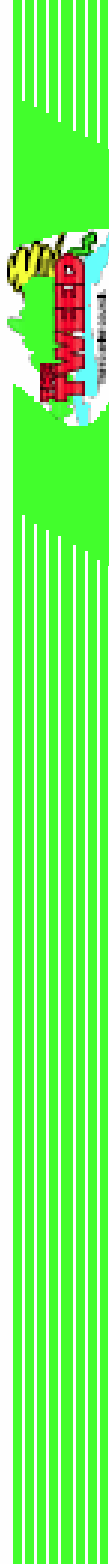
INDEX

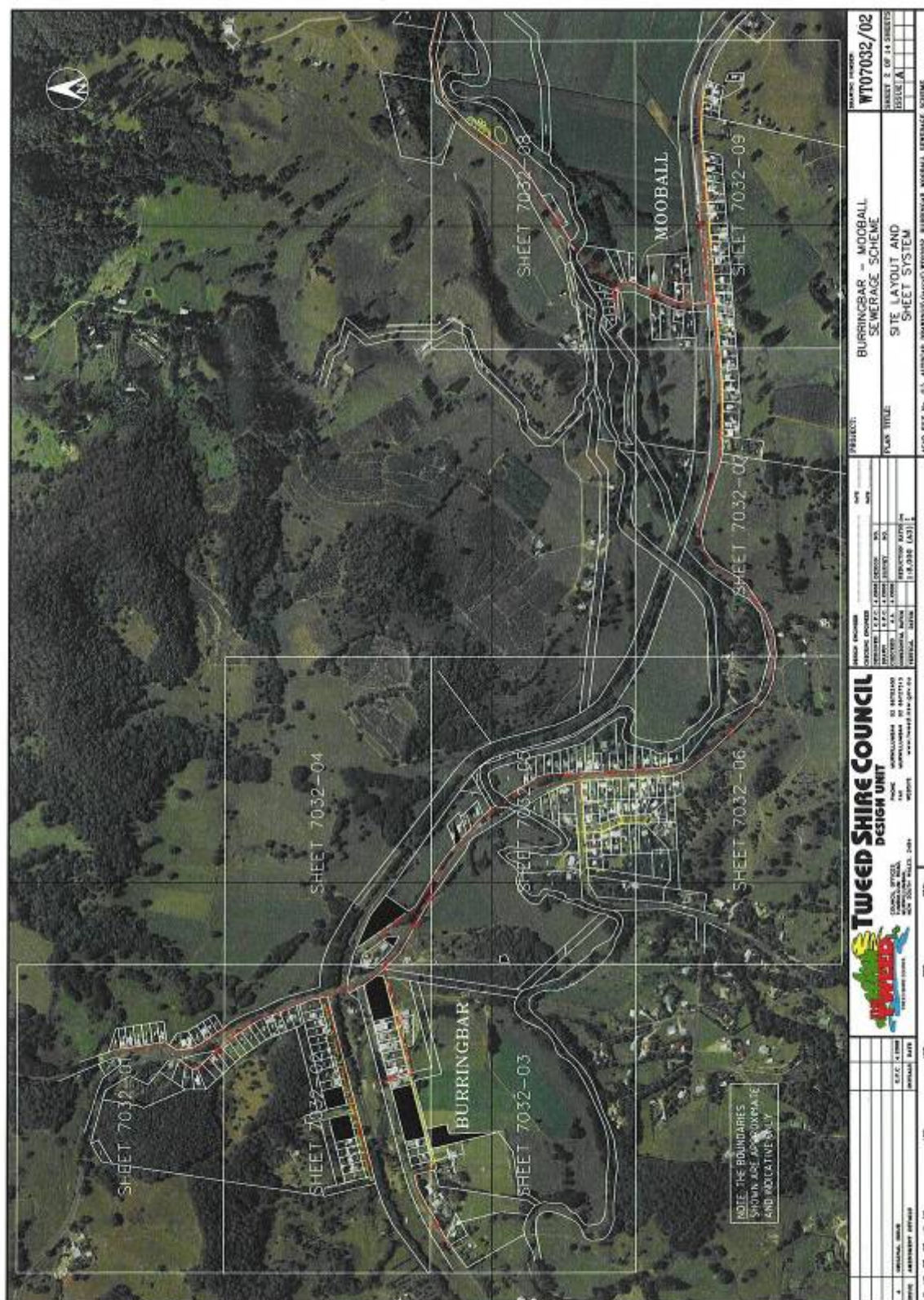
DESCRIPTION	SHEET	SCALE
LOCALITY SKETCH	1	A
PROPOSED SEWERAGE SCHEME	2	A
PROPOSED SEWERAGE SCHEME	3	A
PROPOSED SEWERAGE SCHEME	4	A
PROPOSED SEWERAGE SCHEME	5	A
PROPOSED SEWERAGE SCHEME	6	A
PROPOSED SEWERAGE SCHEME	7	A
PROPOSED SEWERAGE SCHEME	8	A
PROPOSED SEWERAGE SCHEME	9	A
PROPOSED SEWERAGE SCHEME	10	A
PROPOSED SEWERAGE SCHEME	11	A
PROPOSED SEWERAGE SCHEME	12	A
PROPOSED SEWERAGE SCHEME	13	A
PROPOSED SEWERAGE SCHEME	14	A
PROPOSED SEWERAGE SCHEME	15	A
PROPOSED SEWERAGE SCHEME	16	A
PROPOSED SEWERAGE SCHEME	17	A
PROPOSED SEWERAGE SCHEME	18	A
PROPOSED SEWERAGE SCHEME	19	A
PROPOSED SEWERAGE SCHEME	20	A
PROPOSED SEWERAGE SCHEME	21	A
PROPOSED SEWERAGE SCHEME	22	A
PROPOSED SEWERAGE SCHEME	23	A
PROPOSED SEWERAGE SCHEME	24	A
PROPOSED SEWERAGE SCHEME	25	A
PROPOSED SEWERAGE SCHEME	26	A
PROPOSED SEWERAGE SCHEME	27	A
PROPOSED SEWERAGE SCHEME	28	A
PROPOSED SEWERAGE SCHEME	29	A
PROPOSED SEWERAGE SCHEME	30	A
PROPOSED SEWERAGE SCHEME	31	A
PROPOSED SEWERAGE SCHEME	32	A
PROPOSED SEWERAGE SCHEME	33	A
PROPOSED SEWERAGE SCHEME	34	A
PROPOSED SEWERAGE SCHEME	35	A
PROPOSED SEWERAGE SCHEME	36	A
PROPOSED SEWERAGE SCHEME	37	A
PROPOSED SEWERAGE SCHEME	38	A
PROPOSED SEWERAGE SCHEME	39	A
PROPOSED SEWERAGE SCHEME	40	A
PROPOSED SEWERAGE SCHEME	41	A
PROPOSED SEWERAGE SCHEME	42	A
PROPOSED SEWERAGE SCHEME	43	A
PROPOSED SEWERAGE SCHEME	44	A
PROPOSED SEWERAGE SCHEME	45	A
PROPOSED SEWERAGE SCHEME	46	A
PROPOSED SEWERAGE SCHEME	47	A
PROPOSED SEWERAGE SCHEME	48	A
PROPOSED SEWERAGE SCHEME	49	A
PROPOSED SEWERAGE SCHEME	50	A
PROPOSED SEWERAGE SCHEME	51	A
PROPOSED SEWERAGE SCHEME	52	A
PROPOSED SEWERAGE SCHEME	53	A
PROPOSED SEWERAGE SCHEME	54	A
PROPOSED SEWERAGE SCHEME	55	A
PROPOSED SEWERAGE SCHEME	56	A
PROPOSED SEWERAGE SCHEME	57	A
PROPOSED SEWERAGE SCHEME	58	A
PROPOSED SEWERAGE SCHEME	59	A
PROPOSED SEWERAGE SCHEME	60	A
PROPOSED SEWERAGE SCHEME	61	A
PROPOSED SEWERAGE SCHEME	62	A
PROPOSED SEWERAGE SCHEME	63	A
PROPOSED SEWERAGE SCHEME	64	A
PROPOSED SEWERAGE SCHEME	65	A
PROPOSED SEWERAGE SCHEME	66	A
PROPOSED SEWERAGE SCHEME	67	A
PROPOSED SEWERAGE SCHEME	68	A
PROPOSED SEWERAGE SCHEME	69	A
PROPOSED SEWERAGE SCHEME	70	A
PROPOSED SEWERAGE SCHEME	71	A
PROPOSED SEWERAGE SCHEME	72	A
PROPOSED SEWERAGE SCHEME	73	A
PROPOSED SEWERAGE SCHEME	74	A
PROPOSED SEWERAGE SCHEME	75	A
PROPOSED SEWERAGE SCHEME	76	A
PROPOSED SEWERAGE SCHEME	77	A
PROPOSED SEWERAGE SCHEME	78	A
PROPOSED SEWERAGE SCHEME	79	A
PROPOSED SEWERAGE SCHEME	80	A
PROPOSED SEWERAGE SCHEME	81	A
PROPOSED SEWERAGE SCHEME	82	A
PROPOSED SEWERAGE SCHEME	83	A
PROPOSED SEWERAGE SCHEME	84	A
PROPOSED SEWERAGE SCHEME	85	A
PROPOSED SEWERAGE SCHEME	86	A
PROPOSED SEWERAGE SCHEME	87	A
PROPOSED SEWERAGE SCHEME	88	A
PROPOSED SEWERAGE SCHEME	89	A
PROPOSED SEWERAGE SCHEME	90	A
PROPOSED SEWERAGE SCHEME	91	A
PROPOSED SEWERAGE SCHEME	92	A
PROPOSED SEWERAGE SCHEME	93	A
PROPOSED SEWERAGE SCHEME	94	A
PROPOSED SEWERAGE SCHEME	95	A
PROPOSED SEWERAGE SCHEME	96	A
PROPOSED SEWERAGE SCHEME	97	A
PROPOSED SEWERAGE SCHEME	98	A
PROPOSED SEWERAGE SCHEME	99	A
PROPOSED SEWERAGE SCHEME	100	A

DESIGNED BY: Alexandra Alabrabbo
DRAWN BY: Garry Cresse
DATE: April 2008

SHEET 1
OF 14

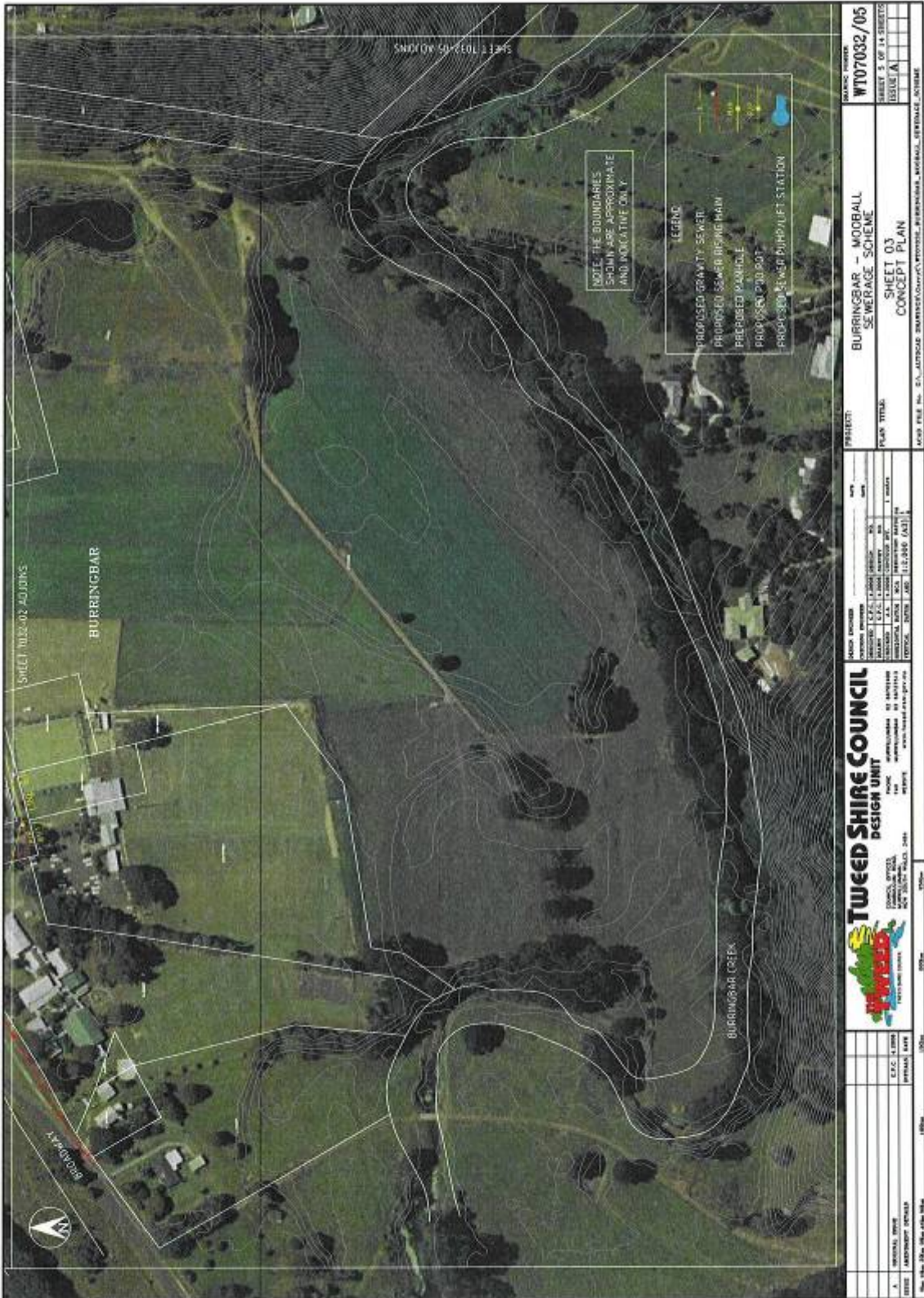
WT07032/01



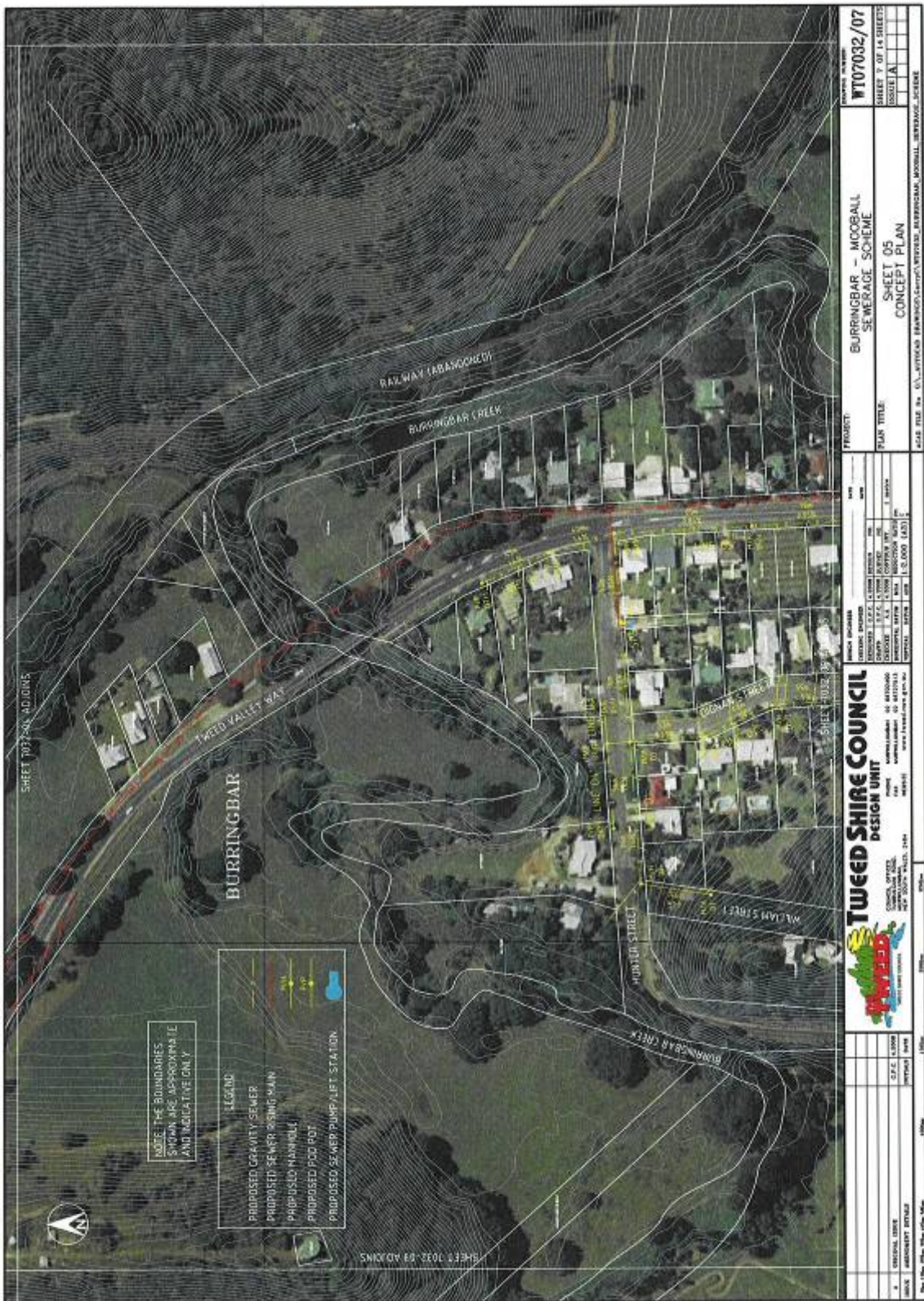




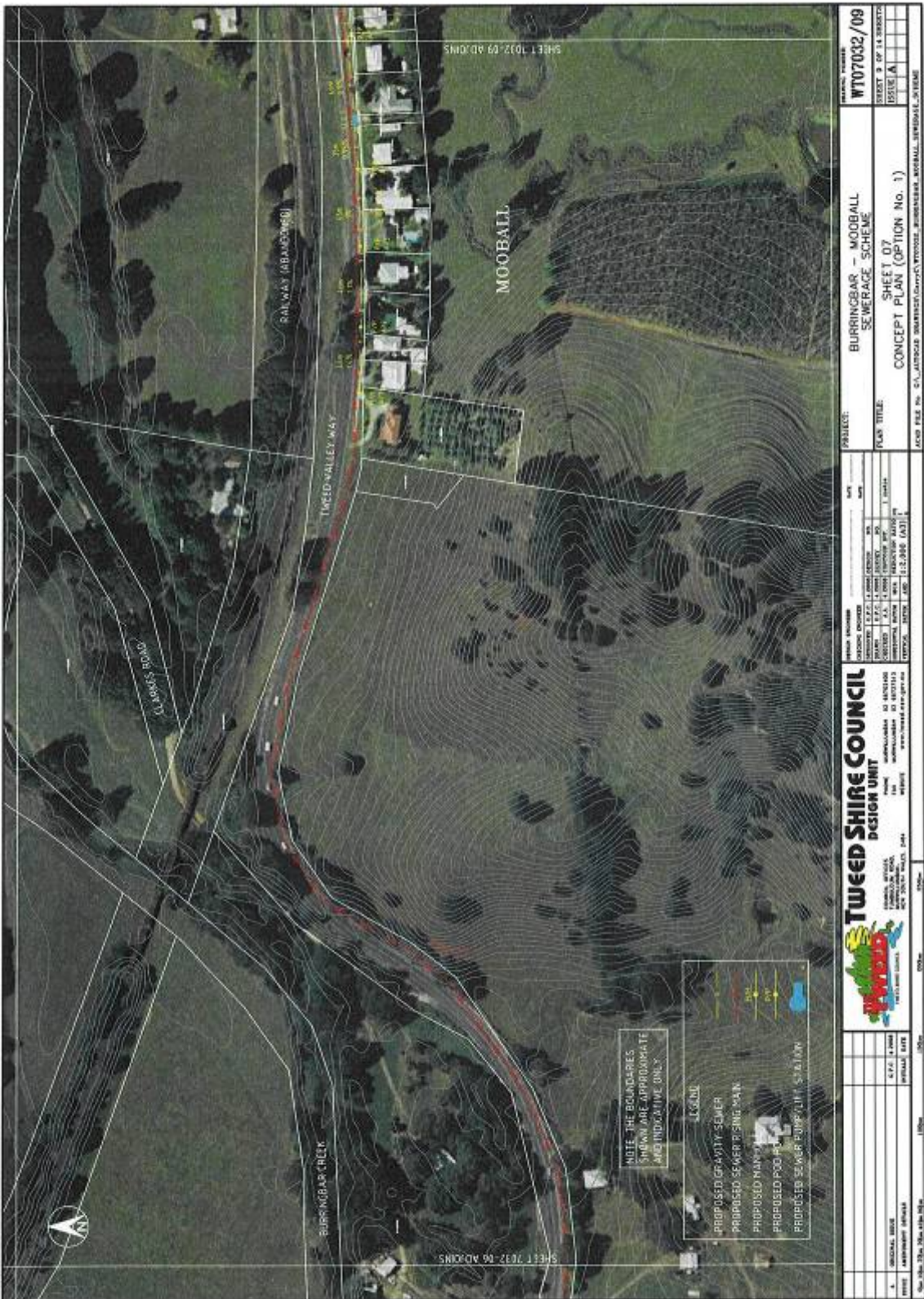


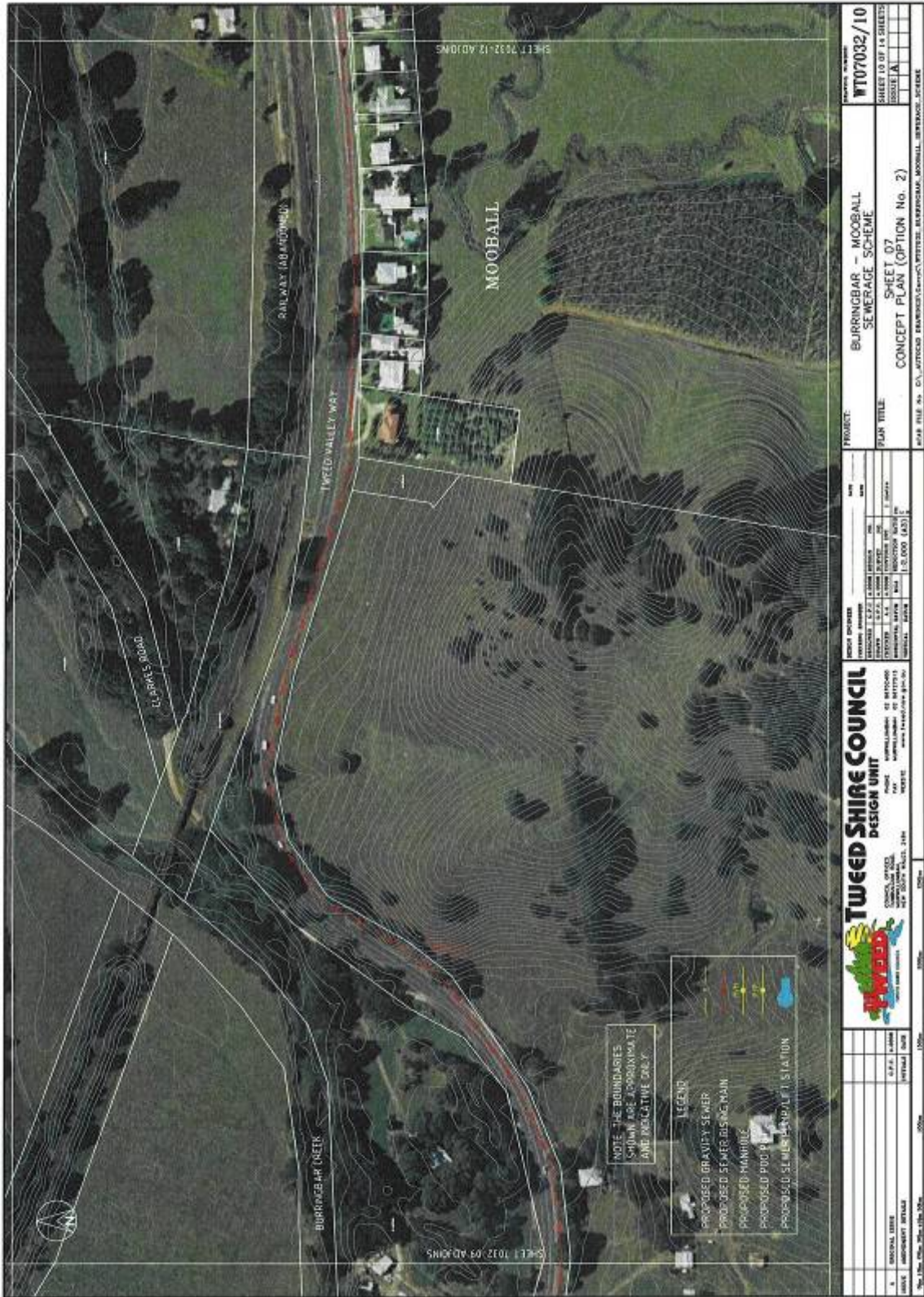


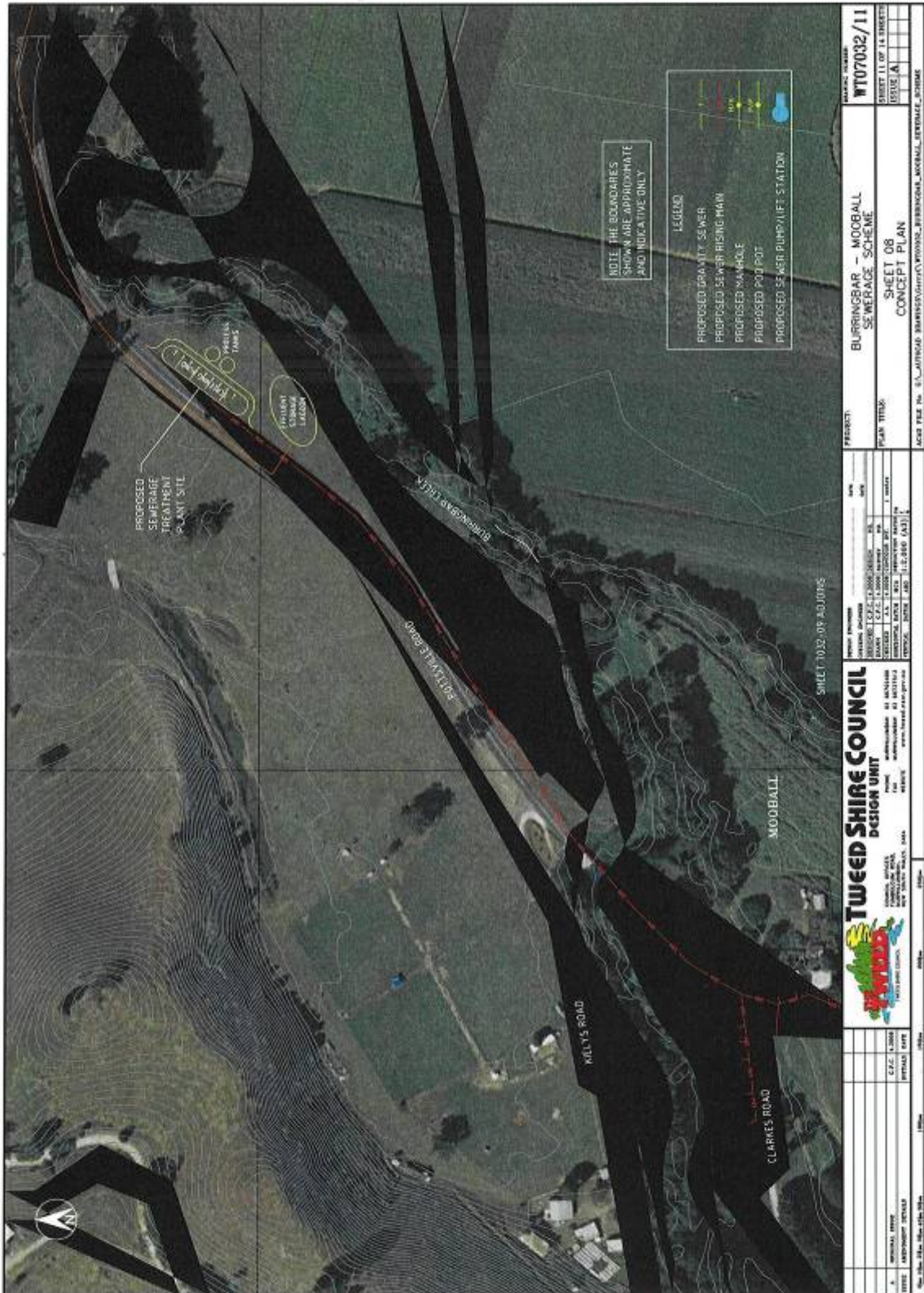














PROJECT: BURNINGBAR - MOOBALL SEWERAGE SCHEME		DRAWING NUMBER: WT07032/12	
CLIENT: TWEED SHIRE COUNCIL		SHEET 12 OF 14 SHEETS	
DESIGNER: TWEED SHIRE COUNCIL		DATE: 12/08/09	
DRAWN BY: J. BROWN		CHECKED BY: J. BROWN	
DATE: 12/08/09		SCALE: AS SHOWN	
PROJECT LOCATION: MOOBALL, NSW		PROJECT TITLE: CONCEPT PLAN (OPTION No. 1)	
LOCAL FILE NO.: S:\MURRAY BURNINGBAR\MURRAY BURNINGBAR MOOBALL SEWERAGE SCHEME			



SHEET 0032-10 ADJWS

SHEET 0032-11 ADJWS

POTTSVILLE ROAD

TWEED VALLEY WAY

MOOBALL

NOTE: THE BOUNDARIES SHOWN ARE APPROXIMATE AND INDICATIVE ONLY

L10000

PROPOSED GRAVITY SEWER

PROPOSED SEWER RISING MAIN

PROPOSED MANHOLE

PROPOSED 1000 POT

PROJECT INFORMATION		DATE	
PROJECT NUMBER	WT07032/13	DATE	13/03/2009
PROJ. NAME	BURROUGHBAR - MOOBALL SEWERAGE CREEK	DATE	13/03/2009
PROJECT LOCATION	SHEETS 13 OF 13 SHEETS		
CLIENT	TWEED SHIRE COUNCIL		
DESIGNED BY	TWEED SHIRE COUNCIL		
CHECKED BY	TWEED SHIRE COUNCIL		
APPROVED BY	TWEED SHIRE COUNCIL		
SCALE	1:1000 (AS)		
PROJECT AREA	11.2,288 (A2)		
PROJECT TITLE	CONCEPT PLAN (OPTION No. 2)		
PROJECT NO. 67-AUTOGRA BARRING/CANON/TW07032/13/BURROUGHBAR MOOBALL SEWERAGE SCHEME			

Tweed Shire Council
DESIGN UNIT

PO BOX 100
TWEED HEADS NSW 2486
PHONE 07 9420 0000
FAX 07 9420 0001
WWW.TWEEDNSW.COUNCIL.NSW.GOV.AU

ASSESSMENT

The subject site

The proposed site for the STP is legally identified as Lot 1 DP 1054857. The site is located on Pottsville Mooball Road, approximately 400 metres to the north east of the intersection with Tweed Valley Way, Mooball.

The land has an area of 8396m² and is bounded by Pottsville Road to the north west and south west and Burringbar Creek to the north east and south east. The site is relatively level apart from the embankment to Burringbar Creek.

The site is generally cleared and is subject to flooding.

A cattle dip site (Caden's dip) is located to the south of the area of the site on which the STP works are proposed. Existing surrounding land uses generally consist of agricultural uses including grazing lands, sugar cane, and market gardens. The REF identifies three dwelling houses within 500 metres of the proposed STP site, and one dwelling house within 200 metres of the STP.

The associated infrastructure including gravity mains, rising mains, and manholes will be sited within the road reserve and land zoned 2(d) Village and 5(a) Special Uses Railway in accordance with the provisions of TLEP 2000.

Scope of works

The proposed development comprises the construction of a STP on Lot 1 DP 1054857, Pottsville Road, Mooball. The STP will include the following process trains as identified in the REF prepared by HLA Envirosiences Pty Limited:

- Inlet screening of gross solids.
- Flow balancing to temporarily distribute sewage inflow and thereby maximise biological processes.
- Biological reactor incorporating anoxic and aerobic process units to achieve reductions in biological and chemical oxygen demands, removal of nitrogen and to a lesser degree removal of phosphorous.
- Sedimentation, either within the biological reactor or as a separate clarification unit with activated sludge recycling and wastage.
- Chemical dosing to achieve phosphorous removal to the required standards.
- Chemical dosing to maintain the pH levels suitable for the biological nutrient removal processes.
- Waste sludge treatment and storage.
- Tertiary filtration to enhance the biological demand, suspended solids and phosphorous removal processes.
- Storage of treated effluent in storage lagoon (located slightly south west of the proposed STP).
- Disinfection. UV disinfection will be incorporated as the principal method.

The STP concept plan submitted with the application indicates the two main tanks have a diameter of approximately 9 metres. The section provided includes a setback of 40.9 metres from Burringbar Creek, while the REF notes the STP will be located 30 metres from the creek. A setback of 17 metres from the existing fence line to the tanks is proposed.

The following associated infrastructure is identified in the REF:

- treatment plant screening mound;
- treatment plant access road including bunded chemicals and sludge unloading/loading area;
- treated effluent storage lagoon at treatment plant site;
- treated effluent pumps and pipeline for transfer of effluent to proposed discharge point on Burringbar Creek;
- treated effluent pumps for transfer of effluent to proposed irrigation areas (pipelines and pump station will be installed in previously cleared areas); and
- in-ground automatically controlled turf and landscape irrigation equipment.

It should be noted that this assessment of the proposed development has resulted in some recommendations which will amend elements of the application. These recommended amendments are summarised as follows:

- Deletion of the proposed earth bund to screen the development on the basis of recommendation from Council's Flooding & Stormwater Engineer to minimise obstruction to flow.
- Relocation of discharge point to Burringbar Creek to the first culvert east of the site in accordance with the recommendation of the consultant Ecologist (Peter Parker Environmental Consultants Pty Ltd).

It should also be noted that the subject application does not seek approval for the irrigation of treated wastewater however the infrastructure associated with irrigation will be constructed as part of this application to avoid the need for laying additional pipes etc. at a later date.

The application seeks consent for 100% release of treated effluent to Burringbar Creek. The proposed point of discharge is approximately 300 metres downstream of the STP however as noted above, it is recommended that this point of discharge be located closer to the subject STP site.

Statutory framework

Protection of the Environment Operations Act 1997 (POEO Act)

The proposed development is a Scheduled activity in accordance with the Protection of the Environment Operations Act 1997 (POEO Act) and therefore requires licensing by the Department of Environment and Climate Change (DECC). As previously noted the application seeks approval for 100% discharge to Burringbar Creek. DECC provide requirements for the quality of effluent discharged.

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across the State.

Part 3 of the Infrastructure SEPP contains development controls for various kinds of infrastructure. Division 18 contains provisions for sewerage systems. Sewerage Treatment Plants are defined as follows, and may be carried out by or on behalf of a public authority, without consent, in a prescribed zone in accordance with the provisions of Clause 106(1):

sewage treatment plant means a facility for the treatment and disposal of sewage, whether or not the facility supplies recycled water for use as an alternative water supply.

Prescribed zones for the purpose of Clause 106 include the 1(a) Rural Zone (which is equivalent to the RU1 Primary Production Zone or RU2 Rural Landscape Zone).

Clause 106(3) permits development for the purpose of sewage reticulation systems to be carried out by or on behalf of a public authority on any land without consent. Sewage reticulation systems are defined as follows:

sewage reticulation system means a facility for the collection and transfer of sewage to a sewage treatment plant or water recycling facility for treatment, or transfer of the treated water for use or disposal, including associated:

- (a) pipelines and tunnels, and
- (b) pumping stations, and
- (c) dosing facilities, and
- (d) odour control works, and
- (e) sewage overflow structures, and
- (f) vent stacks.

The proposed development is therefore permissible without development consent in accordance with the provisions of the Infrastructure SEPP.

The provisions of Part 5 of the Environmental Planning and Assessment Act 1979 (EP & A Act 1979) apply to the proposed development. The provisions of Part 5 of the EP & A Act 1979 apply to activities which do not require development consent in accordance with the provisions of Part 4, as is the case in relation to the proposed development.

Section 111 of the EP & A Act 1979 contains provisions regarding the duty of a determining authority to consider the environmental impact of an activity, as follows:

111 Duty to consider environmental impact

- (1) *For the purpose of attaining the objects of this Act relating to the protection and enhancement of the environment, a determining authority in its consideration of an activity shall, notwithstanding any other provisions of this Act or the provisions of any other Act or of any instrument made under this or any other Act, examine and take into*

account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

- (2) *Without limiting subsection (1), a determining authority shall consider the effect of an activity on:*
 - (a) *any conservation agreement entered into under the [National Parks and Wildlife Act 1974](#) and applying to the whole or part of the land to which the activity relates, and*
 - (b) *any plan of management adopted under that Act for the conservation area to which the agreement relates, and*
 - (c) *any joint management agreement entered into under the [Threatened Species Conservation Act 1995](#), and*
 - (d) *any biobanking agreement entered into under Part 7A of the [Threatened Species Conservation Act 1995](#) that applies to the whole or part of the land to which the activity relates.*
- (3) *Without limiting subsection (1), a determining authority shall consider the effect of an activity on any wilderness area (within the meaning of the [Wilderness Act 1987](#)) in the locality in which the activity is intended to be carried on.*
- (4) *Without limiting subsection (1), a determining authority must consider the effect of an activity on:*
 - (a) *critical habitat, and*
 - (b) *in the case of threatened species, populations and ecological communities, and their habitats, whether there is likely to be a significant effect on those species, populations or ecological communities, or those habitats, and*
 - (c) *any other protected fauna or protected native plants within the meaning of the [National Parks and Wildlife Act 1974](#).*

Note. *If a biobanking statement has been issued in respect of a development under Part 7A of the [Threatened Species Conservation Act 1995](#), the determining authority is not required to consider the impact of the activity on biodiversity values.*

The REF prepared on behalf of Council and this report to Council and supporting information provide an assessment of the proposed development in accordance with the provisions of Section 111.

Clause 228 of the Environmental Planning and Assessment Regulation 2000 (the Regulation) contains the factors which must be taken into account concerning the impact of an activity on the environment, as follows:

228 What factors must be taken into account concerning the impact of an activity on the environment?

- (1) *For the purposes of Part 5 of the Act, the factors to be taken into account when consideration is being given to the likely impact of an activity on the environment include:*
 - (a) *for activities of a kind for which specific guidelines are in force under this clause, the factors referred to in those guidelines, or*
 - (b) *for any other kind of activity:*
 - (i) *the factors referred to in the general guidelines in force under this clause, or*

- (ii) *if no such guidelines are in force, the factors referred to subclause (2).*
- (2) *The factors referred to in subclause (1) (b) (ii) are as follows:*
- (a) *any environmental impact on a community,*
 - (b) *any transformation of a locality,*
 - (c) *any environmental impact on the ecosystems of the locality,*
 - (d) *any reduction of the aesthetic, recreational, scientific or other environmental quality or value of a locality,*
 - (e) *any effect on a locality, place or building having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations,*
 - (f) *any impact on the habitat of protected fauna (within the meaning of the [National Parks and Wildlife Act 1974](#)),*
 - (g) *any endangering of any species of animal, plant or other form of life, whether living on land, in water or in the air,*
 - (h) *any long-term effects on the environment,*
 - (i) *any degradation of the quality of the environment,*
 - (j) *any risk to the safety of the environment,*
 - (k) *any reduction in the range of beneficial uses of the environment,*
 - (l) *any pollution of the environment,*
 - (m) *any environmental problems associated with the disposal of waste,*
 - (n) *any increased demands on resources (natural or otherwise) that are, or are likely to become, in short supply,*
 - (o) *any cumulative environmental effect with other existing or likely future activities.*
- (3) *For the purposes of this clause, the Director-General may establish guidelines for the factors to be taken into account when consideration is being given to the likely impact of an activity on the environment, in relation to activities generally or in relation to any particular kind of activity.*
- (4) *The Director-General may vary or revoke any guidelines in force under this clause.*

The REF prepared on behalf of Council and this report to Council and supporting information provide an assessment of the potential impacts of the proposed development in accordance with the provisions of Clause 228.

Community Consultation

A community consultation program for the Burringbar Mooball Sewerage Scheme REF was conducted in December 2007. The REF was exhibited in Burringbar and Mooball from 19 November 2007 until 17 December 2007. Other methods of engaging the community included the provision of information on Council's web site, the distribution of a newsletter to all property owners in November 1997, the establishment of a free call telephone number and reply paid postage, and information days conducted by Council officers on 8 and 15 December 2007.

A Community Consultation Report was prepared by Council in December 2007 and provides a summary of the feedback obtained during the community engagement process.

The subject Part 5 Application including the REF was placed on public exhibition for a period of fourteen (14) days from 26 March 2008 to 9 April 2008. A total of five (5) submissions were received on behalf of four (4) property owners. The issues raised in the submissions are summarised in the following table.

Issue	Assessment
<p>Potential impact on Platypus habitat Concern that construction activities and effluent release could affect breeding and nesting cycles and general survival in area</p>	<p>The ecological assessment prepared by Peter Parker Environmental Consultants Pty Ltd and provided under separate cover states that it is unlikely that the STP construction or operation would impact on the platypus given the distance of the works from the creek. The report also states that "...individuals which may frequent the vicinity of the site would have become habituated to the noise of irrigation pumps and the agricultural use of the land for cropping and cane".</p>
<p>Potential soil contamination from cattle dip site adjacent to proposed STP Concerns that initial soil contamination investigations are inadequate</p>	<p>Council's Environment & Health Coordinator has reviewed the material submitted with the application in relation to soil testing and potential land contamination issues. The comments initially provided stated that the sampling design did not appear to be adequate and further information was required to determine the adequacy of the assessment.</p> <p>Subsequent discussions with Council's Environment & Health Coordinator indicate that the issue is able to be adequately addressed by the imposition of conditions requiring: All infrastructure to be sited a minimum of 200 metres from the existing cattle dip yard (Cadens); and Soil testing in relation to the proposed sewerage pipelines be undertaken to the satisfaction of the Director of Planning & Regulation.</p> <p>The REF also recommends that where the proposed works involve excavation beyond 1 metre below ground level, representative samples should be collected and analysed during excavation works to provide verification that no contaminants are present.</p>



Issue	Assessment
<p>Water Quality Potential for discharge of effluent to Burringbar Creek to pollute the creek. Concerns with regard to effluent final quality.</p> <p>Potential impacts on groundwater have not been adequately considered</p>	<p>The effluent will be treated to comply with the requirements of the Department of Environment and Climate Change (DECC) (previously the Environment Protection Authority or EPA). The REF states that the impacts of the proposal on water quality are predicted to be negligible given the size of the STP proposed and the quality of effluent which will be released to Burringbar Creek.</p> <p>The REF states that there is "...very low potential for impacts on groundwater as a result of the construction and operation of the proposed STP". The irrigation of effluent does not form part of the subject application.</p>
<p>Flooding Concern that the proposed STP site floods and preference for a site not affected by flooding.</p> <p>Inadequate assessment of flooding. No modelling has been undertaken to provide for a greater understanding of flood frequency, depth or velocity. Risks associated with the flooding of the treated effluent storage lagoon and potential system failure have not been adequately contemplated.</p>	<p>Council's Flooding & Stormwater Engineer has provided an assessment of the flooding issues associated with the proposed development. The assessment provided states that the construction of the treated tanks and electrical equipment above the design flood level is adequate given access to the site and the operation of the system will be severely limited during large floods. The assessment also states that the footprint of the STP itself is not large enough to raise concerns about local flood impacts, particularly due to the predicted depth of inundation.</p> <p>In relation to the lagoon proposed for the storage of treated effluent, the assessment states that the treated effluent would not pose a health risk during flooding as it would be "...significantly better quality than typical floodwater".</p>
<p>Visual impact of STP site Concern regarding the location of the proposed STP on the main road and potential adverse visual impact to Mooball village entrance</p>	<p>Photomontages have been prepared to assist in the consideration of the potential visual impacts of the proposal. The application as submitted incorporates mounding and screen planting to reduce the potential visual impacts of the proposed development.</p> <p>It is considered that the tanks as viewed from the roadway would not be inconsistent with the rural character of the locality. Notwithstanding this, the proposed 17 metre setback of the tanks from Pottsville Road provides adequate opportunity for appropriate landscaping to screen the proposal as viewed from the road and surrounding properties.</p>



Issue	Assessment
<p>Odour Concern that the STP will emit offensive odours</p>	<p>Council engaged MWH to conduct a preliminary dispersion based odour study to estimate the proposed plant's odour impact and any potential odour control required to meet designated DECC sensitive receptor odour levels. The report concludes that based on the assumptions made in relation to the STP processes to be provided, and the odour emissions from the plant, the dispersion modelling suggests that the plant will comply with the NSW DECC regulations in relation to odour levels.</p>
<p>Capacity of STP Concern regarding the adequacy of the STP in terms of capacity to cater for future expansion of villages</p>	<p>Council's Senior Water and Sewerage Design Engineer has advised that potential future "in fill" development has been factored into the design of the proposed STP. The possible future expansion of the villages has not been factored into the design of the STP. Any such expansion would require the rezoning of land and the provision of services to any new release areas would be required to be addressed.</p>
<p>Exclusion of Rural Residential Subdivisions Concern that exclusion of rural residential subdivisions (Hunter Street and Greenvale) from proposed sewerage scheme will only partially address the problem of creek pollution from existing on-site sewerage systems</p>	<p>Council's Senior Water and Sewerage Design Engineer has advised that the extension of the sewerage network to service these rural residential areas is likely to be cost prohibitive.</p>
<p>Impacts on rainforest remnant Concern that the proposal will result in adverse impacts on remnant rainforest zoned 7(l) and located immediately downstream from STP site</p>	<p>The potential impacts of the proposal on the 7(l) zoned land have been addressed by Peter Parker Environmental Consultants Pty Ltd. That report states:</p> <p><i>The REF discussed potential impacts of the proposal in section 11.2 on page 40. This discussion is based on the assumption that the pipeline can be laid without the need for any significant clearing of vegetation associated with Burringbar Creek. My site assessment and review of plans concluded that no native vegetation would need to be removed for the construction of the STP or the discharge pipeline. However, for this to occur, the outlet of the discharge pipe would need to be carefully located so that it passed through camphor laurel and exotic regrowth adjacent to Pottsville Road. I located a number of sites where this was possible but the outlet pipe would also need to be located above-ground to avoid the potential for root damage of rainforest vegetation.</i></p>

Issue	Assessment
	<p><i>An alternative discharge point, which is located closer to the STP, is recommended in this review...This alternative route would follow the proposed route from the STP and extend up to a small stream and culvert crossing north-east of the STP...The discharge point would direct treated waste water into the confluence of this stream and Burringbar Creek.</i></p> <p><i>This proposal would avoid the need to construct a pipeline adjacent to the environmental protection zone, north of Pottsville Road and avoid the need to construct a pipeline through riparian vegetation, south of Pottsville Road to the discharge point in Burringbar Creek. Thus, this proposal would avoid any potential impact on significant flora values...</i></p>
<p>Impacts on gardens Concern regarding the impact of construction works on established gardens located within the road reserve (Station Street)</p>	<p>Council officers advise that the application has been amended to address concerns regarding the disturbance of established gardens located within the Station Street road reserve.</p>
<p>Climate Change Concern that the impacts of climate change have not been adequately considered</p>	<p>The flood assessment prepared by Council's Flooding & Stormwater Engineer notes that consultants have been engaged to update flood modelling in this area, and "...based on preliminary results have confirmed that 12.7m AHD is an appropriate and somewhat conservative design flood level (modeled Q100 level is approximately 12.2m AHD considering the local flood gradient)". This conservative approach is considered to provide an appropriate buffer to allow for potential increased flooding impacts resulting from climate change.</p>
<p>Buffer to STP Concern that residences occur within the usual 400m buffer to STP sites and that these will be impacted on adversely</p>	<p>As noted above, Council engaged MWH to conduct a preliminary dispersion based odour study to estimate the proposed plant's odour impact and any potential odour control required to meet designated DECC sensitive receptor odour levels. The report concludes that based on the assumptions made in the report, the dispersion modelling suggests that the plant will comply with the NSW DECC regulations in relation to odour levels.</p>



Issue	Assessment
<p>Process REF fails to adequately consider a number of issues including flooding, water quality impacts including groundwater, socio economic impacts, suitability of the site, and cumulative impacts and is therefore flawed.</p> <p>Proposal would trigger the need for the preparation of an EIS if issues above were addressed thoroughly.</p>	<p>The REF and this assessment report consider the issues listed. This assessment report also contains a recommendation in relation to whether the proposed development is considered to trigger the need for the preparation of an Environmental, Impact Statement (EIS) and Species Impact Statement (SIS).</p>

Consultation with State government agencies

Pre-lodgement consultation was undertaken with NSW National Parks and Wildlife Service (now the Department of Environment and Climate Change), the Environment Protection Authority (now the Department of Environment and Climate Change), NSW Agriculture (now NSW Department of Primary Industries), and NSW Fisheries (now NSW Department of Primary Industries).

The Part 5 Application was referred to a number of State government agencies for review and comment. The key issues raised in the submissions received from the State government agencies are summarised and addressed as follows.

Department of Environment and Climate Change NSW (DECC):

- Buffer Distance

Policy of DECC and the Department of Planning for many years that a 400 metre buffer be provided between a STP and the nearest residential dwelling. The principle reason for this buffer distance is to avoid nuisance situations arising from odour, noise and aerosol emissions.

The proposed STP is only 200 metres from the nearest residence. Need to be convinced more fully that there will be no potential for justifiable complaints.

- Noise Control

Two hundred metres is not a significant distance for noise attenuation. Noted that there will be an earthen bund located beside and to the same height as the treatment tanks. However, on top of the tanks will be pumps and equipment capable of generating noise.

Request that Council either plan for a background noise level of 30 dB(A) or measure the background at the residence (all three residential properties within 500 metres of the plant).

- Odours and Aerosols

All STPs have numerous potential sources of odour and aerosols. Understand that the plant will be fully enclosed however the plant will need to breathe to remain aerobic. This would then allow process odours or headworks odours to escape from the plant. In addition the removal of waste sludge may produce odours.

Request that Council engage a reputable consultant to assess the odour generation potential and recommended works to avoid nuisance situations. The report should model the potential for odours and it would be useful to obtain data from a similar existing plant. Recommend that any assessment be based on the "Technical Notes and Technical Framework – Assessment and Management of Odour from Stationary Sources in NSW" (EPA 2003).

Response:

The issue of the buffer distance is related to potential impacts of the proposed STP on nearby dwellings in terms of noise and odours and aerosols.

In relation to the issue of potential noise impacts, Council's Senior Water and Sewerage Design Engineer advises that the equipment proposed to be located above flood level is electrical and control equipment which does not generate noise. All pumping equipment is proposed to be submersible type and will be located within the process tanks. Council will plan for a background noise level of 30dB(A) to satisfy the concerns raised in relation to noise by DECC.

MWH were commissioned to undertake an odour investigation for the STP. The report titled "Odour Investigation for the Burringbar Mooball Sewage Treatment Plant" dated 5 February 2009. The report is discussed in greater detail later in this report. The report concludes that based on the assumptions made in relation to the STP processes to be provided, and the odour emissions from the plant, the dispersion modelling suggests that the plant will comply with the NSW DECC regulations in relation to odour levels.

The odour report and noise levels were sent back to DECC and the following response received:

"Odours

Based on the our modelling report and its recommendations it appears unlikely that offensive odours emanating from the proposed plant will affect nearby residents. The report is conservative in its approach and suggests that no odour nuisance will be created by the plan at the location identified. Even so, Council should provide for the potential of offensive odours at the headworks, process and sludge transport phases. This may be achieved using technology such as soil bed biofilters or activated carbon canisters.

Noise Control

We note that Council will design the plant to achieve a noise level of 35 db(A) at the nearest residents. If this is achieved then our requirements will have been met and no noise nuisance should be created."

Department of Water and Energy (DWE):

There are inconsistencies throughout the document regarding the distances between the proposed development and Burringbar Creek and these should be rectified before commencement of the development.

Section 39A of the Water Management (General) Regulation 2004 provides that public authorities are exempt from the requirement to obtain a controlled activity approval for controlled activities they carry out in, on or under waterfront land (as defined in the Water Management Act 2000).

DWE guidelines for controlled activities including in-stream works, laying pipes and cables in watercourses, outlet structures, riparian corridors, and vegetation management plans have been attached and their requirements should be addressed prior to, and throughout the development of the proposed STP. DWE has the authority to order remediation works if it considers an activity has or might damage, or detrimentally affected protected land or protected works, or cause protected waters to change course.

The NSW State Groundwater Quality Protection Policy 1998 is aimed at preventing the degradation of the State's aquifers whereby, each aquifer system is evaluated by its beneficial use. Potential dischargers of effluent are required to establish that their activity will not contaminate the groundwater or impact on groundwater dependant ecosystems. Effluent laden water can impact on local groundwater systems, which in turn has the potential to flow through to local creeks in the area and affect groundwater users.

The Department does not object to the proposed STP provided it is operated in an ecological sustainable manner, that does not lower the beneficial use of the groundwater resource.

Response:

A condition is provided requiring the proposed works to be carried out in accordance with relevant DWE Guidelines. In relation to the potential impacts on groundwater, the proposed irrigation of treated effluent will be subject to a separate application. The STP and associated infrastructure is not likely to result in significant adverse impacts on groundwater.

NSW Department of Primary Industries (DPI):

The Aquatic Habitat Protection Unit within DPI has reviewed the application and accompanying information in light of the provisions in the Act and the policies that underpin them.

Contingent upon crossings of Burringbar Creek being bridged, directionally drilled or attached to sound infrastructure such as existing road bridges the proposal has no direct impacts on areas of the Department's key interest areas, primarily: key fish habitats, Priority Oyster Aquaculture Areas or important recreational or and commercial fishing areas.

DPI's Aquatic Habitat Protection Unit's interest in the watercourse crossing centres on whether s218-220 of the *Fisheries Management Act* 1994 which provide for maintaining fish passage is triggered.

Cognisant of these remarks and adherence to the following conditions DPI has no objection to the proposed works.

- A permit under s198-202 of the *Fisheries Management Act* 1994 for dredge and reclamation activities be obtained prior to the commencement of the works unless works are approved under another appropriate government approval such as a licence from the Department of Lands.
- Sections 219-220 of the *Fisheries Management Act* 1994 require appropriate fish passage to be provided when designing, modifying or constructing watercourse crossings of the pipeline. Provision of fish passage needs to satisfy DPI requirements for fish passage available in the document *Why Do Fish Need to Cross The Road? Fish Passage Requirements for Waterway Crossings*.

Response:

The above conditions will be included in the approval for the works should Council support the application.

Environmental assessment of potential impacts

The following assessment of the potential environmental impacts of the proposal is provided in accordance with the provisions of Section 111 of the EP & A Act 1979, and Clause 228 of the Regulation.

Flooding

As noted in the section of this report dealing with submissions, the site is subject to flooding. The assessment of the proposal provided by Council's Flooding & Stormwater Engineer includes the following comments:

The treatment plant is proposed to be located in close proximity to Burringbar Creek (30-40m from the stream), on land that is flood liable. The flooding DCP sets a single design flood level of RL 12.7m AHD for Mooball, which is based on a historical event. Consultants are currently updating flood modelling in this area, and based on preliminary results have confirmed that 12.7m AHD is an appropriate and somewhat conservative design flood level (modelled Q100 level is approximately 12.2m AHD considering the local gradient). Ground levels are generally between 11.0-11.5m AHD.

The proposal includes the construction of the treatment tanks and related electrical equipment above the design flood level, which would be approximately 2.0m above existing ground level. This is considered adequate, given access to the site and the operation of the system will be severely limited during large floods.

The footprint of the facility itself is not large enough to raise concerns about local flood impacts, particularly due to the predicted depth of inundation. Such obstruction to flow should be minimised however, and the use of an earth embankment to provide visual screening for passing motorists is questioned. Such screening could be provided by the planting of mature trees and shrubs, which would not form a significant barrier to flood or stormwater flows.

The STP also includes a lagoon for the storage of treated effluent for irrigation use. This lagoon would be flood liable allowing treated effluent to mix with flood waters. The treated effluent would not pose a health hazard, as it would be of significantly better quality than typical floodwater.

The assessment also states that the proposed underground network of associated sewerage infrastructure is not considered to pose any flooding concerns. On the basis of the engineering comments provided above, it is recommended that the proposed earth bund be removed from the proposal. This will minimise obstruction to flow and it is considered that adequate area is available to provide an effective vegetation screen to minimise potential impacts on the visual amenity of the locality.

Water Quality / Groundwater

The REF prepared by HLA Envirosiences Pty Limited details the estimated levels of Nitrogen and Phosphorous which will be achieved via the treatment process. The REF states that effluent will be treated to comply with the DECC 90th percentile criteria and that the "...increases of mass loads and nutrient concentrations of the small magnitude calculated...would not be expected to have a significant environmental impact". The report also states that the level of treatment proposed appears to be adequate for discharging to Burringbar Creek.

The REF concludes that the impacts of the proposed development on water quality are predicted to be negligible given the size of the STP facility proposed and the quality of the treated effluent proposed to be discharged to Burringbar Creek.

In relation to the proposed storage lagoon the REF states that the effluent in the storage lagoon would be treated to concentrations such that if released into the Burringbar Creek there would be little or no impact.

Council's Environment & Health Coordinator has provided the following comments in relation to effluent quality:

Proposal is a scheduled activity under the provisions of the Protection of the Environment Operations Act and therefore a licence is required to be obtained through the DECC. DECC will assess the requirements for...effluent quality: discharged and irrigated.

*The water quality of Burringbar Creek should be carefully considered. Proposed treated effluent discharge quality is above that of the existing creek quality. In addition the creek water quality, **currently**, is adversely impacted upon by the existing situation in Burringbar and Mooball villages – failing on-site sewage management systems and illegal direct discharge to the creek.*

Discharge quality should be reflective of the quality of the receiving waters, at a minimum and in consideration of flows, and where a creek system shows an indication of stress, quality should be greater.

As previously noted in this report the proposed development does not include the irrigation of effluent and any proposal for irrigation will be subject to a separate application. The REF concludes that there is a very low potential for impacts on groundwater as a result of the construction and operation of the proposed STP.

It is considered that the mitigation measures proposed in the REF are adequate to address the potential impacts of the STP and associated infrastructure proposed on water quality and groundwater.

Soils

The land subject to this application is not identified as potential acid sulfate soils lands in accordance with Council mapping. The REF includes an assessment of potential acid sulfate soils occurring at the STP site and in some locations in which associated infrastructure is proposed.

The results of the soil testing undertaken conclude that there is a strong indication that acid sulfate soils are not present in the areas tested and that the likelihood of acid sulfate soils in the areas of construction is low.

Potential Land Contamination

The subject site adjoins a cattle dip (Caden's). The dip remains active.

As noted above, Council's Environment & Health Coordinator has reviewed the material submitted with the application in relation to soil testing and potential land contamination issues. The comments initially provided stated that the sampling design did not appear to be adequate and further information was required to determine the adequacy of the assessment.

Council's Environment & Health Coordinator has recommended that the issue of potential land contamination associated with the dip site is able to be adequately addressed by the imposition of conditions requiring:

- All infrastructure to be sited a minimum of 200 metres from the existing cattle dip yard (Cadens); and
- Soil testing in relation to the proposed sewerage pipelines be undertaken to the satisfaction of the Director of Planning & Regulation.

The REF also recommends that where the proposed works involve excavation beyond 1 metre below ground level, representative samples should be collected and analysed during excavation works to provide verification that no contaminants are present.

Odour

Following a request from DECC that Council engage a reputable consultant to assess the odour generation potential and recommended works to avoid nuisance situations, MWH were engaged by Council to conduct a preliminary dispersion based odour study to estimate the proposed plant's odour impact and any potential odour control required to meet designated DECC sensitive receptor odour levels.

The Summary of the report is provided as follows:

The towns of Burringbar and Mooball in North Eastern NSW are currently serviced by on-site septic tank sewage systems. Tweed Shire Council is proposing a new sewerage system for these towns, which will include the construction of a new sewage treatment plant at Mooball. The proposed Burringbar Mooball Sewage Treatment Plant at Mooball, for the Burringbar and Mooball residential areas has a design capacity of 800 equivalent population (GHD Scoping Study July 2005 - see Appendix A).

The NSW Department of Environment and Climate Change (DECC) has raised concerns with respect to odour emissions, over the location of the proposed treatment plant and its proximity to nearby residences. This report investigates odour dispersion modelling from the proposed plant to assess the likelihood that odours will affect the amenity at the closest residence.

A number of assumptions have been made in relation to the design of the wastewater treatment plant, in order to complete the dispersion modelling study, these being:

- *The waste which the plant is receiving is domestic only;*
- *The plant is a package plant, either a Membrane Bio Reactor (MBR) or Sequencing Batch Reactor (SBR);*
- *The sludge age is assumed to be 25 days and the secondary treatment process is split into 3 stages (filling, aerating, and decanting).*

AUSPLUME modelling software was used in this study, as agreed with NSW DECC. The dispersion modelling performed (as detailed in section 3.3.3) indicates that the odour dispersion for the 100th percentile will not exceed the limits for sensitive receptors set by the NSW DECC. Therefore, based upon the assumptions listed, the report recommends that no odour control be needed on the proposed plant. In order to confirm this conclusion, dispersion modelling should be re-performed once the wastewater treatment processes have been fixed, and thus more accurate emission rates can be used.

On the basis of the odour assessment undertaken by MWH it is considered that the proposed development is unlikely to result in significant adverse impacts on surrounding properties in terms of odour.

Noise

As noted above, the submission from DECC raised issues in relation to potential acoustic impacts of the proposed STP in surrounding properties. DECC requested that Council either plan for a background noise level of 30 dB(A) or measure the background at the residence (all three residential properties within 500 metres of the plant).

Council's Senior Water and Sewerage Design Engineer advises that the equipment proposed to be located above flood level is electrical and control equipment which does not generate noise, and that all pumping equipment is proposed to be submersible type and will be located within the process tanks. Council will plan for a background noise level of 30dB(A) to satisfy the concerns raised in relation to noise by DECC.

This is considered to adequately address the potential impacts on surrounding residential properties in terms of noise.

Visual Impacts

An assessment of the potential impact of the proposed STP on the existing landscape and visual amenity of the locality is provided in the REF and includes photomontages. The proposal as submitted includes an earth bund and landscaping to screen the plant as viewed from Pottsville Road. As indicated in the comments provided by Council's Flooding & Stormwater Engineer, the use of an earth embankment to screen the STP is not consistent with minimising obstruction to flood waters.

The appearance of the proposed plant is not considered to be inconsistent with the existing rural character of the locality. The plant will generally present as two large tanks with some minor equipment on top, and an access road as viewed from Pottsville Road and surrounding dwellings. The plant is setback sufficient distance from the roadway to provide for effective landscaping to screen the tanks. The earth bund is not considered necessary to address the potential visual impacts of the STP.

It is concluded that the proposed development will not result in significant adverse impacts on the existing visual amenity of the locality, subject to an appropriate condition requiring landscape works.

Flora and Fauna

Peter Parker Environmental Consultants Pty Ltd has undertaken a review of the ecological assessment provided in the application. The review is provided under separate cover and includes a 7 Part Test prepared in accordance with the provisions of Section 5A of the EP & A Act 1979.

The 7-Part Test concludes that the proposed development will not result in significant effects on threatened species, populations or ecological communities, or their habitats.

The review includes the following conclusion in relation to the ecological assessment prepared by HLA Envirosiences Pty Limited and the potential impacts of the proposal in accordance with Section 111 of the EP & A Act 1979 and Clause 228 of the Regulation:

This review generally agrees with the findings and conclusions of the REF. Where differences of opinion occur (eg., in relation to the locations of threatened plant species or the Final Determination of EECs), they are not substantive in relation to the proposal due to its location, scale and minimal impact. In summary, this review concluded that the proposal would not have a significant effect on threatened species, populations, ecological communities or their habitats.

The level of treatment of waste water prior to its discharge into Burringbar Creek is the most significant issue with respect to the impact of this proposal. Poor water quality is likely to have impacts on freshwater dependant biota and the removal of point sources of pollution in the catchment through the establishment of this plant (eg., septic tanks) will ultimately be beneficial. The maintenance of high quality discharge is essentially a licensing and monitoring issue.

Cultural Heritage

A Preliminary Cultural Heritage Assessment has been prepared by Eleanor Crosby of Turnix Pty Ltd and accompanies the application. The report states:

From a strictly archaeological viewpoint there are no obvious indigenous or historical cultural heritage elements that would form an impediment to the construction of the actual treatment facility. However, the rest of the pipeline routes, especially along Burringbar Creek may need further examination and will require monitoring for cultural heritage evidence during the excavation phases of construction.

Appropriate conditions of consent are considered adequate to address this issue.

Access, Transport and Traffic

Access to the STP is proposed via an access road off Pottsville Road and proposed arrangements in this regard are considered to be satisfactory.

Other matters

In relation to the matters identified in Section 111 of the EP & Act 1979 and Clause 228 of the Regulation it is considered that the proposed development is unlikely to result in significant adverse impacts.

The proposal will not cause significant adverse social or economic impacts. No unreasonable demand on resources or reduction in range of beneficial uses of the environment will result from the development.

The potential risks to the safety of the environment are considered to be adequately addressed in the design of the proposal and mitigation measures as detailed in this report and supporting documentation. The implementation of the sewerage scheme is not likely to result in long term effects on the environment and the cumulative impacts of the scheme are unlikely to be significant given the level of treatment and management measures proposed.

OPTIONS:

1. Approve the proposed development in accordance with the recommended conditions.
2. Refuse the proposed development.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

One of the submissions received in response to the exhibition of the application indicates that they are of the view that the REF fails to adequately consider a number of issues, and that in the event that the application is approved the objector will consider pursuing the matter further. The lodgement of an appeal to the Land and Environment Court has potential significant resource and financial implications for Council.

Further information has been sought and further discussions with statutory authorities have been held and alterations made to the design in relation to some of the issues raised since the submission.

The funding for the proposed development has been established.

POLICY IMPLICATIONS:

The implementation of a sewerage scheme for the villages of Burringbar and Mooball has strategic planning implications and will provide for existing development and potential future infill development on land presently zoned 2(d) Village.

CONCLUSION:

The proposed implementation of a sewerage scheme for the villages of Burringbar and Mooball will cater for the existing villages and potential infill development within the 2(d) Village zone.

The proposed STP and associated infrastructure raises a number of issues regarding potential impacts on the existing natural and built environment. This report provides an assessment of the proposed development based on the REF and supporting documentation submitted with the application.

It is concluded on the basis of the environmental assessment undertaken in accordance with the provisions of Section 111 of the EP & A Act 1979, and Clause 228 of the Regulation that the proposed development is unlikely to result in significant adverse impacts on the environment. It is therefore concluded that the proposed development does not warrant the preparation of an Environmental Impact Statement or Species Impact Statement.

The proposal to implement a new sewerage scheme for the villages of Burringbar and Mooball is recommended for approval subject to the imposition of appropriate conditions.



UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Ecological Review prepared by Peter Parker Environmental Consultants Pty Ltd dated 3 March 2009 (ECM 2001706)
-



P9 [PR-PC] Tweed Urban and Employment Land Release Strategy

ORIGIN:

Planning Reforms

FILE NO: GT1/LEP/2006/10

SUMMARY OF REPORT:

This report provides Council with an overview of the Tweed Urban and Employment Land Release Strategy 2009, with a view to adopting the Strategy as part of its broader strategic framework. The Strategy seeks to provide Council with the ability to manage the future growth of the Tweed in a sustainable and controlled way to service the population needs until at least 2031.

In April 2008, Council resolved to publicly exhibit two separate documents. "Draft Tweed Shire Urban Land Release Strategy" and "Draft Tweed Employment Lands Strategy". Following a review of public submissions from the exhibition, it was considered more efficient to combine both strategies into one document given the strong linkages. A copy of the final consolidated strategy document is attached to this report.

Following a comprehensive analysis of the public submissions by the author of the Draft Strategies, GHD, and further consultation with Council staff, the final strategy contains minor amendments to both the "Potential Urban Release Lands" of the Urban Land Release Strategy, and "Potential Employment Lands" of the Employment Lands Strategy. No new investigation areas were added to either strategy. A detailed summary of the public submissions is provided at the rear of the consolidated document.

However, GHD have re-affirmed a previous recommendation in the final consolidated strategy that Council adopt a revised overall direction (option 11.5) for the implementation of the Urban Land Strategy, which differs from option 11.3 adopted by Council at its April 2008 meeting. Chapter 11 of the strategy provides a range of broader development options for Council to consider. Option 11.3 basically recommends that Council seeks to meet its 25 year housing targets through existing zoned land, rather than undertaking new rezoning proposals for sites outside of those areas identified for potential growth in both the Far North Coast Regional Strategy and the Urban Land Release Strategy. The consultants have since recognised that the capacity for additional urban areas in Tweed Heads, South Tweed and Murwillumbah may be impacted upon at least in the short term arising from potential flooding constraints.

GHD have therefore recommended option 11.5 for the final strategy, which would see Council go beyond Option 11.3 (maintain existing zoned land to accommodate growth), and adopt a short, medium and long term approach to particular Greenfield release areas, such as the 9 potential Urban Land Release Areas identified in the strategy. Contrary to GHD's recommendation the Council officers have acknowledged the importance of the sustainability principles of Council's Tweed Futures policy and

Council's previously adopted position from April 2008 and have recommended that Council adopt Option 11.3 as an interim approach, until the findings of Council's current Flood Study and Risk Management Strategy have been received and determined by Council, which is expected to take another 12 months to finalise.. To implement this strategy, Council will need the support of the Department of Planning in respect of its implications for the Far North Coast Regional Strategy, which is due to be reviewed in 2011/12.

In terms of the final Employment Land Release Strategy, GHD re-affirm the main management directions of retaining existing industrial zoned land and supporting the short, medium and long term advancement of rezoning proposals for six 'Potential Employment Land' areas (Area 1 was recommended for deletion) and to satisfy 25 year demand for additional office space through the densification of existing commercial areas at Tweed Heads, Tweed Heads South and Murwillumbah.

The advancement of the further strategic investigations (Tweed LEP 2008 Stage 2) and monitoring of the strategy's implementation will have resource implications for Council's Planning Reforms Unit and will require a clear direction from Council. A further report will be submitted to the April Council Meeting which will fully outline the current work program, and will recommend to Council the prioritisation of an upcoming work program for both broad strategic projects (such as the implementation of this strategy), and a more structured process for managing current and future rezoning proposals.

Given the importance of advancing an effective strategic planning framework, to respond to growing development pressure in the Tweed Shire, it is therefore considered an imperative for Council to adopt the final Tweed Shire Urban and Employment Land Release Strategy 2009.

RECOMMENDATION:

That Council:

- 1. Receives and notes the amendments to the Draft Tweed Shire Urban and Employment Land Release Strategies resulting from exhibition review of public submissions;**
- 2. Adopts the final Tweed Urban and Employment Land Release Strategy 2009, as amended and provided as an attachment to this report;**
- 3. Adopts Land Release Option 11.3 of Tweed Urban Land Release Strategy as the major direction for land release within Tweed Shire as an interim approach, until the findings of Council's Flood Study and related Risk Management Strategy have been reviewed and determined by Council; and**
- 4. Endorses that a copy of the Strategy be forwarded to Regional Director – Department of Planning for inclusion in the review of the upcoming Far North Coast Regional Strategy.**

REPORT:

Background

With respect to urban lands, in 2004, *Tweed Futures* identified the need to *guide sustainable growth and change, and safeguard the Tweed's quality of life and environment*. To achieve implementation of this goal, Council needs to revise and reassess its strategic directions for urban growth in the Tweed. The current urban release strategy was adopted by Council in 1991. This presented a clear roadmap for urban growth in the Tweed. The 1991 strategy was used to inform the NSW State Government's principal strategy for the Tweed area, the Far North Coast Regional Strategy (FNCRS) published in December 2006. This strategy sets targets for the growth of Tweed Shire over a 25 year period, including 19,100 new dwellings.

Similarly, in respect of employment lands, *Tweed Futures* identified the need to *generate more local jobs, tackle youth unemployment, offset the decline of rural industries, and balance the population mix by attracting residents in the 30-55 age groups*. It also identified the importance of linking economic growth with environmental protection and education. To date, Council has not had an employment lands strategy to guide future direction of land release and greenfield development. The FNCRS also sets targets for new job creation across the region.

Originally prepared as two separate documents, the Draft Urban Land Release and Employment Lands Strategy have now been combined to form a single document and their purpose is explained at length in the report body. In brief however, the strategy intends to recommend a release program which will, over a time period of 25+ years, replenish stocks of zoned land to ensure a continuous long term supply of land. It is not appropriate that all land identified in the strategy proceed to rezoning at the same time, given the sequencing needed to ensure an efficient roll out of physical and social infrastructure, and the undesirable impacts it may create for the local housing market. Once adopted, only those areas sequenced within the identified timeframes will be considered by Council.

In 2006, Council engaged GHD to prepare both the Urban Land Release Strategy and Draft Employment Land Release Strategy. GHD, in conjunction with AEC Group and Council's Planning Reform Unit, undertook comprehensive environmental, social and economic analysis of Tweed Shire, whilst undertaking landowner consultation to ensure that the constraint mapping was fit for purpose. The consultants and Council staff have also closely liaised with the North Coast Regional Office of the Department of Planning in preparing the Strategies, to ensure consistency with the implementation and review of the FNCRS.

What the Strategy aims to do

Now combined into a single document, the final strategy provides Council with a robust framework for assessment of rezoning proposals at either preliminary consultation or upon formal submission. Having the extensive constraints mapping and identification of suitable lands, enables early refusal of unsuitable or uncoordinated proposals. To do

this, the Strategy ascertains the least constrained land that can accommodate urban and employment development, sets parameters for sequential release of land based on issues of real demand and community need (as opposed to ad hoc release driven by commercial pressure), encourages sustainable and co-ordinated use of greenfield land by requiring master planning prior to the rezoning and enables stocks of developable land to be replenished to ensure a continuous long term supply, ready for rezoning and release when required by population demand.

It should be noted that the strategy has discounted the release rate to accommodate areas of land already zoned for residential purposes, which have not yet reached the market. A major portion of this land is located at Kings Forest, Cobaki Lakes, Bilambil Heights, Terranora (Area E) and other areas of zoned land.

Furthermore, the strategy works with and informs the NSW State Government's Far North Coast Regional Strategy (FNCRS). Currently, the FNCRS identifies land over the Shire within particular settlements as 'Future Urban Release Areas and Employment Lands (refer Sheet 1 FNCRS). Within the coastal area, only land within the 'Town and Village Growth Boundary' will be released for urban purposes. Within the Non Coastal Area, Greenfield land outside the Town and Village Growth Boundary may be brought forward for rezoning subject to satisfying 'Sustainability Criteria' contained within Appendix One (1) of the FNCRS. The Tweed Strategy provides Council with sound information (constraints mapping, general yield assessment and localised supply and demand analysis) to ascertain if proposals submitted in accordance with the FNCRS sustainability criteria are worthy of advancement.

It is important to note that the Strategy does not rezone or release land onto the market. It determines a quantifiable supply of land, release of which determined by demand and community need and responds to changing State, Regional and Local policy over time. Like the FNCRS, the Strategy would be reviewed at 5 yearly intervals to ensure it best informs policy at the regional level, and outcomes which are strategically focused, sustainable and best for the community at the local level.

Key Features of the Draft Urban Land Release and Employment Land Strategies:

Some of the overarching drivers of both strategies are:

- The current population of the Tweed Shire (approximately 80,000) is expected to grow to approximately 120,000 between now and 2031.
- The State Government's FNCRS identifies demand for 19,100 new dwellings over this period for the Tweed Shire and a demand for 32,500 new jobs across the North Coast Region.

Draft Land Release Strategy:

- Tweed Shire currently has approximately 1,533 hectares of residential zoned land. GHD is of the opinion that this provides for 27 years of supply for land.
- GHD suggests that the supply of land and housing to meet future demand will come from a combination of sources:
 - o vacant lots within existing zoned residential subdivisions;
 - o residential zoned land that is yet to be subdivided;

- redevelopment of existing residential or other properties;
- rezoning of new land for residential properties ('Greenfield sites')

In terms of "Greenfield sites" option, GHD conducted a comprehensive analysis of sites throughout the Tweed Shire, applying the "Land Suitability Analysis" assessment, explained in more detail in Appendix B of the Strategy.

Chapter 7.6 of the Strategy identifies 14 areas as "Potential Residential Areas in Tweed Shire". Maps of these areas are provided in Figures 14 to 18 in the rear of the Strategy Document.

In Chapter 11 – "Major Directions for Urban Land development", GHD compiled a series of recommended management approaches to consider:

- 11.1 Rely on Existing Zoned Areas;
- 11.2 Rely on Existing Zoned Areas and Increase the Residential Yields from Rural Residential Areas
- 11.3 Rely on Existing Zoned Areas and Increase the Density of Development of Key Urban Areas
- 11.4 Rely on Existing Zoned Areas and Delay the Release of Greenfield Sites
- 11.5 Rely on Existing Zoned Areas and Identified and Release Greenfield Sites

GHD put forward Option 11.5 as the preferred approach for Council to consider.

At its meeting in April, 2008, Council endorsed to publicly exhibit the Draft Urban Lands Release Strategy. Contrary to the GHD recommendation, Council resolved to endorse Option 11.3 as the preferred management approach, to reinforce urban consolidation and sustainability principles of the broader Tweed Futures Strategic document.

Draft Employment Lands Strategy:

Tweed Shire Council currently has approximately 231 hectares of industrial zoned land, 92.5ha developed (40%), and 138.5 ha undeveloped or being developed (60%). This land primarily sits within 6 industrial areas across the Shire. Of the 138.5ha of vacant land, the total available amount is discounted to 102ha, due to various development constraints. This only equates to about 10 years supply.

GHD has therefore recommended to Council that additional land is needed for industrial development and that rezoning of land needs to commence by 2011.

GHD applies its "Land Suitability Analysis" to identify "Potential Employment Lands". Chapter 7 of the Draft Strategy identified 7 areas across the Shire. Maps of these areas are provided in Figures 15 to 19 at the rear of the Strategy document. These investigation areas will provide an additional approximate supply of 236 hectares, estimated by GHD to be a 24 year supply.

In terms of office space, GHD estimates that the projected demand for the Tweed Shire over the next 25 years is between 19,800m² and 29,100m². It is recommended that 65% of this demand can be catered for in existing Tweed Heads and Tweed Heads South commercial centres and the remainder in other larger centres such as Murwillumbah. A

review of Council's planning controls will be needed in these centres are to ensure that additional office floor space can be accommodated in a sustainable way and with an appropriate urban form.

The Public Exhibition and Submission Review

As stated previously, the Urban and Employment Land Release Strategies were on public exhibition between 7 May and 27 June 2008 accessible from Council's website, within Council administration buildings. Notification was exhibited in the Tweed Link Newspaper and consultation took place with affected landowners. A total of 79 submissions from a range of respondents were received. The review of submissions resulted in some recommendations for alteration to the strategies. A summary of the principal changes are included within this report for Council consideration. A detailed address of individual submissions and any changes resulting from those submissions has been incorporated into the Strategy attached to this report under a separate cover. In summary, the principal changes are:

1. Delete Area 1 from the Employment Lands Strategy.

Sixteen submissions objected to the inclusion of this land. Issues raised included the need to retain open space of this type in proximity to Tweed Heads, the biodiversity of parts of the site and the potential problems that relate to built structures adjacent to the flight path of the Gold Coast airport.

2. Add 20 ha to Area 7 of the Urban Land Release Strategy.

A number of submissions requested that Area 7 be expanded slightly to include some properties on its edge that are identified in the Far North Coast Regional Strategy. It was agreed that these minor inclusions should be made to simplify the master planning for this area in the future.

3. Change the timing of the potential rezoning of Area 3 in the Employment Lands Strategy to short term (0-10 years) as opposed to medium term.

A submission identified that the future of this site is likely to be resolved within the next ten years and that if it is to be earmarked for employment lands then a rezoning should be able to be considered by Council in the short term.

4. Combine the two strategies into one document.

The two strategies were prepared at the same time with an understanding of their inter-relationship. They were also exhibited together and a number of submissions made comment on both documents. It makes sense that this link will be further emphasised if they are presented in a single document. It also provides an opportunity to summarise the submissions to the Strategies and include this as a part of the combined document.

Major Direction for the Release of Land

As detailed within the introduction to this report, following a comprehensive analysis of the public submissions by the author of the Draft Strategies, GHD, and further consultation with Council staff, the final strategy contains minor amendments to both the "Potential Urban Release Lands" of the Urban Land Release Strategy, and "Potential Employment Lands" of Employment Lands Strategy. No new investigation areas were

added to either strategy. A detailed summary of public submissions is provided at the rear of the consolidated document.

However, GHD have re-affirmed a previous recommendation in the final consolidated strategy that Council adopt a revised overall direction (option 11.5) for the implementation of the Urban Land Strategy, which differs from option 11.3 adopted by Council at its April 2008. Chapter 11 of the strategy provides a range of broader development options for Council to consider. Option 11.3 basically recommends that Council seek to meet its 25 year new housing targets through existing, zoned land rather than undertaking any new rezoning proposals for sites outside those areas identified for potential in both the Far North Coast Regional Strategy and the Urban Land Release Strategy. The consultants have since recognised that the capacity for additional urban areas in Tweed Heads, South Tweed and Murwillumbah may be impacted upon at least in the short term arising from potential flooding constraints..

GHD have therefore recommended option 11.5 for the final strategy, which would see Council go beyond Option 11.3 (maintain existing zoned land to accommodate growth), and adopt a short, medium and long term approach to particular Greenfield release areas, such as the 9 potential Urban Land Release Areas identified in the strategy. Contrary to GHD's recommendation, the Council officers have acknowledged the importance of the sustainability principles of Council's Tweed Futures policy and Council's previously adopted position from April 2008 and have recommended that Council adopt Option 11.3 as an interim approach, until the findings of Council's current Flood Study and Risk Management Strategy have been received and determined by Council, which is expected to take another 12 months to finalise. To implement this strategy, Council will need the support of the Department of Planning in respect of its implications for the Far North Coast Regional Strategy, which is due to be reviewed in 2011/12.

In terms of the final employment Land Release Strategy, GHD re-affirm the main management directions of retaining existing industrial zoned land and supporting the short, medium and long term advancement of rezoning proposals for six 'Potential Employment Land' areas (Area 1 was recommended for deletion) and to satisfy 25 year demand for additional office space through the densification of existing commercial areas at Tweed Heads, Tweed Heads South and Murwillumbah.

The advancement of the further strategic investigations (Tweed LEP 2008 Stage 2) and monitoring of the strategy's implementation, will have resource implications for Council's Planning Reforms Unit and will require a clear direction for Council. A further report will be submitted to the April Council Meeting which will fully outline the current work program, and will recommend to Council the prioritisation of an upcoming work program for both broad strategic projects and a more structured process for the managing current and future rezoning proposals.

Given the importance of advancing an effective strategic planning framework, to respond to growing development pressure in the Tweed Shire, it is therefore considered an imperative for Council to adopt the final Tweed Shire Urban and Employment Land Release Strategy 2009.

Implications for Strategy Recommendations for Existing Major Development Proponents:

Councillors will recall that the Officers have recently organised a series of workshops and site inspections for major development proponents to explain the details of their proposals. The recommended adoption of the final “Tweed Urban and Employment Land Release Strategy 2009” will have implications for some, not all, of these proponents.

1. Heritage Pacific – “Pottsville Employment Lands Development”

The proponents of this mixed industrial, commercial, retail and residential development have lodged a rezoning proposal with short and medium timeframes. The shorter term proposal is consistent with the Strategies recommended “Potential Employment Lands” Area 7, but only part of the Far North Coast Regional Strategy’s ‘Employment Lands’ area. The proponents were seeking Council’s support to request the Department of Planning to advance consideration of an amendment to the FNCRS to facilitate their medium term rezoning and redevelopment. A further report will be submitted to Council on this rezoning application.

2. Kingscliff Land Company: Land at the Corner of Cudgen Road and Tweed Coast Road, Cudgen.

The proponents have not yet lodged a rezoning application, but are seeking Council’s support to request to the Department of Planning to advance an amendment to the FNCRS to enable consideration of a proposal to rezone the current rural zone, to facilitate a new mixed retail, commercial and residential development of this site. There are no recommendations in the final strategy to support this request.

3. Gales Holdings land at Chinderah

The final strategy re-affirms the identification of part of Gales Land at Chinderah as suitable for investigation for “Potential Employment Lands”, Area 4, and is also identified as “Employment Lands” under the FNCRS. It is proposed to hold a future workshop with Gales Holdings in the coming months to discuss zoning options for the entire land.

4. Boyds Bay Garden World and Airport Precinct – Leisure Brothers, Maro Developments and Matalan

Whilst removing Area 1, the final strategy reaffirms Area 2 – “Potential Employment Lands” as a medium term project (10-20 years). Whilst Area 2 is viewed as having significant potential as an employment land precinct, there are uncertainties at this point of time regarding the co-ordination of a rezoning proposal involving a complex ownership of State, Federal, Council and private stakeholders. The owners of Boyds Bay Garden World have indicated that they would seek to move forward on an independent rezoning proposal on this site in the shorter term, if a proposal can not be co-ordinated for the entire Area 2. Council staff will consult with the stakeholders so as to consider the feasibility of a co-ordinated approach to the development and rezoning of the whole of Area 2.

5. Proposed expansion of the existing Harvey Norman complex and other associated bulky goods, light industrial and commercial development, Enterprise Road, Tweed Heads South.

The proponents of this proposal have only held preliminary discussions with Council officers to date, and are currently deciding whether to proceed with a rezoning application or a Part 3A Major Project submission to the Department of Planning. From an initial review of conceptual plans, the current proposal is generally consistent with the "Employment Lands" classification under the Far North Coast Regional Strategy.

Options:

Urban Lands Release Strategy Component:

Council could decide:

- A. To endorse the final strategy and Option 11.3 as recommended by this report; or
- B. To endorse the final strategy with another option from Chapter 11 of the Urban Release Strategy; or
- C. Seek further advice from Council Officers prior to resolving on a future direction Option under the Strategy.

Employment Lands Strategy Component

Council could decide to:

- A. Adopt the recommendation of the final Employment Lands Strategy as recommended by GHD, attached to this report; or
- B. Seek further advice from Council Officers prior to resolving the final details of this Strategy.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

This report seeks a clear direction and prioritisation of Council's strategic planning as it relates to the future management of Greenfield urban and employment land release.



UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Planning Committee Report from 22 April 2008 Meeting – LEP 2008 Update Part C – Urban Release Strategy Part D Employment Land Strategy (ECM 2002001).
 2. Tweed Shire Urban and Employment Land Release Strategy (ECM 2002002).
-

P10 [EO-PC] Amendment to Section 94 Plan No. 1 - Banora Point West / Tweed Heads South

ORIGIN:

Planning & Infrastructure

SUMMARY OF REPORT:

S94 Plan No 1 – Banora Point West/Tweed Heads South has been in existence since June 1993 for the purpose of collecting S94 contributions for the provision of local open space in the Banora Point West/Tweed Heads South area. The subject area is defined by Tweed Shire Council Development Control Plan Section B3 (originally known as Development Control Plan No 3 or DCP 3). The current version of the plan (Version 9) was adopted in March 2006.

Amendments to Section 94 Plan No. 1 – Banora Point West/Tweed Heads South are recommended for public exhibition. Version 10 proposes no changes to the structure of the plan or to the works program. This amendment:-

- increases the contribution rate per person in line with increases in the ABS IPD index since the plan was last amended in June 2006 being 18.95% (non-land component), and Tweed Shire Council Land Index being 9.52% (land component);
- calculates the per lot and per medium density unit rate in accordance with currently accepted occupancy estimates, being 2.4 persons per lot or dwelling, and 1.95 persons per medium density unit;
- includes definitions and detail to allow for future indexation in line with the IPD and Tweed Shire Land Index (see section 1.7.1); and
- adds a summary schedule for ease of reference.

RECOMMENDATION:

That:-

- 1. Council adopts Draft S94 Plan No 1 – Banora Point West/Tweed Heads South Version 10 as a basis for exhibition and community discussion/consultation.**
- 2. Draft S94 Plan 1 - Banora Point West/Tweed Heads South Version 10 be exhibited as required by the Environmental Planning and Assessment Regulations to repeal and replace Version 9.**

REPORT:**1. Background**

S94 Plan No 1 – Banora Point West/Tweed Heads South has been in existence since June 1993 for the purpose of collecting S94 contributions for the provision of local open space in the Banora Point West/Tweed Heads South area. The subject area is defined by Tweed Shire Council Development Control Plan Section B3 (originally known as Development Control Plan No 3 or DCP 3). The current version of the plan (Version 9) was adopted in March 2006.

2. Amendment

Costs have increased since the adoption of Version 9 in March 2006. S94 of the Environmental Planning and Assessment Act enables contribution rates in S94 plans to be increased in line with adopted and published indices without the need to issue a new amendment, provided that the details are included in the contribution plan. The necessary clauses which would enable regular indexation of contribution rates have not previously been included in S94 Plan No 1. Version 10 proposes no changes to the structure of the plan or to the works program. This amendment:-

- increases the contribution rate per person in line with increases in the ABS IPD index since the plan was last amended in June 2006, being 18.95% (non-land component) and Tweed Shire Council Land Index being 9.52% (land component);
- calculates the per lot and per medium density unit rate in accordance with currently accepted occupancy estimates, being 2.4 persons per lot or dwelling, and 1.95 persons per medium density unit;
- includes definitions and detail to allow for future indexation in line with the IPD and Tweed Shire Land Index (see section 1.7.1); and
- adds a summary schedule for ease of reference.

Note: **IPD = implicit price deflator:** Chain Volume Measures; Engineering Construction; ABS Reference A405071T, ABS Product Number 8782.0.65.001

3. Calculations

The tables below show indices and the effect of their application to current contribution rates:

Index calculations:

Index Date	IPD*	% Increase
30/06/2006	93.35	
30/09/2008	111.04	18.95%

* From the ABS IPD figures for September 2008 released January 2009.

Index Date	TSC Land Index*	% Increase
30/06/2006	163.9	
30/06/2007	179.51	9.52%



*2008 figure not published

Structured Open Space

Version 9			Version 10			
	Proportion of existing levy	Levy per person ex admin	Index	Index increase	Indexed levy ex admin	Levy per person inc 10% admin
Land component	24%	\$204.33	TSC Land Index	9.52%	\$223.79	
Other	76%	\$647.06	IPD (Engineering Construction)	18.95%	\$769.68	
Total		\$851.39			\$993.47	\$1,093

Version	Per Person	Per Lot		Per Medium Density Unit	
	Levy	Prevailing occupancy rate	Levy	Prevailing occupancy rate	Levy
9	\$936	2.6	\$2,433	1.7	\$1,591
10	\$1,093	2.4	\$2,623	1.95	\$2,131

Casual Open Space

Levy rate where developer dedicates and embellishes passive open space

Version 9			Version 10			
	Proportion of existing levy	Levy per person ex admin	Index	Index increase	Indexed levy ex admin	Levy per person inc 10% admin
	100%	\$179.02	IPD (Engineering Construction)	18.95%	\$212.94	
Total		\$179.02				\$234

Version	Per Person	Per Lot		Per Medium Density Unit	
	Levy	Prevailing occupancy rate	Levy	Prevailing occupancy rate	Levy
9	\$196.92	2.6	\$512	1.32	\$388.80
10	\$234	2.4	\$562	1.95	\$456

Levy rate where developer does not dedicate or embellish passive open space

No-dedication component

Version 9			Version 10			
	Proportion of existing levy	Levy per person ex admin	Index	Index increase	Indexed levy ex admin	Levy per person inc 10% admin
	100%	\$549.30	IPD (Engineering Construction)	18.95%	\$653.39	
Total		\$549.30				\$719



Version	Per Person	Per Lot		Per Medium Density Unit	
	Levy	Prevailing occupancy rate	Levy	Prevailing occupancy rate	Levy
9	\$604.23	2.6	\$1,059	1.32	\$803
10	\$719	2.4	\$1,726	1.95	\$1,402

Total levy rate where developer does not dedicate or embellish passive open space (add to rate where developer does embellish)

Version	Per Lot		Per Medium Density Unit	
		Levy		Levy
9	\$512 + 1,059	\$1,571	\$388.80 + \$803	\$1,192
10	\$562 + \$1,726	\$2,288	\$456 + \$1,402	\$1,858

The Draft Plan (copy attached) has been amended as outlined above and is recommended for exhibition.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The adoption of Draft *Section 94 Plan No 1 – Banora Point West/Tweed Heads South Version 10* will enable Council to collect developer contributions indexed to current costs for the provision and/or embellishment of local open space in the DCP Section B3 area.

If the Draft Plan is not adopted, part of the cost of these works would require financing from the general fund and from existing ratepayers who are not contributing to the demand for open space in the designated area.

POLICY IMPLICATIONS:

Contributions are required so that Council is able to acquire and/or embellish land to meet the adopted standards for casual and structured open space in Council’s adopted Open Space Infrastructure Policy 2002 for increases in population as a result of development in the DCP Section B3 area.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Draft Section 94 Plan No 1 – Banora Point West/Tweed Heads South Version 10 (ECM 1993273).