



TWEED
SHIRE COUNCIL

Mayor: Cr Warren Polglase

Councillors: P Youngblutt (Deputy Mayor)
D Holdom
B Longland
K Milne
K Skinner
J van Lieshout

Agenda

Ordinary Council Meeting Tuesday 17 August 2010

held at Murwillumbah Cultural & Civic Centre
commencing at 4.30pm

COUNCIL'S CHARTER

Tweed Shire Council's charter comprises a set of principles that are to guide Council in the carrying out of its functions, in accordance with Section 8 of the Local Government Act, 1993.

Tweed Shire Council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- to exercise community leadership;
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism;
- to promote and to provide and plan for the needs of children;
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development;
- to have regard to the long term and cumulative effects of its decisions;
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government;
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants;
- to keep the local community and the State government (and through it, the wider community) informed about its activities;
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected;
- to be a responsible employer.

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CONFIRMATION OF MINUTES

- 1 **Minutes of the Ordinary and Confidential Meetings held Tuesday 20 July 2010 and the Extraordinary Council Meeting held Tuesday 27 July 2010**

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Minutes of the Ordinary Council Meeting held Tuesday 20 July 2010 (ECM 19678936).
 2. Minutes of the Extraordinary Council Meeting held Tuesday 27 July 2010 (ECM 19775350).
 3. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Tuesday 20 July 2010 (ECM 19561781).
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SCHEDULE OF OUTSTANDING RESOLUTIONS

2 Schedule of Outstanding Resolutions

FOR COUNCILLOR'S INFORMATION:

18 November 2008

PLANNING COMMITTEE

P4 [PR-PC] Development Application DA07/0945 for Multi Dwelling Housing Consisting 34 Residential Units at Lot 290, 630 DP 755740; Lot 1 DP 781512, No. 7 Elsie Street, Banora Point

P 13 COMMITTEE DECISION:

Cr W Polglase
Cr K Skinner

RECOMMENDED that this item be deferred to allow for further negotiations with the applicant.

Current Status: A report is included in this Agenda.

17 November 2009

ORDERS OF THE DAY

55 [NOM-Cr D Holdom] Local Government Aboriginal Network Conference 2012

444
Cr D Holdom
Cr K Skinner

RESOLVED that Council staff investigate and report back to Council on lodging a bid to hold the Local Government Aboriginal Network Conference in the Tweed Shire in 2012.

Current Status: To be reported to a future Council Meeting.

16 February 2010

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

27 [CNR-CM] Burringbar/Mooball Sewerage Scheme and Tyalgum Water Treatment Plant Funding Under New South Wales Country Towns Water Supply and Sewerage Program

88

Cr D Holdom

Cr P Youngblutt

RESOLVED that Council:

1. Proceeds with both the Burringbar/Mooball Sewerage Scheme and the Tyalgum Water Treatment Plant without receiving upfront grant funding approval from the Country Towns Water Supply and Sewerage Program.
2. Writes to the Minister to obtain a commitment to obtain future grant funds retrospectively.
3. Meets all the grant funding approval requirements and applies for grant funding retrospectively for these projects.
4. Officers bring forward a report on options to provide sufficient capacity to service those lands immediately adjacent to the villages of Burringbar (Area 8) and Mooball (Area 9) identified in the Urban Release Strategy.

Current Status: Letter to the Minister yet to be completed and report to be prepared.

28 [CNR-CM] Sewerage Strategy for Future Pottsville Area Development

90

Cr B Longland

Cr J van Lieshout

RESOLVED that notwithstanding Council's adopted Urban Release Strategy, Council proceeds with negotiations for the preparation of a Memorandum of Understanding (MOU) which would involve:

- (a) Landholder/proponent funded sewerage and reuse strategy to facilitate the development of Urban Land Release Strategy Areas 5, 6 and 7, and Employment Land Release Area 7;
- (b) Memorandum of Understanding (MOU) covering terms of reference, risk allocation, timings and scope for the strategy stages and to obtain agreements for the proposal to fund the various stages of the strategy; and

- (c) Preparation of a report to Council with MOU and funding agreements for Council approval before proceeding with engaging consultants for the preparation of the strategy.

Current Status: Letter sent to landholders regarding negotiations with a direct outcome being the Landholders/Proponents are currently reviewing options.

ORDERS OF THE DAY

57 [NOM-Cr K Milne] Tree Removal Approval

NOTICE OF MOTION:

114

Cr K Milne
Cr K Skinner

RESOLVED that a report be brought forward on an appropriate system that requires authorisation for tree removal on private lands such as implemented in other councils.

Current Status: A report is being prepared and will be submitted to a future Council meeting.

18 MAY 2010

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

22 [CNR-CM] Request for "In Kind" Support/Waive Fee

1

Cr D Holdom
Cr B Longland

RESOLVED this item be deferred to the next meeting to allow a meeting with the Kingscliff Community Playgroup.

Current Status: Meeting held, letter forwarded to Kingscliff Community Playgroup. Response received and outcomes will be reported to the September Council meeting.

ORDERS OF THE DAY

62 [NOM-Cr K Skinner] Community and Operation Land

2

Cr K Skinner

Cr D Holdom

RESOLVED that Council officers investigate and bring forward a preliminary report on parcels of Council owned "Community" and "Operational" land that could potentially be considered for alternative and more appropriate use, acknowledging that Council and community needs and circumstances change over time

Current Status: Further investigations being undertaken.

15 JUNE 2010

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

11 [PR-CM] Consideration of Alternative Contribution Payment Options for Development Application DA08/1171.01 for an Amendment to Development Consent DA08/1171 for the Addition of a Deck to Existing Surf Life Saving Club at Lot 7010 DP 1055324; Lot 2 DP 108

Updated by Minute 459 of Meeting held 20 July 2010 as follows:

459

Cr K Skinner

Cr J van Lieshout

RESOLVED that in respect of the resolution of Item 11 of the Business Paper of its meeting of 15 June 2010, relating to a Section 96 application for the Development Application DA08/1171.01 for an Amendment to Development Consent DA08/1171 for the Addition of a Deck to Existing Cabarita Surf Life Saving Club, Council determines a preferred position from the following three options in respect of the request made by the Cabarita Surf Club (through a letter to Council dated 6 July 2010) for amended arrangements for payment of Section 64 and Section 94 contributions to Council, Council recommends to modify the Item 11 resolution of 15 June 2010 Council Meeting in the following manner:

1. That:
 - (a) The Cabarita Beach Surf Life Saving Club enter into a loan with Council for \$56,730.76 (being 50% of the current Tweed Roads Contribution Plan, Shirewide Car Parking and Section 64 contributions) interest free. In terms of a suitable guarantee for the loan, Cabarita Beach Surf Life Saving Club shall be responsible for preparing and seeking agreement with Council on a binding legal agreement, and, or mortgage caveat. Subject to satisfactory arrangements being made in relation to the proposed loan arrangement above, Council will make a donation of \$56,730.76 being 50% of the current contributions as detailed in Conditions 3A and 4A of Development Consent for DA08/1171.01;
 - (b) The 10 year period of the above loan be fixed, and that Council will not increase the base contribution payment of \$56,730.76, and the loan will be interest free for the loan period; and
 - (c) Notwithstanding the terms of Condition 3A of Development Consent for DA08/1171.01, which requires payment of required Section 94 payments prior to the issue of a Construction Certificate, that Council agrees that repayments on the loan identified in the above Point 1(a) shall not commence until a period of 18 months after the date that an Occupation Certificate is issued in respect of Development Consent for DA08/1171.01; and
2. Council officers bring back a report identifying the sources of funding to be donated to the Cabarita Beach Surf Life Saving Club.

Current Status: A further report to Council is to be submitted.

15 June 2010

22 [PR-CM] Pottsville Industrial Lands - Rezoning Application

395

Cr J van Lieshout
Cr W Polglase

RESOLVED that this item be deferred for a workshop with staff including a presentation by the proponents to Councillors.

Current Status: A Workshop was held on site and a report is included in this Business Paper.

20 July 2010

REPORTS FROM DIRECTOR COMMUNITY AND NATURAL RESOURCES

38 [CNR-CM] Kingscliff Beach Foreshore Erosion

450

**Cr K Skinner
Cr D Holdom**

RESOLVED that:

1. Council officers bring forward a report in the June quarterly budget review to provide for a budget adjustment for the unfunded works for the 2009/2010 financial year.
2. Council officers bring forward a report on funding available from the Natural Resource Management budget to move forward the urgent revetment work at Kingscliff foreshore.
3. Council impresses on the Minister for Lands the urgency to secure a sand supply source from the Tweed River Entrance Sand Bypassing project and/or Area 5 in the Tweed River.
4. Council makes representation to the Federal Member and candidates seeking their assistance to secure the beach at Kingscliff.

Current Status: With respect to Point 1, funding options are included in the June Quarterly Budget Review report to be considered in this Agenda.

REPORTS FROM DIRECTOR PLANNING AND REGULATION

19 [PR-CM] Development Application DA10/0066 for a Two (2) Lot Subdivision at Lot 10 DP 1034435, No. 285 Clothiers Creek Road, Nunderi

465

**Cr K Milne
Cr B Longland**

RESOLVED that this item be deferred to allow for a workshop.

Current Status: A workshop on this matter is scheduled for Thursday 12 August 2010.

ORDERS OF THE DAY

72 [NOM-Cr P Youngblutt] Redevelopment of South Murwillumbah

519

**Cr P Youngblutt
Cr J van Lieshout**

RESOLVED that a workshop on the status of the redevelopment of South Murwillumbah be conducted at the earliest opportunity.

Current Status: A workshop on this matter was held Tuesday 10 August 2010.

73 [NOM-Cr Polglase] Crown Land at Pottsville

520

**Cr W Polglase
Cr D Holdom**

RESOLVED that:-

1. A Councillors' workshop be held with Land and Property Management Authority and Tweed Shire Council Staff with reference to their Crown Land at Pottsville:
2. If the community wishes to have a meeting with Council, such a meeting be organised.

Current Status: It is anticipated that a workshop on this matter will be scheduled within the next month.

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MAYORAL MINUTE

3 [MM] Mayoral Minute for the Period 06 July to 05 August 2010

Councillors,

COMMITTEE MEETINGS

Attended by the Mayor

- 08 Jul 2010 - Community Centre Management Committee Meeting - Murwillumbah Community Centre
 - 29 Jul 2010 - Tweed River Art Gallery (TRAG) Board Meeting – TRAG, Mistral Road, Murwillumbah
-

INVITATIONS:

Attended by the Mayor

- 06 Jul 2010 - Lions Coolangatta Tweed 58th Changeover Meeting - Coolangatta Senior Citizens Centre, 2 Gerard St, Coolangatta
- 09 Jul 2010 - NAIDOC Week Committee and Tweed Shire Council, Official Handover of Goorimahbah - Jack Evans Boat Harbour Park
- 10 Jul 2010 - RSL Pottsville, Unveiling of Pottsville Nominal Roll - Anzac Park Cenotaph, Coast Rd, Pottsville
- 12 Jul 2010 - Tweed Heads South Rotary Club Meeting - Tweed Sports Club, Minjungbal Drive
- 13 Jul 2010 - Tweed Heads Chamber of Commerce Meeting – Tweed Heads Bowls Club, Wharf St, Tweed Heads
- 13 Jul 2010 - Speed on Tweed Launch - Mantra at Salt Village, Kingscliff
- 14 Jul 2010 - 4CRB Radio Talkback with the Mayor - 8 Stevenson Crt, Burleigh Heads
- 15 Jul 2010 - Agricultural Business Breakfast with Bill Heffernan – Murwillumbah Golf Club, Byangum Road, Murwillumbah (also attended by Cr Youngblutt, Cr Skinner and Cr van Lieshout)
- 16 Jul 2010 - Quota Annual Craft Fair - Tweed Heads Civic Centre, Brett St, Tweed Heads

- 16 Jul 2010 - South Coast Automotive Grand Opening - 139 Wharf St, Tweed Heads
- 19 Jul 2010 - Tweed Head South Rotary Club Meeting - Tweed Sports Club, Minjungbal Drive
- 20 Jul 2010 - Life Education Photoshoot - South Tweed Primary School, Heffron Street, Tweed Heads South (also attended by Cr Skinner)
- 21 Jul 2010 - Business Focus Group Meeting - South Tweed Sports Club, Minjungbal Drive
- 22 Jul 2010 - Funeral Service for Private Nathan Bewes - Sacred Heart Catholic Church in Murwillumbah (also attended by Cr van Lieshout)
- 23 Jul 2010 - Presentation of Prime Minister's NAIDOC Week certificate to student Zak Lateo - Murwillumbah East Primary School, Charles St, Murwillumbah
- 23 Jul 2010 - Care Flight Presentation to Mayor of photo plaque in thanks for Council support – Murwillumbah Civic Centre, Tumbulgum Road
- 23 Jul 2010 - Opening of Art Show by Mayor, South Tweed Rotary - Tweed Heads Civic Centre, Brett St, Tweed Heads
- 23 Jul 2010 - Private Citizenship Ceremony – Murwillumbah Civic Centre, Tumbulgum Road
- 26 Jul 2010 - Tweed Head South Rotary Club Meeting - Tweed Sports Club, Minjungbal Drive
- 27 Jul 2010 - Kingscliff Rotary Club Changeover luncheon - Cudgen Leagues Club, Wommin Bay Rd, Kingscliff
- 27 Jul 2010 - Life Education Supporters Group - Cudgen Football Club, Kingscliff
- 28 Jul 2010 - 4CRB Radio Talkback with the Mayor - 8 Stevenson Crt, Burleigh Heads
- 29 Jul 2010 - Tweed Chamber of Commerce AGM - Tweed Heads Bowls Club, Wharf Street, Tweed Heads
- 02 Aug 2010 - United Hospital Auxiliary AGM - Tweed Heads Civic Centre, Brett St, Tweed Heads
- 02 Aug 2010 - Tweed Head South Rotary Club Meeting - Tweed Sports Club, Minjungbal Drive
- 03 Aug 2010 - Official Opening of the Bray Park Cycleway - Bray Park, Kyogle Road (also attended by Cr Longland, Cr Holdom)

- 04 Aug 2010 - Official Opening of Quota Park - Quota Park, Caloola Drive, Tweed Heads West (also attended by Cr van Lieshout)
- 04 Aug 2010 - Presentation of \$50,000 cheque for Northern Rivers Food Link Project - RSL Aged Care Home, Banora Point
- 04 Aug 2010 - Local Government Awards Evening - The Tea Room, Level 3, Queen Victoria Building, 455 George St, Sydney
- 05 Aug 2010 - Local Government Forum - NSW Parliament House, Macquarie St, Sydney

Attended by other Councillor(s) on behalf of the Mayor

- 17 Jul 2010 - Twin Towns Friends Association Christmas in July – Twin Towns Services Club, Tweed Heads (attended by Cr Joan van Lieshout)
- 21 Jul 2010 - Far North Coast Team Tweed District Service Level Agreement Liaison Committee Meeting – Tweed Fire Control Centre, Wardrop Valley Road, Murwillumbah (attended by Cr Phil Youngblutt)

Inability to Attend by or on behalf of the Mayor

- 07 Jul 2010 - National Green Jobs Corps Project Launch - Masterson Park Broadway, Burringbar Village
 - 19 Jul 2010 - Nortec "Get On Board" Mobile Training Initiative Launch - Nortec, 256 Molesworth St, Lismore
 - 23 Jul 2010 - Seagulls Club President Shield Dinner - Jacana Room, Seagulls Club, Gollan Drive, Tweed Heads West
 - 26 Jul 2010 - Recognition Ceremony for New School Library - Murwillumbah South Infants School Library, River St, Murwillumbah South
 - 02 Aug 2010 - United Hospital Auxilliaries AGM – Tweed Heads Civic Centre, Brett St, Tweed Heads
 - 02 Aug 2010 - Murwillumbah Festival of Performing Arts - Murwillumbah Civic Centre, Tumbulgum Road
 - 05 Aug 2010 - Arts Northern Rivers Board Meeting – Alstonville
 - 05 Aug 2010 - Opening of Sports & Entertainment Centre - Tweed River High School, Heffron St, Tweed Heads South
 - 05 Aug 2010 - Foundation for Regional Development Luncheon & Charity Auction - Strangers Dining Room, Parliament House, Sydney
-

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- 12-13 Jul 2010 - Healthy Cities Conference - Stamford Plaza, Brisbane (attended by Cr van Lieshout and Cr Holdom)

Information on Conferences to be held

Councillors, please refer to the Councillor portal for complete Conference information

- 18-19 Oct 2010 - 2010 Tourism Symposium – Peppers, Kingscliff (Registration \$300)
 - 12-14 Sep 2010 - LGSA 2010 Water Management Conference – Orange City Council (Registration \$440)
-

SIGNING OF DOCUMENTS BY THE MAYOR:

- 12 Jul 2010 - Land Acquisition – Kyogle Road, Terragon – Deed of Settlement and Release
- 15 Jul 2010 - Lease (Renewal Option) – Lease of Air Space – Condong Sugar Mill – Overland Conveyer
- 22 Jul 2010 - Lease – Chillingham Community Association – 1469 Numinbah Road, Chillingham
- 22 Jul 2010 - Lease – Optus Mobile Pty Ltd – Round Mountain Reservoir, Bogangar
- 22 Jul 2010 - Easement Release – Easement for Rising Main – Lots 129 and 130, DP1039348, Elrond Drive, Kingscliff
- 02 Aug 2010 - Death Certificate – Lot 1, DP196456, Cudgen
- 02 Aug 2010 - Variation of Restriction on the use of Land – Tweed Ultima, Stuart St, Tweed Heads

RECOMMENDATION:

That:-

- 1. The Mayoral Minute for the period 06 July to 05 August 2010 be received and noted.**
 - 2. The attendance of Councillors at nominated Conferences be authorised.**
-

4 [MM] Mayoral Minute - Aboriginal Advisory Committee

Councillors,

I refer to the Mayoral Minute b3 at the Council Meeting dated 18 May 2010 and confirm that Council and I have no concerns with regard to community representatives on the Aboriginal Advisory Committee. This Council supports the Aboriginal Advisory Committee members, the Committee and the community they represent.

RECOMMENDATION:

That Council confirms its support for the Aboriginal Advisory Committee and the community representatives on the Committee.

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ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

5 [GM-CM] First Round Applications for Financial Assistance 2010/2011 - Festivals Policy

ORIGIN:

General Manager

SUMMARY OF REPORT:

Tweed Shire Council recognises a need to assist non-profit community groups, organisations and individuals who are interested in and are working towards the enhancement and the well being of its residents and the Tweed.

The main objective in the Tweed Shire Festivals and Events Strategic Plan 2008-2013 is to increase the quality and effectiveness of festivals and events in the Tweed.

Council recognises the importance of festivals and events to the quality of life offered in the Tweed and their significant economic benefits to tourism and other industries.

Council advertises in the Tweed Link and invites applications for financial assistance from eligible organisations in accordance with its Festivals Policy twice a year under Section 356 of the Local Government Act, 1993. Applications for financial assistance close at the end of July for the first round and end of February for the second round.

First round applications for financial assistance were invited under Council's Festivals Policy and closed on 31 July 2010. Tweed Link advertisements calling for applications appeared in issue 670 13 July 2010.

RECOMMENDATION:

That:

1. Council allocates the First Round Donations funding for 2010/2011 under the Festivals Policy as follows:

<u>Applicant</u>	<u>Amount</u>
The Unity Festival Inc	\$3000
Tweed Shire Senior Citizens Week Committee	\$7500
Tweed District Orchid Society Inc	\$1500
Northern Rivers Symphony Orchestra Inc.	\$3000
Tweed Heads Croquet Club Inc	\$1500
Twin Towns Services Club	\$6000
QSMSports	\$7500
Tweed Valley Banana Festival	\$7500
Tweed Valley Jazz Club	\$2000
Caldera Environment Centre	\$3000
Kids In Need Inc.	\$1000

TOTAL **\$43,500**

2. ATTACHMENT 1 as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-

(a) personnel matters concerning particular individuals (other than councillors)

REPORT:

Tweed Shire Council recognises a need to assist non-profit community groups, organisations and individuals who are interested in and are working towards the enhancement and the well being of its residents and the Tweed.

The main objective in the Tweed Shire Festivals and Events Strategic Plan 2008-2013 is to increase the quality and effectiveness of festivals and events in the Tweed.

Council recognises the importance of festivals and events to the quality of life offered in the Tweed and their significant economic benefits to tourism and other industries.

Council advertises in the Tweed Link and invites applications for financial assistance from eligible organisations in accordance with its Festivals Policy twice a year under Section 356 of the Local Government Act, 1993. Applications for financial assistance close at the end of July for the first round and end of February for the second round.

First round applications for financial assistance were invited under Council's Festivals Policy and closed on 31 July 2010. Tweed Link advertisements calling for applications appeared in issue 670 13 July 2010.

List of Applicants

Applicant	Amount	Festival
The Unity Festival Inc	\$10,000	The Unity Festival 2 October 2010
Tweed Shire Senior Citizens Week Committee	\$7500	Seniors Expo 19 May 2011
Tweed District Orchid Society Inc	\$1500	Gold Coast - Tweed Orchid Fair 6 and 7 November 2010
Northern Rivers Symphony Orchestra Inc.	\$3000	"The Masters" by the NRSO Camarata Orchestra 22 August 2010
Tweed Heads Croquet Club Inc	\$3000	Tweed Heads Easter Ricochet and Golf Croquet Festival 22-26 April 2011
Twin Towns Services Club	\$6000	New Years Eve Fireworks 31 December 2010
QSMSports	\$10,000	Kingscliff Triathlon 25 and 26 September 2010
Tweed Valley Banana Festival	\$7500	Tweed Valley Banana Festival 13-22 August 2010
Tweed Valley Jazz Club	\$5000	Tweed Valley Food, Jazz and Art Festival 23 July 2011
Caldera Environment Centre	\$3000	World Environment Day 5 June 2011
Kids In Need Inc.	\$1000	Dragon Boat Race 28 November 2010

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

An amount of \$43,500 is recommended for distribution in the first round.

POLICY IMPLICATIONS:

Festivals Policy.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. **Confidential Attachment** - Festivals Policy Assessment Table (ECM20231230)
-

6 [GM-CM] First Round Applications for Financial Assistance 2010/2011 - Donations Policy

ORIGIN:

General Manager

SUMMARY OF REPORT:

Tweed Shire Council recognises a need to assist non-profit community groups, organisations and individuals who are interested in and are working towards the enhancement and the well being of its residents and the Tweed.

Council advertises in the Tweed Link and invites applications for financial assistance from eligible organisations in accordance with its Donations Policy twice a year under Section 356 of the Local Government Act, 1993. Applications for financial assistance close at the end of July for the first round and end of February for the second round.

First round applications for financial assistance were invited under Council's Donations Policy and closed on 31 July 2010. Tweed Link advertisements calling for applications appeared in issue 670 on 13 July 2010

RECOMMENDATION:

That Council:

1. **Allocates the First Round Donations for 2010/2011 under the Donations Policy as follows:-**

<u>Applicant</u>	<u>Amount</u>
Tweed River Classic Boat Regatta	\$1500
Riding for the Disabled Tweed Valley	\$2000
Tweed Guides	\$950
Vintage Vehicle Touring Enthusiasts	\$1000
WollumbinBUG (Bicycle Users Group)	\$500
Cooloon Children's Centre	\$1500
Friends of the Pound (Tweed) Inc	\$1200
Mary Mackillop Conference/St Vincents de Paul	\$280
Tyalgum Community Preschool	\$1285
Chillingham Community Preschool	\$1250
You have a friend inc.	\$2000
Sailability New South Wales Inc. Tweed Brach	\$2000
TOTAL	\$15,465

2. **ATTACHMENT 1 as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act 1993, because it contains:-**

(a) *personnel matters concerning particular individuals (other than councillors)*

REPORT:

Tweed Shire Council recognises a need to assist non-profit community groups, organisations and individuals who are interested in and working towards the enhancement and the well being of its residents and the Shire.

Council advertises in the Tweed Link and invites applications for financial assistance from eligible organisations in accordance with its Donations Policy twice a year under Section 356 of the Local Government Act, 1993. Applications for financial assistance close at the end of July for the first round and end of February for the second round.

List of Applicants

Applicant	Amount Requested	Summary
Tweed River Classic Boat Regatta	\$1500	Hire of marquee and portable toilet. Purchase of two portable shelters, boat regatta banner, stationery, postage and advertising.
Riding for the Disabled Tweed Valley	\$2500	Feed and supplements for 8 riding for the disabled horses.
Tweed Guides	\$950	Purchase of a first aid kit, camping equipment and banner.
Vintage Vehicle Touring Enthusiasts	\$1000	Bus usage for evening, to attend club activities. Hire of hall and payment to local primary school for catering at the hall.
WollumbinBUG (Bicycle Users Group)	\$500	Establish and promote "Ride The Rim - Tweed Valley Cycling Odyssey" a three day cycling event. The donation will assist with venue payment, graphic design for logo and posters.
Cooloon Children's Centre	\$1500	To help cover costs of providing activities for children and families at the 12th annual community kids fest.
Friends of the Pound (Tweed) Inc	\$1200	To provide animal care packages for elderly and disabled pensioners for their pets.
Burringbar School of Arts Hall	\$1000	Part payment to assist in paying for the insurance of the hall, which is currently \$6000.
Mary Mackillop Conference/St Vincents de Paul	\$280	x20 Tweed Regional Aquatic Centre Family Day Passes for disadvantaged families which will be placed in Christmas hampers.
Twin Towns Services Bridge Club	\$9675	Bridgemate individual scoring system.

Applicant	Amount Requested	Summary
Tyalgum Community Preschool	\$1285	Gardening tools and "Big Book" literacy program
Chillingham Community Preschool	\$1250	New white board for information sharing and TAFE outreach program for parents on early literacy and numeracy skills
You have a friend inc.	\$3120	Assistance towards fuel bills of volunteers providing assistance to homeless and marginalised people.
Sailability New South Wales Inc Tweed Branch	\$5000	Towards purchase of another sailing boat for sailors with disabilities.

The following criteria is required to be used to determine the applications:

- No financial assistance will be given to privately owned businesses/companies.
- Organisations must be Tweed based or the funds are to be used on a service or activity for Tweed.
- No financial assistance will be given to Government Departments or agencies or for support of Government owned facilities.
- The funds are not to be used for a social activity for members of the organisation exclusively.

The 2010/2011 Budget was prepared on the following basis:

\$23,121 Donations Funding

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

An amount of \$14,465 is recommended for distribution in the first round.

POLICY IMPLICATIONS:

Donations Policy.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. **Confidential Attachment** - Donations Policy Assessment Table (ECM20230140)

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7 [GM-CM] Tweed Visitors Information Centre - Lease from Land and Property Management Authority - Lot 1 DP1150839

ORIGIN:

Design

FILE NO: DA08/0147

SUMMARY OF REPORT:

The Tweed Visitors Information Centre has been completed and the lease from the Land and Property Management Authority has now been received and approved.

As the successful tenderer for the tender for Economic Development Tourism Promotion Services will be sub-leasing from Council, it is necessary to seek written consent from Council to sublease the building.

It is now necessary for Council to approve entering into a lease for the Tweed Visitors Information Centre and to execute all documentation under the Common Seal of Council.

RECOMMENDATION:

That:

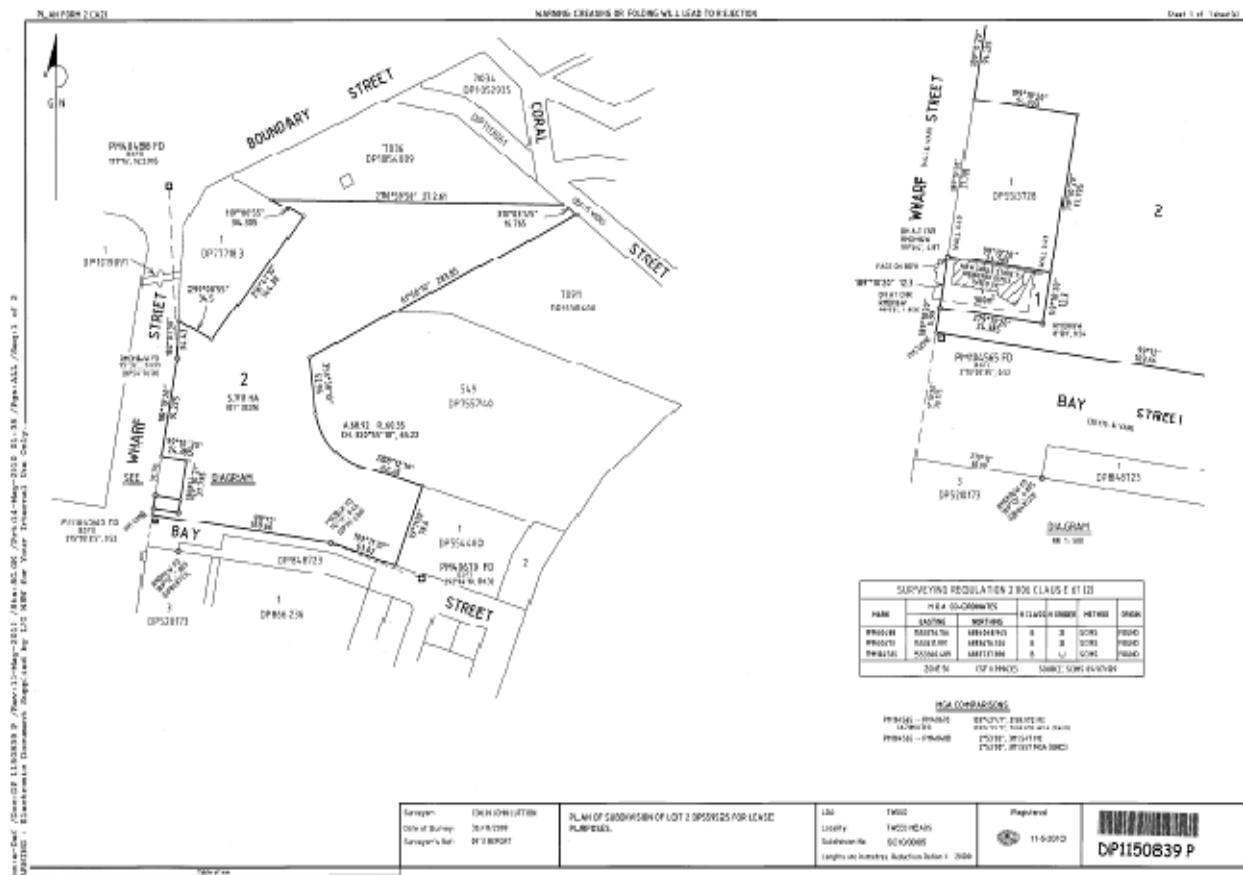
- 1. Council approves entering into a lease with the Land and Property Management Authority for the Tweed Visitors Information Centre on the corner of Wharf and Bay Streets Tweed Heads for a term of 20 years at a commencing rental of \$2,000; and**
- 2. All necessary documentation to be executed under the Common Seal of Council.**

REPORT:

The Tweed Visitors Information Centre has now been completed and the lease from the Land and Property Management Authority has now been received and approved.

As the successful tenderer for the tender for Economic Development Tourism Promotion Services will be sub-leasing from Council, it is necessary to seek the written consent from Council to sublease the building.

The plan below shows the lease plan for the building:



It is now necessary for Council to approve entering into a lease for the Tweed Visitors Information Centre and to execute all documentation under the Common Seal of Council.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

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8 [GM-CM] Community Engagement Strategy

ORIGIN:

General Manager

SUMMARY OF REPORT:

Council, at its meeting held on 15 June resolved to place its overarching draft Community Engagement Strategy on exhibition for a period of 28 days from 22 June to 20 July 2010, with submissions accepted until 3 August 2010.

A total of 13 submissions have been received and whilst the majority of submissions raised issues specific to the exhibited Community Engagement Strategy, a number of the submissions highlighted some confusion between the exhibited over-arching Community Engagement Strategy and the specific community engagement strategy which Council is required to develop to accompany the 10-Year Community Strategic Plan.

This report details some information to explain the difference between the two 'Engagement Strategies' and to assure Councillors and the community that whilst the same terminology, the two documents serve different purposes:

- 1) the intention of the recently exhibited over-arching Community Engagement Strategy was to develop a broad guide to outline Council's processes to engage with the community for all Council projects, as well as its day-to-day business and is a long term strategy.
- 2) the Community Strategic Plan will have an engagement strategy/communications plan specifically outlining how Council will engage with the community, which will be developed from the overarching Community Engagement Strategy.

Council officers are currently reviewing the submissions received for the overarching draft Community Engagement Strategy and anticipate a report will be prepared for consideration by Council at the September Council meeting.

RECOMMENDATION:

That Council receives and notes the background information on the recently exhibited draft Community Engagement Strategy and notes its independence from the community engagement strategy that will accompany the 2011/2021 Community Strategic Plan.

REPORT:

On 28 May 2009, Council resolved to develop a draft Public Participation Policy for consideration to provide options for Council's preferred communication methods with the community.

The May report outlined the draft Public Participation Policy would provide options and consultation models; outlines minimum standards for community consultation and clearly explain the types of participation options and requirements available for Council programs.

The intention was to develop a broad guide to outline Council's processes to inform, consult, involve and collaborate with the community throughout all stages of Council projects, as well as its day-to-day business.

During the formulation of the draft Public Participation Policy it became apparent that participation is only one aspect of broader engagement principles and the name 'Public Participation Policy' may not truly reflect the scope of the document and its purpose.

As a result, the draft document was named Community Engagement Strategy, rather than a Public Participation Policy, to better reflect the full spectrum of engagement measures.

The Integrated Planning and Reporting Framework requires Council to have a 10-year Community Strategic Plan, supported by a 'community engagement strategy' to demonstrate how Council will seek input and feedback specific to the formulation of a Community Strategic Plan.

Whilst the same terminology, the latter document is required to ensure Council engages and communicates with the community to ensure their input to the development of the Community Strategic Plan.

Council, at its meeting held on 15 June resolved to place its overarching draft Community Engagement Strategy on exhibition for a period of 28 days from 22 June to 20 July 2010, with submissions accepted until 3 August 2010.

A total of 13 submissions have been received and whilst the majority of submissions raised issues specific to the exhibited Community Engagement Strategy, a number of the submissions highlighted some confusion between the exhibited over-arching Community Engagement Strategy and the specific community engagement strategy which Council is required to develop to accompany the 10-Year Community Strategic Plan.

The development of the Community Strategic Plan will be accompanied by an engagement strategy/communications plan specifically outlining how Council will engage with the community for the development of the Community Strategic Plan.

It is anticipated that this specific community engagement strategy for the Community Strategic Plan will be guided by the methods and principles outlined in the Community Engagement Strategy recently exhibited. For example, the Community Strategic Plan would be considered a shire-wide high-impact project and its engagement strategy would follow the methods set out in the Engagement Matrix for that type of project. A report on the Community Strategic Plan and its specific community engagement strategy will be presented to the Council meeting on 21 September.

Council officers are currently reviewing the submissions received for the overarching draft Community Engagement Strategy and anticipate a report will be prepared for consideration by Council at the September Council meeting.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

In accordance with section 402 (4) of the Local Government Act 1993 the council must establish and implement a strategy (its "community engagement strategy"), based on social justice principles, for engagement with the local community when developing the community strategic plan.

UNDER SEPARATE COVER:

Nil.

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REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

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

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

MATTERS FOR CONSIDERATION

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

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9 [PR-CM] Planning Proposal PP10/0004 Enterprise Avenue/Greenway Drive, Tweed Heads South

ORIGIN:

Planning Reforms

FILE NO: PP10/0004

SUMMARY OF REPORT:

This report seeks Council's consideration of a planning proposal to amend the Tweed Local Environmental Plan as it relates to three properties, being Lots 2 and 3 of DP 1077990, Enterprise Avenue, Tweed Heads South and Lot 2145 DP 879149, Greenway Drive, Tweed Heads South.

The proposal seeks to enable Lots 2 and 3 to be developed for the purposes of a large format retail precinct (including the relocation and uses for Harvey Norman, Freedom Furniture, Toys r Us and the like) and a waste transfer station. Similarly, the proposal intends to enable the redevelopment of Lot 2145 for direct factory outlet retailing purposes.

Preliminary assessment of the planning proposal indicates that the proposal is generally consistent with the Far North Coast Regional Strategy, applicable State Environmental Planning Policies and Section 117 Ministerial Directions. However, there are two significant issues identified relating to roads and traffic and proximity to the Banora Point Waste Water Treatment Plant (WWTP) that could either warrant the deferral of any rezoning for the foreseeable future or ultimately prevent a rezoning and further development altogether.

Based on the current level of information and assessment of the planning proposal there is insufficient certainty about satisfactory outcomes being achieved, particularly in relation to securing necessary approvals, funding and timing for the construction of the Enterprise Avenue – Kirkwood Road extension and Kirkwood Road (western) extension and upgrade, as well as any potential financial impacts on the operation and possible need for upgrading of the Banora WWTP. As a result, it is the officers' view that it is not appropriate at this stage for Council to support a resolution to rezone the subject land and/or a referral to the Department of Planning for a "Gateway" determination.

It is therefore recommended that the Applicant be advised of the need for further investigation should they wish to proceed with a proposal and that Council's costs associated with any additional investigation be in accordance with the draft Fees and Charges adopted for exhibition at the Council meeting of 20 July 2010.

RECOMMENDATION:

That:

- 1. Planning Proposal PP10/0004 for Lots 2 and 3 of DP 1077990, Enterprise Avenue, and Lot 2145 DP 879149, Greenway Drive, Tweed Heads South not be referred to the Department of Planning for a gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* based on the uncertainty of the adequate provision for roads and traffic and financial implications for ongoing operations of the Banora Point Waste Water Treatment Plant.**
- 2. The proponent be advised that additional investigation is required and will need to include pre application consultation with all relevant agencies and is to include additional information relating but not limited to:**
 - i. An assessment of potential impacts arising as between the Banora Point Waste Water Treatment Plant (WWTP) and the proposed future development, any mitigation measures as required, and cost estimates / allocation or apportionment of any cost arising on the WWTP as a result of the proposed development.**
 - ii. A roads and traffic needs assessment arising from the proposed development including estimates of the current future road funding under the Council's TRCP, identification of new roads or upgrading required to support the future development along with projected timeframes for construction and cost. The Applicant must clearly identify their contribution either by way of funding, contribution estimates, works in kind or any other means.**
 - iii. An assessment of the ecological constraints (including the traversing of SEPP14 Wetlands) of the footprint of the proposed extension of Enterprise Ave and how these constraints may be addressed to permit the road to proceed.**
- 3. The Applicant be advised that any costs to Council associated with any additional investigation or assessment of Stage 1 of Planning Proposal PP10/0004 be in accordance with the draft Fees and Charges adopted for exhibition at the Council meeting of 20 July 2010.**

REPORT:

BACKGROUND

On 1 July 2009 the Environmental Planning and Assessment Amendment Act 2008 and Environmental Planning and Assessment Amendment (Plan Making) Regulation 2009 implemented procedural changes to the way local environmental plans are prepared and processed.

SITE AND PLANNING HISTORY – “ENTERPRISE AVENUE”

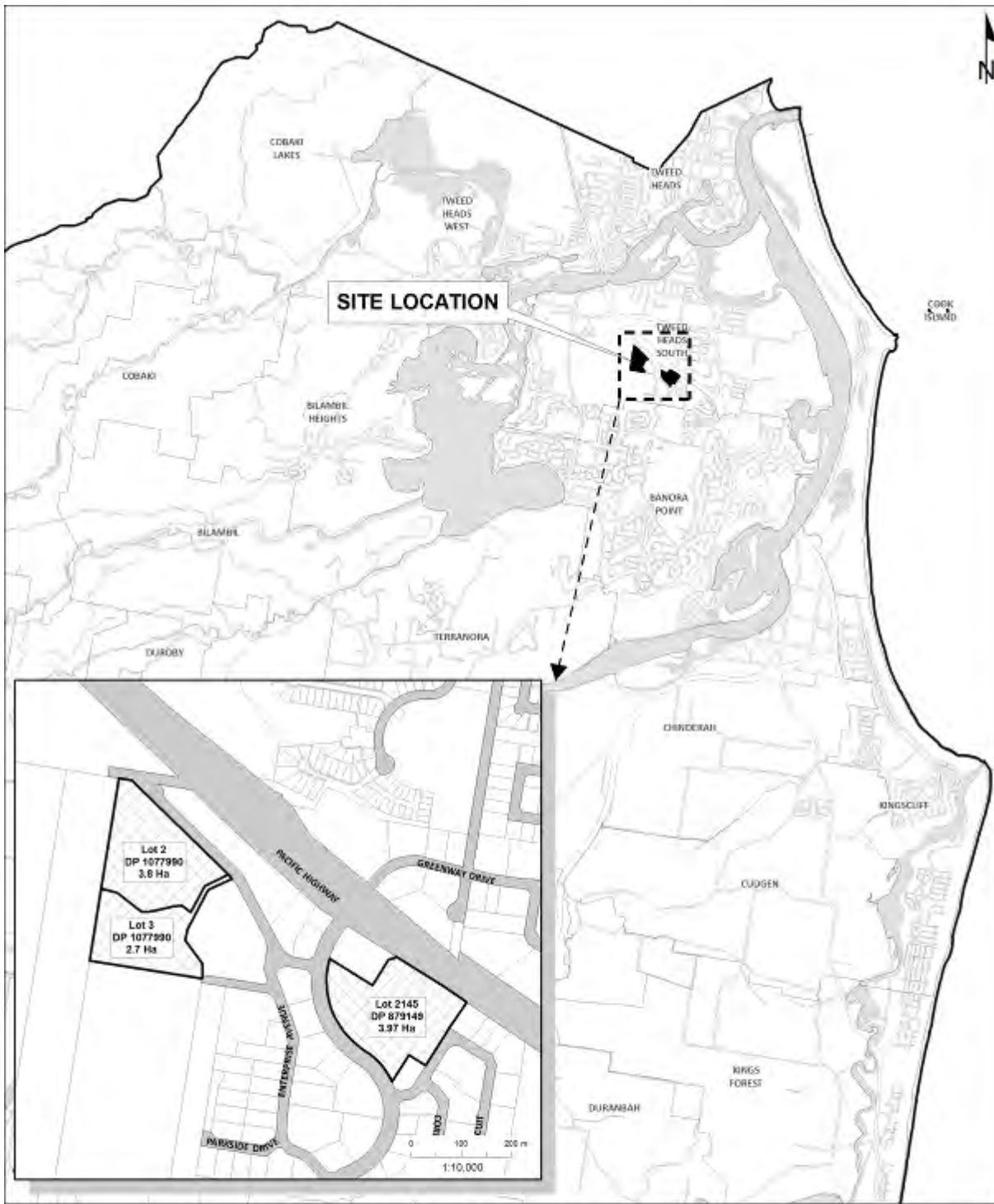
The study area includes Lots 2 and 3 of DP 1077990, Enterprise Avenue, Tweed Heads South and Lot 2145 DP 879149, Greenway Drive, Tweed Heads South. Figure 1 highlights the location and size of the study area.

Lots 2 and 3 DP 1077990 are currently vacant and are adjoined by the Banora Point Waste Water Treatment Plant (WWTP) to the west and south, Enterprise Avenue to the immediate north, followed by the Pacific Highway. To the east of the site is the established Expo Park trade precinct.

The final parcel that forms part of the study area, Lot 2145 DP 879149, contains the existing South Tweed Heads Harvey Norman complex and adjoins offices, a church, bulky goods retailing and light industry/service industry type uses.

Aside from the WWTP, it is not considered that the adjacent uses impose a significant constraint on the rezoning of the subject land as proposed. The potential impacts of the proposal on the WWTP are discussed later in this report.

FIGURE 1: SITE LOCALITY PLAN:



LOCALITY PLAN

Lots 2 and 3 of DP 1077990, Enterprise Avenue, Tweed Heads South & Lot 2145 DP 879149, Greenway Drive, Tweed Heads South

<p>Filename: z:\esr\planning\mxd\A4P_58\W SitePlan.mxd Author: J Batchelor - Planning Reforms Unit Date Printed: 24 June, 2010</p>	<p>Cadastral: 25 June, 2010 © Dept. of Lands & Tweed Shire Council</p> <p>GDA</p> <p>Coordinate System - MGA Zone 56 Datum - GDA 84</p> <p>03 9371 1000 08 9367 1071</p>	<p>Civic and Cultural Centre 3 Tambourine Road Murrumbidgee NSW 2484 PO Box 816 Murrumbidgee NSW 2484 T: (02) 6670 2400 1300 292 872 F: (02) 6670 2403 W: www.tweed.nsw.gov.au E: planningreforms@tweed.nsw.gov.au</p> <p>TWEED SHIRE COUNCIL</p>
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THE PLANNING PROPOSAL

Part 1 A Statement of the Objectives or Intended Outcomes of the Proposed Local Environmental Plan

This is intended to be a concise statement of what is planned to be achieved, and will eventually form the basis for the drafting of the LEP.

The planning proposal describes its intended outcomes as follows:

'The objective of this Planning Proposal and any Draft Local Environmental Plan is to enable Lots 2 and 3 to be developed for the purposes of a Large Format Retail Precinct and a Waste Transfer Station. Similarly, the objective in respect of Lot 2145 is to enable that lot to be used as a Direct Factory Outlet.'

The NSW Department of Planning's 'A Guide To Preparing Planning Proposals' states that the objectives or intended outcomes constitute the actual 'proposal' and if at any stage they are varied during the course of the planning proposal, the entire amended planning proposal will need to be resubmitted to the Minister to enable a decision to be made as to whether to issue a revised gateway determination. In light of these provisions, whilst the submitted planning proposal contains draft proposed zonings (which are discussed within Part 2 of this report) the assessment of the proposal should have greater regard to the above intended outcomes statement as a variety of zones could be used to accommodate the desired outcome.

Under the provisions of Tweed LEP 2000, Lots 2 and 3 are zoned Part 4(a) General Industrial and Part 6(b) Recreation, development for the purpose of bulky goods retailing is permitted in the 4(a) zone providing the applicant can demonstrate that the provisions of Clause 8(2) are satisfied, however 'shops' (other than general stores, takeaway food shops serving the industrial area or shops ancillary or incidental to a lawful use of the land) are prohibited.

Accordingly, whilst a component of the proposal for Lots 2 and 3 is permissible with consent under the current LEP provisions, the majority of the planning proposal is not.

Lot 2145 is currently zoned 3(c) Commerce & Trade. Within the 3(c) zone, development for the purpose of 'shops' (other than general stores) is permitted with consent, provided the application can demonstrate that the provisions of Clause 8(2) are satisfied. Strictly speaking, a planning proposal is potentially not required to enable the desired development on Lot 2145, however, it is acknowledged that the provisions of Clause 8(2) within the Tweed LEP 2000 are not easily met and that the 3(c) Commerce and Trade zone has not traditionally been seen as an appropriate zone for the provision of retail premises (shops) development.

Part 2 Explanation of the Provisions

To enable the prescribed objective, the planning proposal seeks to amend the zoning map of the Tweed LEP as per Attachment 1. A basic summary of the changes sought is contained in Table 1 below:

Table 1 – Desired changes to the Tweed LEP 2000

Property (Lot/Sec/DP)	Tweed LEP 2000 Zoning	Draft Tweed LEP 2010 Zoning	Proposed Zoning
2//1077990	4(a) Industrial	IN1 – General Industrial	B5 Business Development
3//1077990	6(b) Recreation	RE2 – Private Recreation	IN1 General Industrial
2145//87914 9	3(c) Commerce & Trade	B5 – Business Development	B5 – Business Development

Note: Lots 2 and 3 both include portions of E2 – Environmental Conservation zoning under the proposal, to reflect site conditions.

With regard to Lot 2145, the applicant provides the following comment:

‘At the date of preparing this Planning Proposal, Draft Tweed Local Environmental Plan 2010 is on public exhibition. The Draft Plan implements the Standard Instrument and zones. As the Draft Plan is likely to be gazetted in 2010, the proposed zones are consistent with those zones used in the exhibited Draft Tweed Local Environmental Plan 2010.’

The abovementioned comments are noted. Whilst the planning proposal does not need to include Lot 2145 should the Draft Tweed LEP 2010 be adopted in its current form, given the number of unresolved issues within the Draft Tweed LEP 2010, the planning proposal should proceed with Lot 2145 included.

Part 3 Justification for the Proposal

Section A - Need for a Planning Proposal

Is the planning proposal a result of any strategic study or report?

The planning proposal is not a result of any specific or adopted strategic study or report prepared at either a local or regional level. The subject site however is within the existing urban footprint identified within the Far North Coast Regional Strategy and is considered to be consistent with its direction.

Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

Council commenced a draft locality plan for Tweed Heads South as part of broader study and draft LEP which also included Tweed Heads in 2007. This was undertaken in partnership with the Department of Planning’s Cities Task Force.

Although elements of the locality plan process have informed the recently advertised amendments to Section B2 of the Tweed DCP, which forms part of and was publicly exhibited with the draft Tweed Heads “City Centres” LEP, the majority of the locality plan work has been deferred pending the completion of Council’s Tweed Floodplain Risk Management Strategy, which is expected to be publically exhibited during 2010.

Whilst the subject site falls outside the area of the locality plan, there is a strategic relationship and corresponding function between land-uses in Tweed Heads and those in Tweed Heads South. Ordinarily a wider review of the strategic relationship would be required and would occur through the locality plan process however, Council officers are confident that the strategic nexus and justification can be properly managed through the planning proposal by requiring the preparation of a more comprehensive strategic analysis for the Stage 2 assessment.

Based on the estimated value of the proposal it would be open to NSW Minister for Planning to accept a State Significant Site Application and an undertake the amendment through Schedule 3 of the SEPP (Major Development) 2005. The Applicant has however indicated a preference for a planning proposal and Council officers also consider it to be the best means of achieving the intended outcome.

Is there a net community benefit?

The planning proposal has stated the external benefits as comprising:

- *A reduction in escape expenditure:* At present, approximately \$165 million in large format retail expenditure and between \$34 and \$51 million in direct factory outlet expenditure has been identified by the proponent as being lost to areas outside of the Tweed district. The provision of these services in the Tweed is presented as an option for minimising the escape expenditure.
- *Creation of local employment opportunities:* The proposal states the creation of an additional estimate of 500–700 fulltime employment positions.
- *Funding of the Enterprise Avenue extension to the Kirkwood Road interchange:* The proposal states that the proponents are prepared to fund the construction of the Enterprise Avenue extension as part of any future development/project approval, facilitating wider public benefits by relieving existing traffic congestion in the South Tweed/Expo Park locality. The Works Program in Section 94 Plan No. 4 provides an estimated cost of \$4.86 million for the Enterprise Avenue extension.

Although the finer detail would need to be assessed on the last point in particular it appears that a net community benefit is likely.

Section B - Relationship to Strategic Planning Framework

Is the Proposal Consistent with the Objectives and Actions Contained Within the Applicable Regional or Subregional Strategy (including the Sydney Metropolitan Strategy and Exhibited Draft Strategies)?

Preliminary review indicates that the planning proposal is generally consistent with the Far North Coast Regional Strategy.

Is the Planning Proposal Consistent with Applicable State Environmental Planning Policies?

Preliminary review indicates that the planning proposal is generally consistent with applicable SEPPs.

Is the Planning Proposal Consistent With Applicable Ministerial Directions (Section 117 Directions)?

Preliminary review indicates that the planning proposal is generally consistent with applicable s117 Directions.

Section C - Environmental, Social and Economic Impacts

Is There any Likelihood That Critical Habitat, Threatened Species, Populations or Ecological Communities, or Their Habitats, Will be Adversely Affected As a Result of the Proposal?

The planning proposal identifies the potential presence of threatened species on the site and this is reflected in the proposed use of an environmental conservation zoning over a specific area of identified habitat. Further assessment of potential interface issues between the proposed business, industrial and environmental conservation zones will be required as part of Stage 2. The application was forwarded to Council's Natural Resource Management Unit for review under Stage 1, who are still considering the potential implications of this proposal.

Are There Any Other Likely Environmental Affects As a Result of the Planning Proposal and How Are They Proposed to be Managed?

Preliminary review indicates that the proposal would not likely result in any other significant environmental impacts. Ultimately the true extent will not be ascertainable until the more detailed assessment as part of Stage 2 is undertaken.

How Has the Planning Proposal Adequately Addressed Any Social and Economic Effects

Of those constraints identified from preliminary review and internal consultation within Council, the following issues have been identified as having potential significant impacts upon the site:

Traffic and Section 94 Planning

The planning proposal identifies that:

"... the existing road network does not have sufficient capacity to accommodate the additional traffic which would result from the proposed rezoning. However, current road network planning, particularly that involving the extension of Kirkwood Road to Fraser Drive and Enterprise Avenue, will alleviate current congestion problems associated with Leisure Drive and Machinery Drive and provide additional capacity for the development of the subject site."

Comments received from Council's Infrastructure and Planning Unit (IPU) are as follows:

"While these additions to Council's road network are included in forward planning and are included in the works program for the Tweed Road Contribution Plan (TRCP), it is considered premature to rezone land on the premise that these road projects will go ahead."

The Kirkwood Road extension is in its early planning stages, and will be subject to the outcome of ongoing negotiations with the NSW Roads and Traffic Authority (RTA) and obtaining necessary environmental planning approvals. It is expected that this road project will have a greater degree of certainty by the end of 2010, and at that time Council can secure its commitments regarding the Kirkwood Road project.

The extension of Enterprise Avenue to Kirkwood Road is not currently a priority project for Council, and is not in the current 5 year works plan for the TRCP. No planning or design for this project has been undertaken, although designs for Kirkwood Road have allowed for a future connection from Enterprise Avenue. If the proponents wish to bring forward this project in order for the rezoning to be considered in a shorter timeframe, the following obstacles need to be overcome:

- *Acquisition of approximately 2 hectares of road reserve through private land (Lot 33 DP 1073293);*
- *Environmental planning approvals, addressing significant site constraints including SEPP14 wetlands and extensive vegetation which is likely to contain endangered ecological communities and/or threatened species;*
- *Concept plans that overcome geotechnical constraints of the varying topography along the route (from low lying swampy land at the southern end, to steep land adjacent to Kirkwood Road at the northern end); and,*
- *Secure a funding source.”*

The provision of any extension to Enterprise Avenue and the ultimate success of the planning proposal may be a significant issue in light of the \$20,000 Section 94 Contributions cap and other methods, such as a planning agreement, may be required to ensure the provision of funding or construction of the road.

Clearly there are significant matters in relation to the Enterprise Avenue extension and the local road network that will require further detail and discussion and may ultimately result in the proposal being cost prohibitive. Further there is no certainty that planning approval can be obtained for the Enterprise Avenue road link, given that it will need to traverse sensitive vegetation and SEPP14 wetlands. Accordingly, it is considered appropriate that further detail be provided by the applicant and investigated at a desktop level to demonstrate that these very significant constraints can be overcome prior to referral to NSW Department of Planning for gateway determination.

Proximity to the Banora Point WWTP

As discussed earlier, Lots 2 and 3 DP 1077990 are adjoined by the Banora Point Waste Water Treatment Plant (WWTP) to the west and south. Section B3 of the Tweed DCP permits some development within the treatment plant buffer with strict conditions applied to reduce risks to the health of employees and to ensure the continued use of the essential community facility (WWTP) is not jeopardized.

Section B3 of the Tweed DCP works in conjunction with Section A5 – Subdivision Manual, which contains the recommended buffers to WWTPs. Section A5 prescribes that:

No development is permitted within 200 metres from any current or proposed primary and secondary process units of any sewerage treatment plant, except for uses of an open air nature (eg, car parking, storage) or those uses not requiring permanent or prolonged work station occupation.

The planning proposal has been referred to Council's Water and Waste Water Engineers who have provided the following comment:

"The proposal to zone lot 2 as B5 Business Development is contrary to the intent of the DCP in that the development of commercial/retail premises in such intensity in close proximity to the WWTP means that there will be a large number of people working, shopping and eating within the inner half of the buffer zone. This is an inappropriate development that could result in pressure from the community to relocate the WWTP facility at a very great cost to the community."

The location of the subject site combined with the desired land uses clearly presents a potential prohibition to the success of the planning proposal and will need further consideration by the proponent. Accordingly, it is considered appropriate that further detail be provided by the applicant and investigated at a desktop level prior to referral to NSW Department of Planning for gateway determination. Any further information provided by the proponent in regard to the Banora Point WWTP and the interface with the subject land will be considered by Council officers as well as discussions held with NSW Department of Planning, Department of Health and other agency deemed necessary.

Contamination

Council's Environment and Health Officers have requested additional information be provided in accordance with SEPP 55 and Section 3.4 of Council's Contaminated Land Policy as part of the Stage 2 process.

Section D – State and Commonwealth Interests

Is There Adequate Public Infrastructure for the Planning Proposal?

Preliminary review indicates that adequate water and waste water capacity is available to the subject site, as well as electricity and telecommunication. As discussed above, insufficient capacity is presently available within the local road network, however options may be available that would enable the proposal to proceed.

What are the Views of State and Commonwealth Public Authorities Consulted In Accordance With the Gateway Determination

The application is yet to proceed through the gateway and has not yet been referred to any State or Commonwealth Authorities, this will occur as part of the Stage 2 process. As discussed earlier however, it is likely that the Planning Reforms Unit will consult with Department of Planning regarding current best practice provisions for development adjoining Waste Water Treatment Plants.

Part 4 – Community Consultation

The Department of Planning's guide to preparing planning proposals addresses the process requirements for determining the level of community consultation which should be specified when seeking a Gateway Determination. It can, in theory, be specifically tailored however the general guide is a 14 day exhibition for a low impact proposal and a 28 day exhibition for all other proposals.

Based on the scale of this planning proposal, Council officers are of the view that a minimum 28 day exhibition period should be sought.

CONCLUSION

On the basis of desktop review, the Planning Proposal is considered to contain insufficient strategic assessment and merit to warrant its referral to the NSW Department of Planning for a gateway determination. Whilst a high level merit assessment has been undertaken, the outstanding issues of the site's relationship with the Banora Point WWTP and its integration into the local and regional road network renders the proposal unacceptable at the present time.

Should the proponent wish to revisit these matters and provide additional information to Council, a supplementary assessment can be undertaken. However this should be facilitated in line with Council's amended fees and charged schedule. This ensures that the Planning Reforms Unit is able to manage the process of efficient assessment and turn around of planning proposals, as agreed to between Council and the wider development industry.

To ensure that the ongoing cost recovery for the assessment of private planning proposal's is maintained it is recommended that the any additional investigation or assessment be charged at the fees for service rates as adopted for exhibition at the Council Meeting of 20 July 2010, which is in the following terms:

Table 2 – Draft Fees & Charges 2010/2011 – Planning Proposal Assessment (in **BOLD**)

Rezoning Fees			
	Stage 1	Stage 2	Stage 3
Anomaly (no increase in the developable capacity of the land)	\$1,030	\$1,545	\$1,030
Minor rezoning (no significant increase in developable capacity of the land and s. 72J applications or schedule 3 amendments)	\$1,600	\$3,500	\$2,000
All others	\$3,500	\$7,000 + \$115 per hour beyond 60hrs	\$5,500 + \$115 per hour beyond 40hrs
Council appointed and managed consultancy	An Applicant may elect to have an application processes by an external consultancy. The cost is to be determined by a Council Tender invitation and submission process and agreed to by applicant + 20% administration fee.		
Preparation of Local Environmental Study (where required)	Cost in addition to rezoning application processing and is to be determined by a Council Tender invitation and submission process and agreed to by applicant + 30% administration fee.		

Reassessment of the same issue or a new issue not previously identified or sufficiently detailed in a planning proposal arising after the assessment of the proposal by the relevant Unit or Division of Council is subject to the prescribed assessment fee.	Assessment of additional supporting information is \$115 per hour, per staff member, plus an administrative fee of \$55.
Council reporting required in consequence of consideration of additional information is subject to the prescribed fee.	The fee for preparing a Council report arising from reassessment of a planning proposal is \$300.
Written correspondence associated with a planning proposal is subject to the prescribed administration fee.	The administration fee associated with written correspondence is \$25

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If adopted, the recommendation contained within this report would result in a resource implication for the Planning Reforms Unit, however Council has a fees and charges structure to enable the application to be managed internally or through external consultants and ensures cost recovery.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Proposed Zoning Map (ECM 18841788)
2. Architectural Plans Large Format Retail Concept (ECM 18841794)
3. Proposed Direct Factory Outlet Concept (ECM 18841795)
4. Architectural Plans Waste Transfer Station Concept (ECM 18841799)

10 [PR-CM] Pottsville Employment Lands - Rezoning Application

ORIGIN:

Planning Reforms

FILE NO: GT1/LEP/2000/85 Pt1 (related file: GT1/LEP/2006 Pt8)

SUMMARY OF REPORT:

This is a further report on the Pottsville Employment Lands Rezoning Submission as reported to Council on 15 June 2010, which sought a boundary redefinition for the rezoning of land from rural to employment, and at which Council resolved to defer consideration of the report pending a workshop.

Following an on-site workshop with Tweed Councillors, Council staff and the proponents, both the Applicant and Council staff have revised their boundary redefinition lines based on the assessment of issues raised on the site and on further analysis of the lands suitability. This report provides and discusses the advantages or otherwise of four potential options, with the preferred option comprising an increase in protected land consistent with the concerns raised by Councillors at the recent site workshop.

The report concludes that the preferred option (Option 1) best reflects the environmental attributes and constraints of the land as well as the State Government Policy direction through the Far North Coast Regional Strategy 2006.

Finalising the rezoning boundary, and pending satisfactory resolution of sewerage issues, this proposal will be in a position to be referred to the Department of Planning for issue of a section 65 certificate certifying that the draft plan may be publicly exhibited.

RECOMMENDATION:

That Council in respect of the rezoning application for the Pottsville Employment Lands site:

- 1. Endorses the boundary redefinition of the land subject to the rezoning as identified in Figure 1: Option 1 – Preferred option; to this report, being that land bordered with a blue dashed line;**
- 2. Defers proceeding with legal action in relation to vegetation clearing on the basis of the landowner agreeing to a revegetation management strategy in accordance with Resolution No. 3 below;**
- 3. Endorses that Council Officers negotiate with the landowner for the restoration, revegetation, contributory off-set planting, maintenance, and protection of vegetation, as necessary, through a legally binding agreement, and that a satisfactory resolution of these matters be concluded prior to the gazettal of any rezoning under GT1/LEP/2000/85 (Amendment No. 85);**

4. **Endorses that land identified as unsuitable for rezoning for urban purposes be rezoned to reflect the environmental qualities and constraints of the land; and**
5. **Endorses that the Applicant be advised of Council's concern over the proposed method of waste water treatment proposed and the need for the Applicant to demonstrate certainty of all aspects of the scheme to Council's satisfaction.**

REPORT:

This is a further report on the Pottsville Employment Lands Rezoning Submission as reported to Council on 15 June 2010 which sought to revise the boundary of land to be considered for rezoning from rural to employment, and at which Council resolved to defer consideration of the report pending a workshop.

A report was submitted to the 15 June 2010 Council meeting seeking support for a resolution on vegetation matters, which was in the following terms:

“PROPOSED that:

1. *ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(e) and Section 10A(g) of the Local Government Act 1993, because it contains information that would, if disclosed:

(e) prejudice the maintenance of law
(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege*
2. *Council endorses the boundary redefinition of the land subject to the rezoning as identified in Annexure 1 – Excluded Area, contained in this report, being that land bordered with a heavy red line.*
3. *Council defers proceeding with legal action in relation to vegetation clearing on the basis of the landowner agreeing to a revegetation management strategy in accordance with Resolution No. 4 below.*
4. *Council Officers negotiate with the landowner for the restoration, revegetation, contributory off-set planting, maintenance, and protection of vegetation, as necessary, through a legally binding agreement, and that a satisfactory resolution of these matters be concluded prior to the gazettal of any rezoning under GT1/LEP/2000/85 (Amendment No. 85).*
5. *Land identified as unsuitable for rezoning for urban purposes be rezoned to reflect the environmental qualities and constraints of the land.”*

An area of land proposed for exclusion from the rezoning proposal was identified, as stated in resolution 2 above, (refer Figure 4 below), which sought to exclude steep slopes on the southern boundary of the site and a small area along the western boundary with the Pacific Highway.

However, given the complexity of the issues affecting the site, and representations from the proponent, Council resolved “that this item be deferred for a workshop with staff including a presentation by the proponents to Councillors”.

Site Inspection

A site inspection was held on Tuesday 29 June 2010 for Councillors at which concerns about the extent of proposed earthworks throughout the site were raised, including a steep hill, part of which lies within the north-western corner of the site adjoining the Pacific Highway (hereafter referred to as “the hill”).

At the time of preparation of the excluded land map presented in the previous Council report, it was considered that while the land was steep, it had no tree cover, with the exception of a small clump on the crest of the hill in the far corner, and provided the proponent with the opportunity to salvage fill material for fill of land to the north of Kudgerie Avenue, currently outside the boundary of land identified in the Far North Coast Regional Strategy 2006 (FNCRS).

Following from the on-site assessment, the concerns raised about the extent of earthworks proposed and the potential adverse impact on visual amenity have been taken into further account and a revised map has been prepared. Alternative potential options have also been prepared to allow a balanced consideration of the issues and available options for proceeding with a rezoning for the much needed employment land in the Pottsville locality.

The proponent (Planit Consulting and Heritage Pacific) were invited and attended the on-site meeting and made a brief presentation to Councillors. They acknowledged the concerns and issues raised by Council and advised that although in closer agreement with the extent of land to be excluded they would nevertheless be submitting further justification and identification of their preferred boundary realignment for their proposal (refer Figure 5 below).

Point of difference

It is generally agreed by all parties that the steep slopes to the north (the hill upon which the site inspection was convened) which contains trees protected by Council's Tree Preservation Order 2004, is to be excluded from any development area. The point of difference being that the proponent is seeking to maintain a development footprint which encroaches into the steep slopes at the toe of this land, and had intended to fully utilise the hill in the north-western corner adjoining the Pacific Highway to maximise the proposed and potential future development opportunities.

The area of excluded land proposed by the proponent is more the result of consideration of potential lot configurations than it seems integration of any physical constraints affecting the site, and a preference to gain fill material from the hill for development purposes.

Rather than construction of long, tall flat batters, which are difficult to ‘hide’, this report presents an option to develop the site using contemporary design principles more sympathetic to the natural landscape, without the need for and the amenity impacts associated with excessive batter construction, which would otherwise be contrary to the topographic attributes of the area.

Land included in this rezoning proposal

While it is important to consider off-site and cumulative impacts, and the broader local and regional context of this proposal, only a small portion of the hill in the north-western corner falls within the boundary of land identified in the FNCRS as 'Employment Land' which can and will be subject to the determination of this rezoning application.

Given that the majority of the hill falls outside the boundary of this rezoning submission, potential future use of the majority of the hill cannot be determined under this rezoning; as such the report must focus on that small area of the hill which lies within the boundary of this proposal.

While the preferred option presented below excludes the majority of the hill, it does not necessarily follow that the hill or part thereof could not be available for development at a future time depending largely on whether the adjoining land identified in the Tweed Urban Land Release Strategy 2009 included in the revised Far North Coast Regional Strategy 2011, which the Department of Planning is preparing to review.

In any future event the amenity impact of the removal or disturbance to the hill on the surrounding areas will still need to be assessed and may ultimately act as a bar to its development.

Future opportunities to develop employment land adjoining this site

It is relevant and important to acknowledge the broader strategic intentions for the Pottsville locality so that the subject planning proposal and site is not considered in a vacuum or in isolation of the likely extent of urban development over the next 30 years and to ensure that any decisions on this proposal is not grounded or restricted to a perception of limited or finite opportunity or land supply.

The Tweed Urban and Employment Land Release Strategy 2009 (TUELRS), as discussed above, has identified a substantial area of additional land immediately to the north of this site which may be suitable for employment generating purposes in the future; however, for this land to be developed, it will need to be included in the FNCRS.

The Department of Planning has advised that they have commenced a revision of the Strategy, but at this stage there is no guarantee that this land will be included in the revised Strategy albeit that Council is optimistic that the effort expended in developing the TUELRS will be acknowledged by the Department in the revised Strategy.

Until such time as the Department of Planning finalises its revision of the FNCRS Council is not in a position to make a determination as to the potential future use of the majority of the hill which falls immediately to the north of the site in and beyond the north-western corner.

Should the Department concur with inclusion of land identified in the TUELRS in the revised FNCRS, then the site subject of this rezoning submission will form a very small part of a much larger area of employment land, which will provide further development opportunities to the proponent and other interested parties.

What land should be excluded?

Apart from the *regional and local strategies* listed in the previous report to Council, the following *additional considerations* have been included in developing the revised excluded land area presented in this report:

- Compensatory planting areas to offset vegetation lost in areas covered by the TPO;
- Visual amenity and impact on view fields from off-site, including nearby residential suburbs;
- Potential safety impacts for motorists travelling the Pacific Highway;
- Stability of batter and cuttings on the Pacific Highway;
- Ability to revegetate and conceal steep rock faces, and
- Concerns and comments expressed by Councillors at the recent site inspection.

The area of land on the southern boundary offered as a *compensatory offset* for loss of high value vegetation in the area protected by Council's TPO 2004 is considered to be appropriate in size and location, and once revegetated will support the consolidation of vegetation on both Council-owned land immediately to the east and land protected under Council's TPO 2004 on the site.

The visibility of cut batters from the north has the potential to be significant; with views into the site extending as far north as Seabreeze Estate, Koala Beach Estate and hills to the north on the opposite side of the flood plain.

The Roads and Traffic Authority has advised, in part, that due to the high visibility of the proposed development, an independent road safety audit will be required; they have also raised concerns about slope stability of embankments supporting the Pacific Highway were excavation as proposed be undertaken.

In addition to these considerations is the desire of the proponent to utilise the material won from excavation of the hill in the north-western corner for development of land to the north of Kudgerie Avenue in subsequent stages of the development, notwithstanding current limitations of the FNCRS as discussed above.

Finalising the area of excluded land

Since the site inspection, Council officers have considered the on-site assessment by Tweed Councillors and staff and again met with the proponents, who subsequently provided a response to Council's report comprising a revised development footprint as illustrated in Figure 5 below.

Although the proponents revised option provides an improved level of environmental protection the encroachment into the steep and vegetated land along the lower slopes of the vegetated land on the southern boundary remains. The proponent's revised plan continues with the proposition of removing the entire hill in the north-western corner.

This report proposes, with the intent to set a benchmark which demonstrates Council's desire to better manage and support development that is more sympathetic to the natural landscape, that Option 1 below is the better and preferred option for the development of the subject site..

As discussed above, alternative options have also been prepared to allow a balanced consideration of the issues and available options for proceeding with a rezoning of the site.

Option 1: Exclude land with slopes generally greater than 18 degrees (Figure 1)

The boundary as shown in Figure 1 below is to be recognised as the boundary of excluded land.

This alternative represents a revision of the area presented in Council report of 15 June 2010 to accommodate concerns about extent of proposed earthworks.

This boundary is generally represented by the 35 metre AHD contour, which closely reflects the change in slope of land generally in excess of 18 degrees. This line would also exclude all land above the designated contour on the hill in the north-western corner, and provide limited fill to be won from steep land below the contour.

Option 2: Exclude land with slopes generally greater than 18 degrees; reshape the hill (Figure 2)

The boundary as shown in Figure 2 below is to be recognised as the boundary of excluded land.

This is a hybrid proposal and represents a response developed following the site inspection with Councillors and discussions with the proponent, which excludes the majority of steep and vegetated land in the south, yet provides the proponent with surplus material for fill operations from the hill in the north-western corner (assuming permissibility under the revised FNCRS), yet at the same time generating a finished landscape typical of adjoining land.

As a compromise this option would ensure a finished landscape (resulting from development in future stages not related to this rezoning) to be typical of adjoining topography and thereby minimise any adverse visual impact, yet at the same time providing an opportunity for the proponent to take advantage of surplus material won in the reconstruction of this section of the site and adjoining land.

Option 3: Exclude all land with slopes greater than 18 degrees (Figure 3)

The boundary as shown in Figure 3 below is to be recognised as the boundary of excluded land.

This is a conservative boundary which would exclude all land in excess of 18 degrees and provide maximum protection of steep lands, minimise any immediate or long-term negative impact on the visual impact of the development, and would exclude any use of material from the hill.

Option 4: As presented in Council report of 15 June 2010 (Figure 4)

This option is as presented in the report to the 15 June 2010 Council meeting, and provides opportunity for winning of fill from the hill, but does not stipulate a finished landform as would be gained in Option 2 above.

Option 5: As proposed by the proponent (Figure 5)

This is the proposal as presented by the proponent, which considers the development envelop as the predominant parameter used to allocate excluded land once development has been accommodated.

Comparing each alternative

From the Council officers' perspective, there is little difference in benefit between Options 1 and 3 as both restrain development to the lower slopes, minimising batter heights and any potentially adverse visual impacts, and retain the majority of the hill in the north-western corner, with Alternative 3 providing the option for a small amount of cut material for fill on-site.

Option 2 provides the opportunity to gain fill material from a large part of the hill should development become permissible at some future date, but not to the extent requested in the proponent's proposal. This option would also allow for the finished landscape to be similar in shape and slope to the adjoining natural landscapes, thereby facilitating better revegetation and minimising any long-term negative visual impacts.

Need for security over the future of excluded land

As recommended in the resolution, it is imperative that Council secure a legally binding agreement with the landowner, the proponent and their heirs and successors to ensure that land excluded from the rezoning submission will be revegetated and managed to ensure long-term viability and sustainability of the flora and fauna occupying the site.

It is recommended that Council Officers negotiate with the landowner for the restoration, revegetation, contributory off-set planting, maintenance, and protection of vegetation, as necessary, through a legally binding agreement, and that a satisfactory resolution of these matters be concluded prior to the gazettal of any rezoning under GT1/LEP/2000/85 (Amendment no.85), and that land identified as unsuitable for rezoning for urban purposes be rezoned to reflect the environmental qualities and constraints of the land.

FIGURE 1: Option 1 – Preferred option.
 This option excludes land generally above 18 degrees

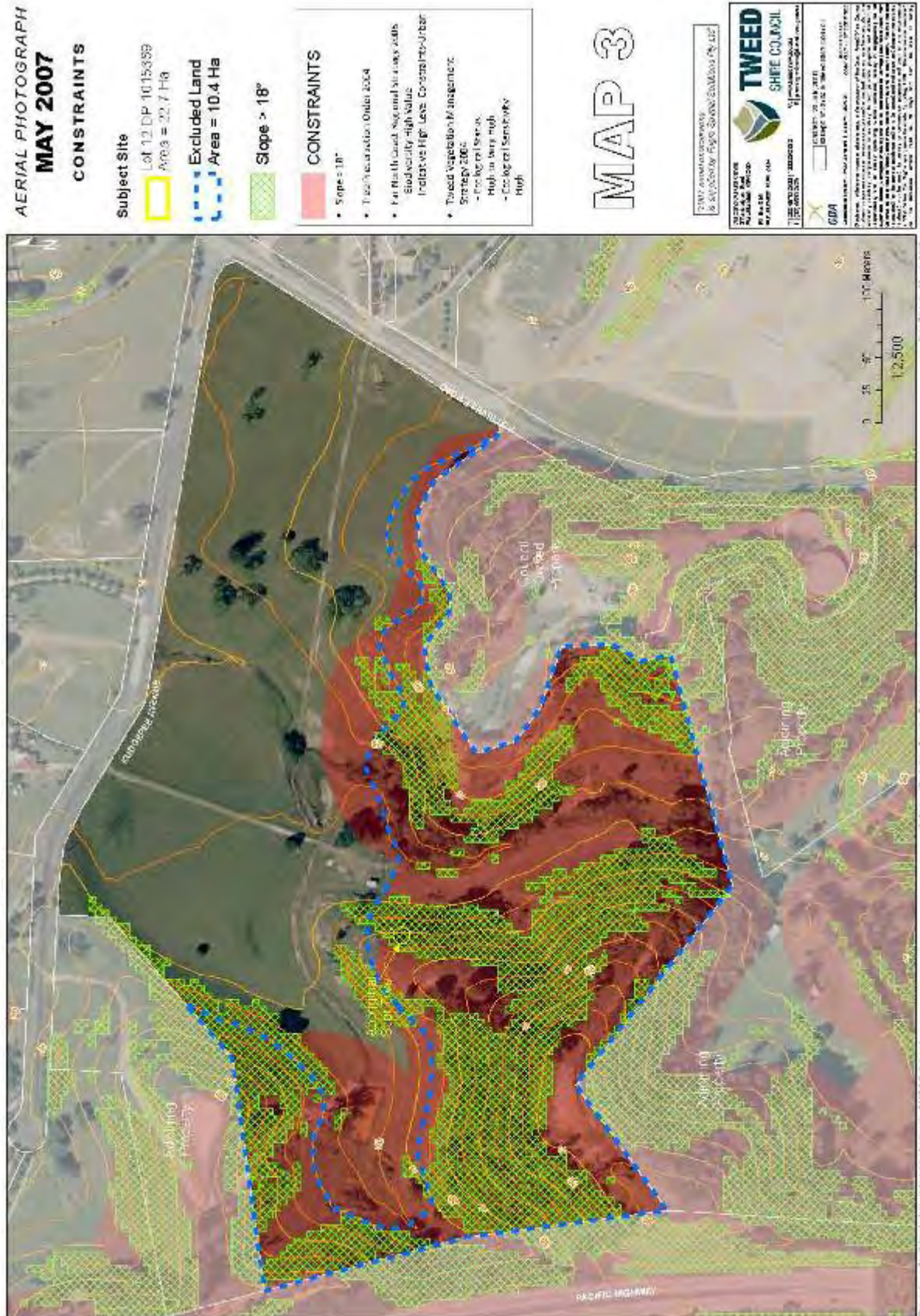


FIGURE 2: Option 2 – Exclusion of land to the south generally above 18 degrees, with removal of the hill in the north-western corner and remodelling of slope to produce slope angles typical of adjoining land as part of this and future development proposals.

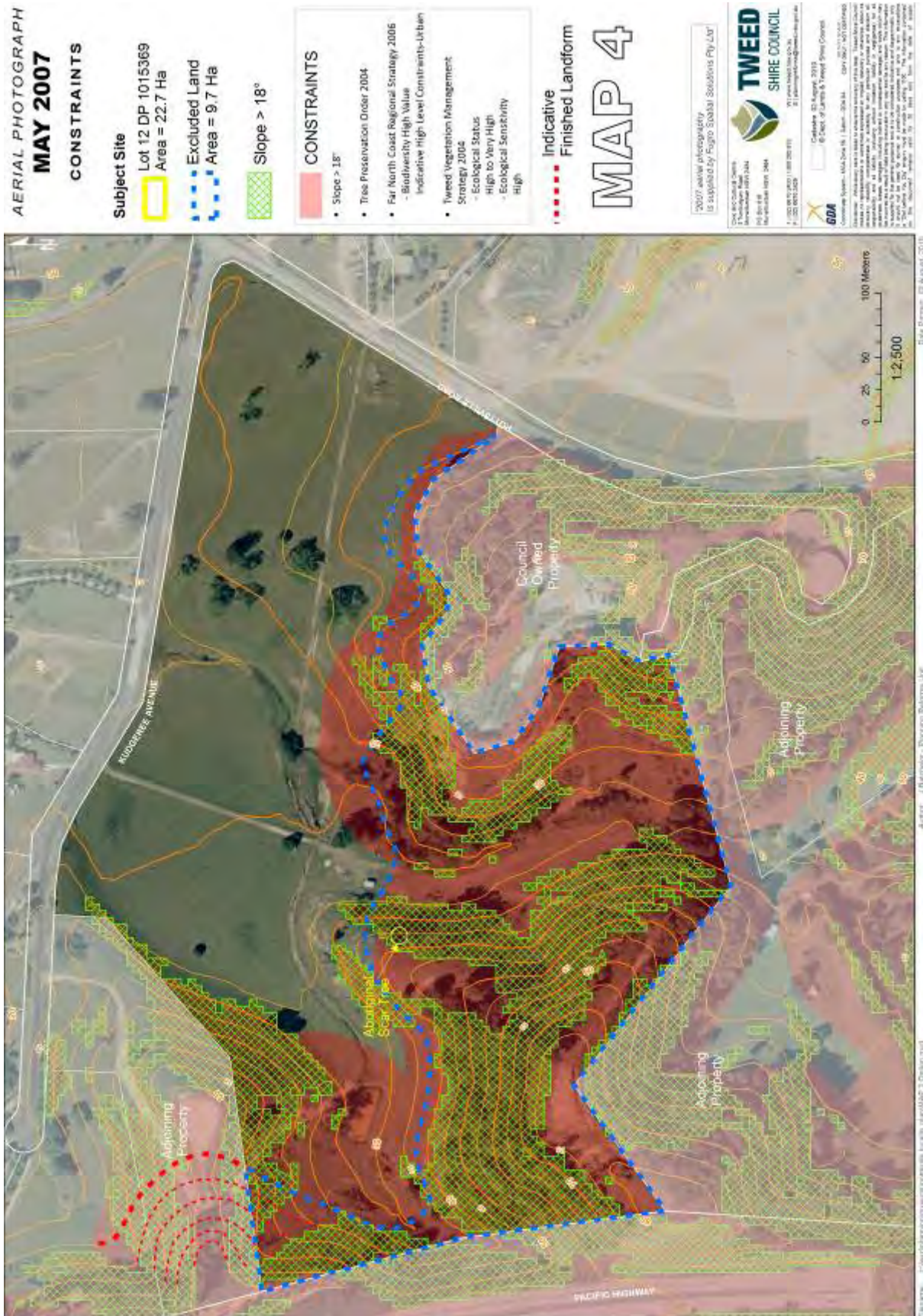


FIGURE 3: Option 3 – Exclusion of all land over 18 degrees
 This is the most conservative option and excludes all land steeper than 18 degrees.

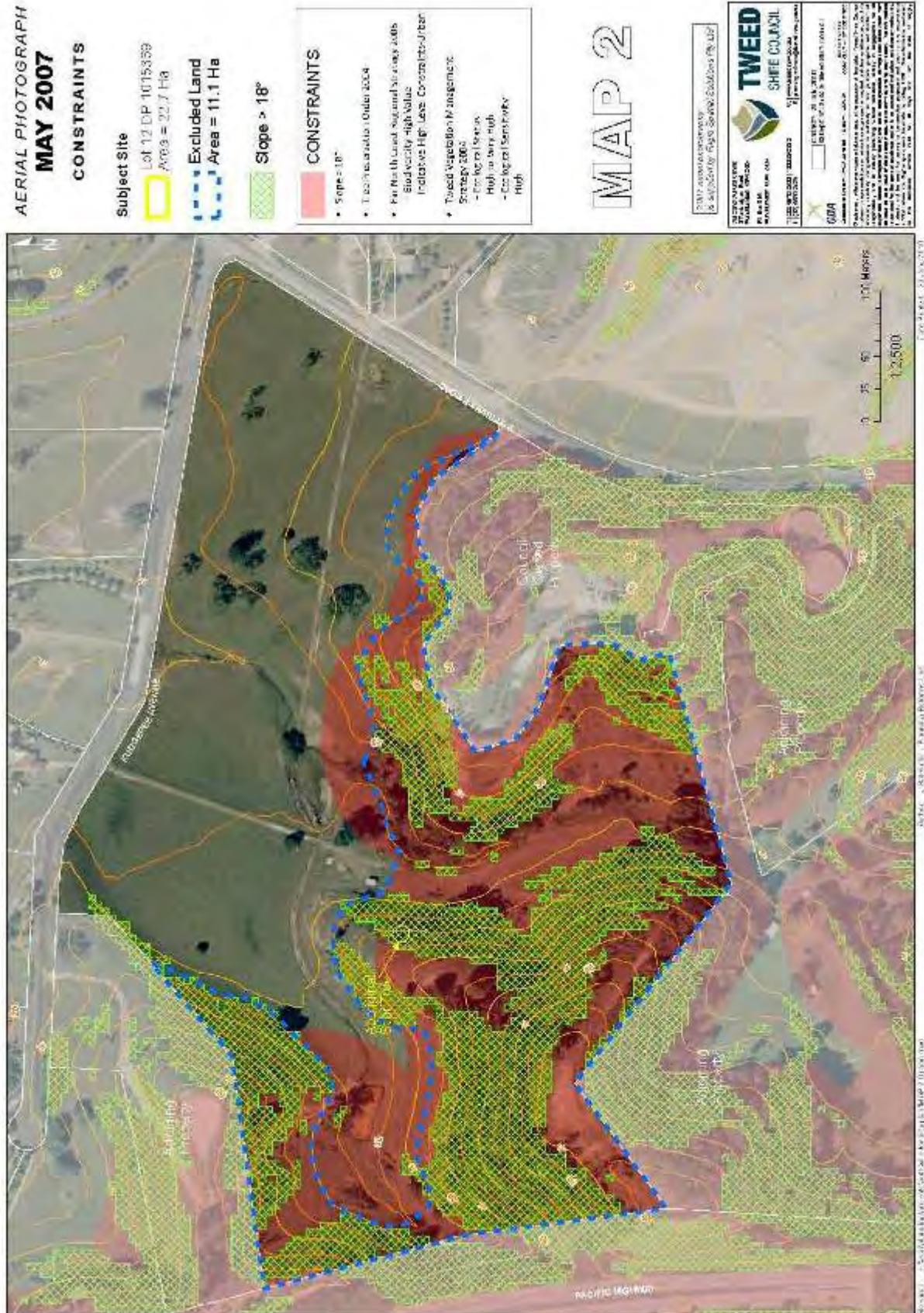


FIGURE 4: Option 4: - Area of excluded land as proposed in report to Council meeting of 15 June 2010 (prior to site inspection)

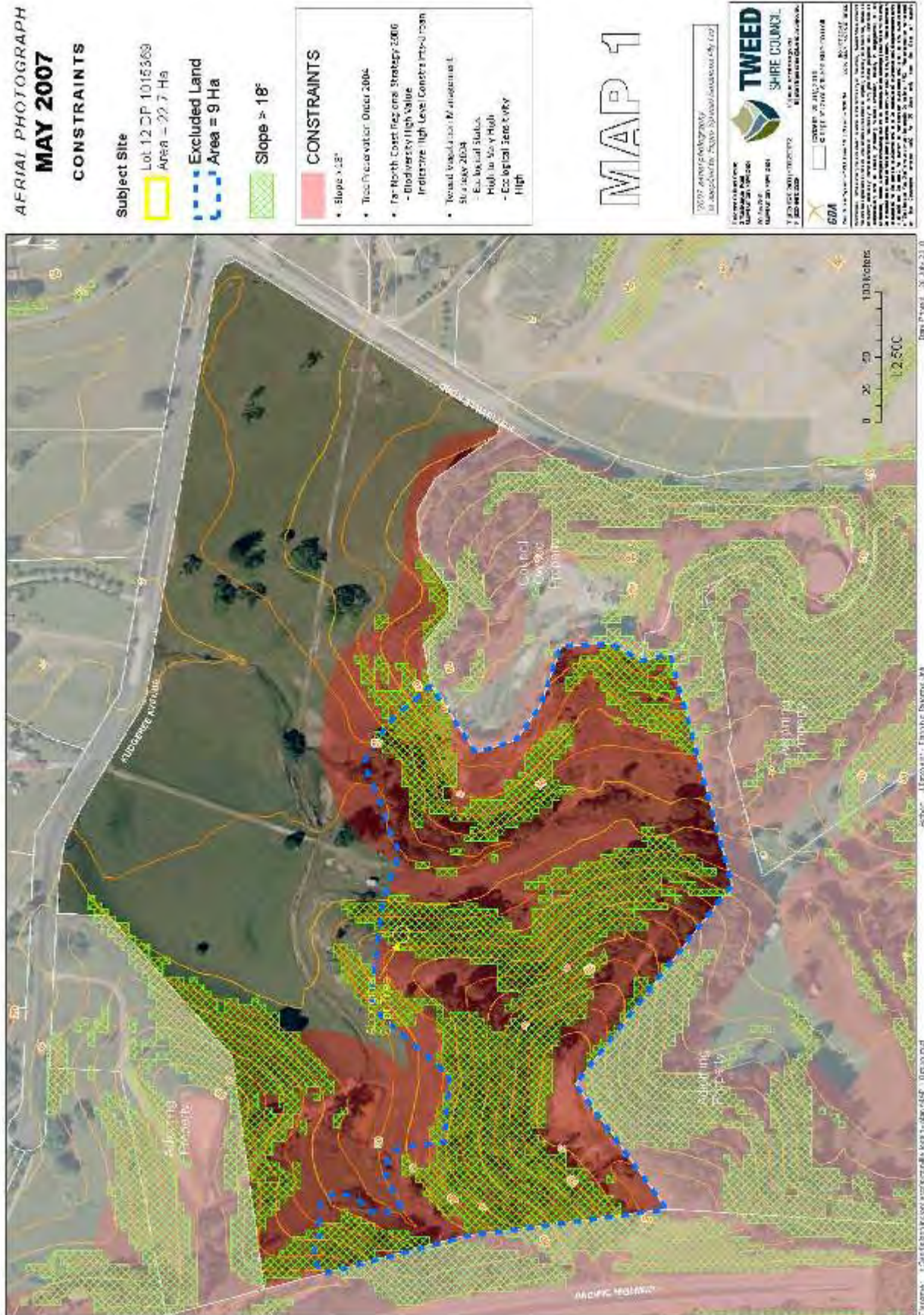
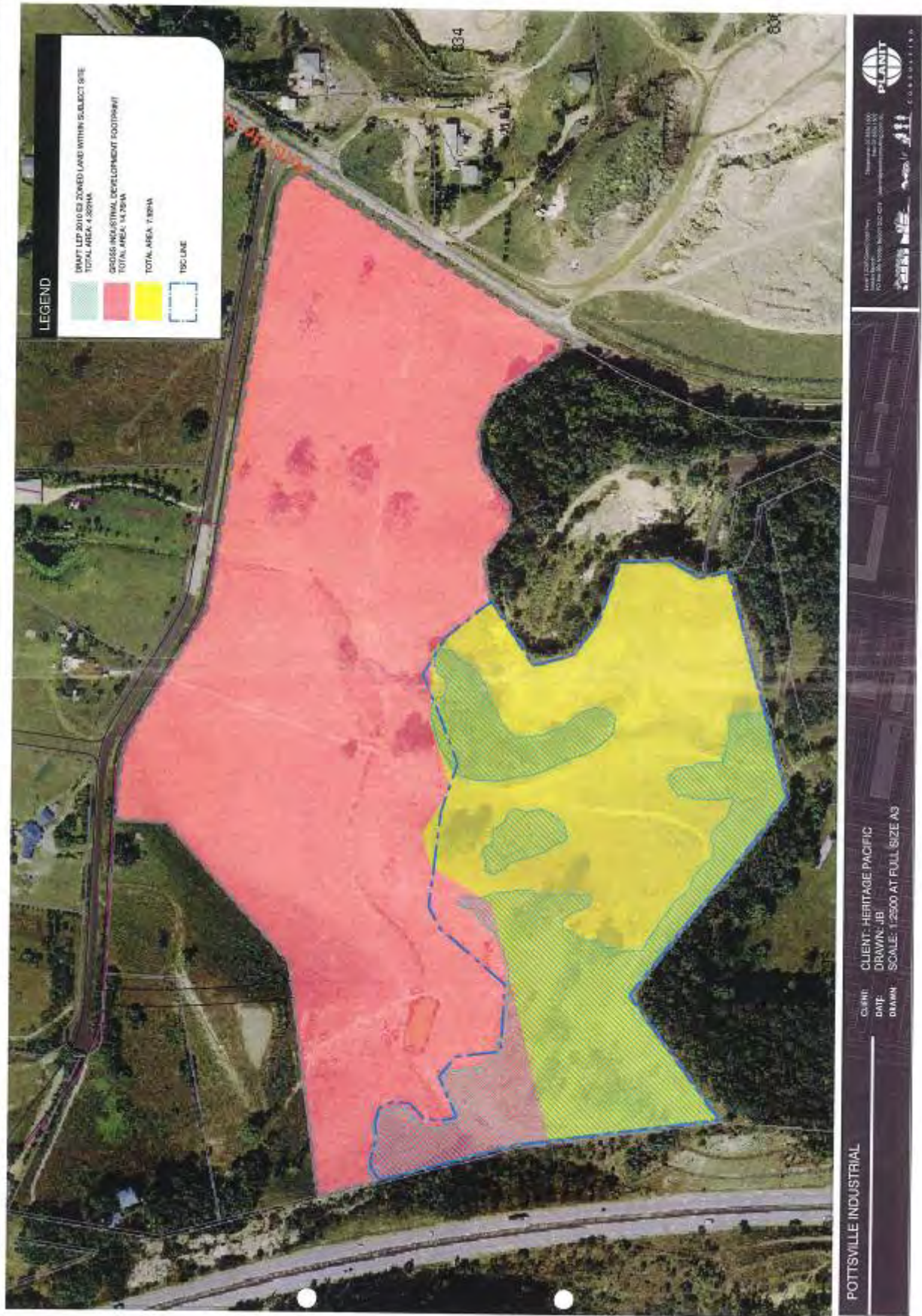


FIGURE 5: Option 5: - Revised development footprint (pink), and excluded land (yellow) as proposed by the Proponent



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should Council resolve to proceed with legal proceeding in respect of the breach of the Tree Preservation Order 2004 further legal costs will be incurred. The recommendations of this report which seek to avoid litigation of this matter will minimise further legal costs and would likely result in a better environmental outcome.

Further, should Council not proceed to excise off that part of the site identified as heavily constrained and unsuitable for rezoning for urban purposes additional resource costs are likely to arise through complications arising and associated with the rezoning of environmentally constrained land.

POLICY IMPLICATIONS:

The clearing of vegetation on land where the TPO applies is permissible only with consent. The policy impact arising from pursuing a negotiated outcome is seen to be positive as it reinforces the objectives of the TPO in respect of vegetation retention and maintenance. There is no guarantee that any successful legal proceeding will result in the revegetation of the site over a fine or the same extent that could be negotiated with the landowner on the basis of not proceeding with the rezoning application.

CONCLUSION

A number of significant issues have impacted the progress of this rezoning application, including: attempts to extend development into heavily constrained land, sewerage provision, geotechnical constraints, loss of vegetation protected by Council's TPO, and burning of the Aboriginal heritage scar tree.

This report seeks to finalise matters relating to the extent of land to be excluded for the rezoning proposal, and thereby remove the majority of vegetation related issues affecting this proposal.

After protracted negotiations with the proponent, the matter of land to be excluded from this rezoning is eminent, however, the proponent is keen to retain the opportunity to salvage fill material from the removal of the hill in the north-western corner as part of this and future rezoning and development proposals.

Following a site inspection with Councillors the following alternatives regarding the extent of land to be excluded are provided:

- **Option 1:** Exclude all land with slopes in excess of 18 degrees;
- **Option 2:** Exclude the majority of land in excess of 18 degrees to the south of the site, allow removal of the majority of the hill, but with reforming of the finished landscape typical of adjoining natural land slopes, as part of this and future development;
- **Option 3:** Exclude the majority of land in excess of 18 degrees, and
- **Option 4:** Exclude the majority of land in excess of 18 degrees, and

- **Option 5:** As proposed by the proponent.

Redefining the boundary of the area subject to rezoning is an essential and limiting component in the assessment and review of this proposal, which once resolved, and pending satisfactory resolution of sewerage issues will allow this proposal to be referred to the Department of Planning for issue of a section 65 certificate certifying that the draft plan may be publicly exhibited.

Council has committed substantial resources to the resolution of these matters and now proposes an opportunity to conclude the matter of land to be excluded from the rezoning, and seeks Council's resolution of the preferred option.

Council officers are still waiting on advice from the DECCW with respect to the scar tree, and will report back to Council on the advice once received.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

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- 11 **[PR-CM] Development Application DA07/0945 for Multi Dwelling Housing Consisting of 25 Residential Units at Lot 290, 630 DP 755740; Lot 1 DP 781512, No. 7 Elsie Street, Banora Point**

ORIGIN:

Development Assessment

FILE NO: DA07/0945 Pt5

SUMMARY OF REPORT:

The subject application was lodged in September 2007 for forty six (46) multi-dwelling housing units. On 14 October 2008 the applicant submitted a redesign to the development to provide clearance of the sewer main traversing the property.

The original plans submitted with the application were deficient of the elevation plans. The applicant was informed that there were numerous constraints and issues that required further information.

The subject site has a sensitive vegetation community, to the north, sewer mains traversing the property, stormwater issues, a steep site and is bushfire prone land.

Having regard to the extent of outstanding information, the sensitive nature of the site, the considerable physical constraints on the site and the bulk and scale of the design, the proposed development was originally recommended for refusal. The application was considered by Council on 18 November 2008 recommending refusal. Council resolved to defer the application to allow additional information to be submitted.

The amended information was received with a number of changes including reducing the units to a total of twenty five (25) units. The following report will go into these amendments in greater detail.

These matters have now been resolved except for additional information regarding the existing vegetation as such, deferred commencement consent is recommended.

RECOMMENDATION:

That Development Application DA07/0945 for multi dwelling housing consisting of 25 residential units at Lot 290, 630 DP 755740; Lot 1 DP 781512, No. 7 Elsie Street Banora Point No. 7 Elsie Street Banora Point No. 7 Elsie Street Banora Point be approved subject to the following conditions: -

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within twelve (12) months of the date of notification.

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

SCHEDULE "A"

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

- A. Demonstrate to the satisfaction of the General Manager or delegate in plan and report format that the proposed development and all associated infrastructure and buffer requirements will not cause an impact on the remnant Endangered Ecological Community (EEC) "Lowland Rainforest on Floodplain on the NSW North Coast bioregion" that reduce the long-term viability of that remnant or lead to deleterious impacts on other EEC's downslope on adjoining properties.

SCHEDULE B

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

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following Plans;
- Drawing No. SW001 Issue A; and
 - Drawing No. G001 Issue G
- prepared by Knobel Consulting Pty Ltd and dated 05-08-09 and 12-02-10 respectively, except where varied by the conditions of this consent; and
- Drawing No. 2881 DA 02K dated 11/02/10;
 - Drawing No. 2881 DA 06J dated 06/10/09;
 - Drawing No. 2881 DAA.01 J dated 17/02/10;
 - Drawing No. 2881 DAA.02 J dated 17/02/10;
 - Drawing No. 2881 DAA.03 J dated 17/02/10;
 - Drawing No. 2881 DAA.04 J dated 17/02/10;
 - Drawing No. 2881 DAA.05 J dated 17/02/10;
 - Drawing No. 2881 DAA.06 J dated 17/02/10;
 - Drawing No. 2881 DAA.07 J dated 17/02/10;
 - Drawing No. 2881 DAB.01 H dated 19/08/09;
 - Drawing No. 2881 DAB.02 H dated 19/08/09;
 - Drawing No. 2881 DAB.03 H dated 19/08/09;
 - Drawing No. 2881 DAB.04 H dated 19/08/09;
 - Drawing No. 2881 DAB.05 H dated 19/08/09;
 - Drawing No. 2881 DAB.06 H dated 19/08/09;
 - Drawing No. 2881 DAB.07 H dated 19/08/09;
 - Drawing No. 2881 DAB.08 H dated 19/08/09;
 - Drawing No. 2881 DAB.09 H dated 19/08/09;
 - Drawing No. 2881 DAB.10 H dated 19/08/09;
 - Drawing No. 2881 DAB.11 H dated 19/08/09;
 - Drawing No. 2881 DAB.12 H dated 19/08/09;
 - Drawing No. 2881 DAC.01 K dated 06/10/09;

- Drawing No. 2881 DAC.02 L dated 17/02/10;
 - Drawing No. 2881 DAC.03 K dated 06/10/09;
 - Drawing No. 2881 DAC.04 K dated 06/10/09;
 - Drawing No. 2881 DAC.05 K dated 06/10/09;
 - Drawing No. 2881 DAC.06 K dated 06/10/09;
 - Drawing No. 2881 DAC.07 K dated 06/10/09; and
 - Drawing No. 2881 DAC.08 K dated 06/10/09.
- prepared by Alex Enborisoff Architect, 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, approved modifications to any existing public utilities situated within or adjacent to the subject property.
- [GEN0135]
4. Sewer manholes are present on this site. These manholes are not to be covered with soil or other material.
Should adjustments be required to the sewer manholes, then application shall be made to Council's Community and Natural Resources Division for approval of such works.
- [GEN0155]
5. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.
- [GEN0265]
6. Stormwater management shall be in general accordance with the Stormwater Report prepared by Knobel Consulting Pty Ltd, dated 14 October 2009, except where varied by the conditions of this consent.
The large stormwater inlet pit capturing runoff from Elsie Street (between Lot 576 DP755740 and Lot 577 DP755740) as shown on Drawing No. SW001 Issue A, dated 05-08-09, prepared by Knobel Consulting Pty Ltd shall be contained entirely within the subject site.
The Developer is responsible for all costs associated with this inlet and the associated drainage network, with the owner of the development inheriting all liability and maintenance responsibility for the structure.
- [GENNS02]
7. Management of the large stormwater inlet capturing runoff from Elsie Street (between Lot 576 DP755740 and Lot 577 DP755740) and associated drainage must be included within the Body Corporate Management Plan, advising owners of their maintenance responsibilities.
The plan must also clearly advise that Council hold no liability and maintenance responsibility for the inlet structure or the associated drainage infrastructure.
- [GENNS03]
8. Proposed Block C may be constructed over Council's existing sewer main, provided;
- An easement (clear of any structures except where the building proper straddles the sewer main) is provided centrally over the main. The easement width at any one point shall be at least twice the depth to the main to the finished surface level of the under-croft car park, plus the diameter of the main, with a minimum width of 3.5m.
-

- Any proposed piers or foundations are located clear of the easement and outside the zone of influence of the sewer main.
- A vertical clearance of no less than 3.5m is provided at any location.
- The under-croft car park is an open structure.
- Adequate access (providing a minimal height clearance of 2.4m) must be available to access the easement at all times.
- The finished surface of the under-croft car park shall be Asphaltic Concrete (AC), unless approved otherwise by Council.

[GENNS04]

9. Stormwater management through the development must incorporate the following;

- Any overtopping of the inlet chamber (as shown on Drawing No. SW001 Issue A, dated 05-08-09, prepared by Knobel Consulting Pty Ltd) must be managed such that stormwater does not bypass around the structure and cascade over the retaining wall in an uncontrolled manner.
- An overland flow path sized to convey 50% of the peak Q100 flow shall be provided to convey overtopping flows safely through the site. The profile of the overland flow path must provide a minimum freeboard of 300mm to the finished floor level of any building within the development.
- Suitable access for maintenance must be provided to the structure at all times
- Permanent level spreaders and energy dissipaters are required downstream of all discharge headwalls to ensure that stormwater discharging onto downstream property has no adverse impacts and is dispersed as sheet flow over the maximum possible width.
- All weather access for maintenance is to be provided to all of these structures.

[GENNS05]

10. The landscaped, and any compensatory habitat, areas are to be maintained in accordance with the *Planning for Bushfire Protection Guidelines* and the *Standards for Asset Protection Zones* and the *Vegetation and Fuel Management Guidelines* in the approved Environmental Restoration Plan (ERP).

[GENNS05]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

11. The developer shall provide the following parking facilities including parking for the disabled (as required) in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code.
- A minimum of 8, 18 & 21 residence car parking spaces for Housing Block A, B and C respectively,
 - A minimum of 2, 3 & 4 designated visitor car spaces with unrestricted access for Housing Block A, B and C respectively,
 - A minimum of 3 designated, durable and pervious car wash bays
 - Parking for a minimum of 50 bicycles for the entire development.

Full design detail of the proposed parking and maneuvering areas shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

[PCC0065]

12. Section 94 Contributions

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

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

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

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

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

- a. **Banora Point West/Tweed Heads South (DCP Section B3)**
 Open Space Passive (Casual):
 16.8746 ET @ \$2184 per ET \$36854.00
 (\$2184 base rate + \$0 indexation)
 S94 Plan No. 1
- b. **Banora Point West/Tweed Heads South (DCP Section B3)**
 Open Space Passive (Casual):
 16.8746 ET @ \$537 per ET \$9062.00
 (\$537 base rate + \$0 indexation)
 S94 Plan No. 1
- c. **Tweed Road Contribution Plan:**
 78 Trips @ \$936 per Trips \$73008.00
 (\$851 base rate + \$85 indexation)
 S94 Plan No. 4
 Sector2_4
- d. **Shirewide Library Facilities:**
 16.8746 ET @ \$792 per ET \$13365.00
 (\$792 base rate + \$0 indexation)
 S94 Plan No. 11

- e. **Bus Shelters:**
 - 16.8746 ET @ \$60 per ET \$1012.00
 - (\$60 base rate + \$0 indexation)
 - S94 Plan No. 12
- f. **Eviron Cemetery:**
 - 16.8746 ET @ \$120 per ET \$2025.00
 - (\$101 base rate + \$19 indexation)
 - S94 Plan No. 13
- g. **Extensions to Council Administration Offices
& Technical Support Facilities**
 - 16.8746 ET @ \$1759.9 per ET \$29697.61
 - (\$1759.9 base rate + \$0 indexation)
 - S94 Plan No. 18
- h. **Cycleways:**
 - 16.8746 ET @ \$447 per ET \$7543.00
 - (\$447 base rate + \$0 indexation)
 - S94 Plan No. 22
- i. **Regional Open Space (Casual)**
 - 16.8746 ET @ \$1031 per ET \$17398.00
 - (\$1031 base rate + \$0 indexation)
 - S94 Plan No. 26
- j. **Regional Open Space (Structured):**
 - 16.8746 ET @ \$3619 per ET \$61069.00
 - (\$3619 base rate + \$0 indexation)
 - S94 Plan No. 26

[PCC0215/PSC0175]

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

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

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

Water DSP4:	14.4 ET @ \$11020 per ET	\$158688
Sewer Banora:	19 ET @ \$5295 per ET	\$100605

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

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

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

- [PCC0265/PSC0165]
14. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works as set out in Council's fees and charges at the time of payment.

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

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

- [PCC0275]
15. 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 installments, the first installment 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]
16. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, description of material, proposed use of material, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for the approval of the General Manager or his delegate.

- [PCC0465]
17. The construction of any retaining wall or cut/fill batter must at no time result in additional runoff or ponding occurring within neighbouring properties.

Cut and fill controls shall be in accordance with Council's DCP Section A1 – Residential and Tourist Development Code - Part C - Residential Flat Buildings And Shop-Top Housing which limits;

- Cut areas to be set back from the boundaries at least 900mm;
- Fill areas are to be setback from the boundary a minimum of 1.5m.
- Excavations in excess of one metre within the confines of the building and on driveways may be permitted, to allow for basement garages providing the excavations are adequately retained and drained, in accordance with engineering details.

Catch drains shall be provided on the top side of all retaining walls in accordance with Council's Development Design Specification D6 – Site Regrading.

Safety fencing and guard rail shall be provided, where required.

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]

18. 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]

19. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works: -

- (a) Provision of a concrete vehicular access in accordance with Section A2 – "*Site Access and Parking Code*" of Council's consolidated Tweed Development Control Plan and Council's "*Driveway Access to Property – Part 1*" Design Specification June 2004.
- (b) Elsie Street shall be resealed for it's full width from the development access to the Laura Street intersection.
- (c) Drainage works within the unnamed road reserve between Lot 576 DP755740 and Lot 577 DP755740.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- Road works/furnishings
- Stormwater drainage
- Water and sewerage works
- Sediment and erosion control plans
- Location of all services/conduits
- Traffic control plan

[PCC0895]

20. Any sheet piling that utilises ground anchors that extend under public roads or land must not be used unless the applicant or owner enter into a contract regarding liability for the ground anchors and lodges an application under Section 138 of the Roads Act together with an application fee of \$10,000 and a bond of \$25,000 for each road frontage. This bond will be refunded upon the removal of the ground anchors. If the ground anchors are not removed prior to the occupation/use of the development, the bond shall be forfeited to Council.

[PCC0955]

21. 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) Surchage 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]
22. 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]
23. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. This can be achieved by On site stormwater detention (OSD) utilising above and or below ground storage. OSD devices including discharge control pits (DCP) are to comply with standards in the current version of The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook" except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.
- All stormwater must initially be directed to the DCP. Details are to be submitted with the S68 stormwater application.

24. 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.

25. Prior to the issue of a Construction Certificate, applications shall be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for any of the following works including (but not limited to);

[PCC1185]

- a. water,
 - Disconnection of any existing water meters and provision of a Bulk meter. The meter is to be installed by Council at the Developer's expense,
- b. sewerage, including;
 - any decommissioning or relocation of existing public sewer mains within the site.
 - details of any proposed bridging over sewer mains, showing that proposed piers or foundations are located outside the zone of influence of the sewer main
 - Note, the existing sewer network within the development site is to remain active at all times.
- c. drainage works,
 - the connection of a private stormwater drain to a public stormwater drain,
 - the installation of stormwater quality control devices,
 - erosion and sediment control works.

26. A Revised Traffic Noise Impact report is to be prepared for submission to council prior to the issue of the Construction Certificate. Such Report shall consider any proposed Pacific Highway upgrading information and shall make recommendations relating to the provision of noise barriers and the like and/or any necessary building shell acoustic treatments required to achieve internal noise criteria.

[PCC1195]

The Report shall be prepared by an appropriately qualified and experienced acoustic consultant.

All recommendations as to barriers and building shell treatments as contained within the Report shall be implemented to the satisfaction of Council's General Manager or his Delegate.

Notwithstanding the above the following internal noise objectives for all habitable rooms under ventilated conditions shall as a minimum comply with the following:

All habitable rooms other than sleeping rooms: 45 dB(A) Leq(15hr) and 40 dB(A) Leq (9hr) and Sleeping rooms : 35 dB(A) Leq(9hr).

[PCCNS01]

27. **An Acid Sulfate Soils Management Plan complying with the provisions of the NSW ASSMAC Guidelines shall be submitted to Council for consideration and approval by Council's Environmental Health Officer prior to the issue of the Construction Certificate. Such Report shall detail how Acid Sulfate Soils are to be managed during the construction works. All recommendations of the Acid Sulfate Soils Management Plan shall be implemented to the satisfaction of Council's General Manager or his Delegate.**

[PCCNS02]

28. **Runoff from all hardstand areas associated with the development, (including the driveway access, all car parking and hardstand landscaping areas and excluding roof areas and the drainage system capturing stormwater runoff from Elsie Street between Lot 576 DP755740 and Lot 577 DP755740) must be treated to remove oil and sediment contaminants prior to discharge. All permanent stormwater treatment devices must be sized according to Council's Development Design Specification D7 – *Stormwater Quality*, Section D7.12. Engineering details of the proposed devices, including maintenance schedules, shall be submitted with a s68 Stormwater Application for approval prior to issue of a Construction Certificate.**

The Construction Certificate Application shall also 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*.

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*.

The stormwater and site works may incorporate water sensitive design principles and where practical, integrated water cycle management.

Specific Requirements to be detailed within the Construction certificate application include:

- (a) Shake down area shall be installed within the property, immediately prior to any vehicle entering or exiting the site prior to any earthworks being undertaken.**
- (b) Roof water does not require treatment, and should be discharged downstream of treatment devices, or the treatment devices must be sized accordingly.**

[PCCNS03]

29. **Prior to the issue of a Construction Certificate, application for Road Closure (including payment of all associated fees) shall be made to Council covering all drainage infrastructure proposed within Council's public road (between Lot 576 DP755740 and Lot 577 DP755740) as per Drawing No. SW001 Issue A, prepared by Knobel Consulting Ptd Ltd, dated 05-08-09. Note , the actual inlet structure must be contained entirely within the subject site.**

[PCCNS04]

30. **Prior to the issue of the Construction Certificate, amended plans for Block C complying with Part D (Access and Egress) of the BCA are to be submitted to Council for approval.**

[PCCNS05]

31. A detailed Landscaping Plan is to be submitted and approved by Council's General Manager or his delegate which includes:
- a. an assessment of the proportion of the site (%) intended to be landscaped;
 - b. a montage showing mature landscaping with selected native species in relation to building elevations;
 - c. a full revision of the plant species list is required to illustrate use of at least 80% of total plant numbers as local native species, no environmental weed species capable of spreading into surrounding down slope natural environments and restricted selected plant species suited to site conditions;
 - d. deletion of the following species currently included on submitted landscaping plans: *Acmena hemilampra* (Broad-leaved Lillypilly), *Araucaria cunninghamii* (Hoop Pine), *Acronychia imperforata* (Beach Acronychia), *Acronychia littoralis* (Scented Acronychia), *Allocasuarina torulosa* (Forest She-Oak), *Alpinia purpurata* (Purple Lady), *Banksia aemula* (Wallum Banksia), *Banksia integrifolia* (Coast Banksia), *Banksia robur* (Swamp Banksia), *Banksia serrata* (Old Man Banksia), *Callitris columellaris* (Coastal Cypress Pine), *Cassia marksiana* (Brush Cassia), *Eucalyptus microcorys* (Tallowwood), *Eucalyptus pilularis* (Blackbutt), *Eucalyptus robusta* (Swamp Mahogany), *Eucalyptus tereticornis* (Forest Red Gum), *Ficus macrophylla* (Moreton Bay Fig), *Gossia fragrantissima* (Fragrant Myrtle), *Grevillea Coastal Glow*, *Lomandra tanika* (Mat Rush), *Lophostemon confertus* (Brushbox), *Melaleuca quinquenervia* (Paperbark), *Melicope elleryana* (Pink Euodia), *Sophora tomentosa* (Silver Bush), *Syzygium jambos* (Rose Apple), and *Syzygium moorei* (Durobby).
 - e. Provision of replacement species selected in accordance with Appendix 5 of Planning for Bushfire Protection Guidelines (2006) and Section 6 of the Asset Protection Standards, as species that have low flammability (low ignitibility, low sustainability and combustibility, eg broad and fleshy leaves or very thin and difficult to ignite, smooth barked, low or lacking volatile oil glands or resin, compact dense foliage), that are suitable for planting near buildings, and do not have the potential to impact on the ecological integrity of the threatened species and ecological communities occurring in the locality (within 5 km surrounding site). Species that may be included are: *Blechnum cartilagineum* (Gristle Fern), *Cyathea cooperi* (Tree Fern), *Cordyline congesta* (Tooth-leaved Palm Lily), *Alocasia brisbanensis* (Cungevoi), *Glochidion sumatranum* (Cheesetree), *Syzygium australe* (Brush Cherry), *Syzygium smithii* (Lillypilly), *Syzygium oleosum* (Blue Lillypilly), *Microsorium scandens* (Fragrant Fern), *Aphananthe philippinensis* (Rough-leaved Elm), *Arthropteris tenella* (Fern), *Piper novae-hollandiae* (Giant Pepper Vine), *Polliia cripata* (Polliia), *Tristaniopsis laurina* (Water Gum), *Waterhousea floribunda* (Weeping Lillypilly), *Streblus brunonianus* (Whalebone Tree), *Eleaocarpus obovatus* (Hard Quandong), *Cryptocarya obovatus* (Pepperberry), and *Elatostemma reticulatum* (Rainforest Spinach).

- f. species proposed on the landscaping plans appropriate for inclusion on amended landscaping plans include: *Crinum pedunculatum* (Swamp Lily), *Baloskion tetraphyllum* (a sedge), *Hibbertia scandens* (Climbing Guinea Flower), *Lomandra longifolia* (Spiny-headed Mat Rush), and *Pandorea jasminoides* (Bower Vine).
32. An Environmental Restoration Plan (ERP) is required to be prepared by a person qualified in bushland regeneration or ecological restoration and with knowledge and experience in local vegetation community (eg. wetlands, floodplains, rainforest,) for areas of environmental repair works and for proposed planting areas. The ERP is for the protection and management of the Lowland Rainforest on Floodplain endangered ecological community that has been recorded as occurring on the subject site. The ERP shall be submitted and approved by the General Manager or his delegate and shall include:
 - a. an appraisal of the present condition of remnant vegetation;
 - b. consideration to mitigating direct and indirect impacts (resulting from proposed fill, acid sulphate soil management, bushfire risk mitigation, retaining walls, landscaping, erosion control measures, stormwater quality controls, habitat restoration-compensation) on and off site, and to the development of appropriate mitigation and compensatory measures;
 - c. a plan overlaying an aerial photograph of the site which divides the area into zones for regeneration and zones for planting, including connections between existing vegetation where appropriate;
 - d. a management strategy for each of the zones, including the approach, methods and techniques to be used for vegetation restoration, with a preference for natural regeneration;
 - e. a schedule of local native plant species to be used for planting (if appropriate), with consideration to the assessment of extent of species in the general locality and their continued viability, and details of any proposed propagation and replanting activities on the site;
 - f. a program of works to be undertaken to remove invasive weed species, including measures such as weed control and protection of the known local population are to be taken to assist the continued viability of the species.;
 - g. a schedule of timing of proposed works;
 - h. a maintenance, monitoring, evaluation and reporting schedule with developer commitment for a period not less than 5 years, including monitoring to ensure that the proposed development does not lead to a long-term decrease in the size of the population of species within the endangered ecological community;
 - i. an adaptive management and corrective action statement detailing how potential problems arising may be overcome and requiring approval of the General Manager or delegate for such changes; and
 - j. a Vegetation and Fuel Management Guidelines that provide for the establishment and on-going management of the APZ in accordance with the RFS Planning for Bushfire Protection Guidelines 2006 and Standards for Asset Protection Zones

PRIOR TO COMMENCEMENT OF WORK

33. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.
- [PCW0005]
34. 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]
35. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.
- [PCW0125]
36. 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]
37. 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]

38. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, 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.

39. Any imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of the fill, nature of material, proposed use of material and confirmation that further blending, crushing or processing is not to be undertaken shall be submitted to the satisfaction of the General Manager or his delegate. Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works.

[PCW0255]

[PCW0375]

40. Prior to start of works, the PCA is to be provided with a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height, as well as on all endorsed retaining walls and structures designed over Council's sewer main. The certificate must address any loads or possible loads on the wall from structures adjacent to the wall, as well as confirm that any proposed piers or foundations are located outside the zone of influence of the sewer main.

The certificate must be supported by Geotechnical assessment of the founding material and be endorsed by Council's Community and Natural Resources Division.

41. 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.

42. The applicant is to demonstrate that the trees being retained on the site and on adjacent land have been protected in accordance with AS 4970-2009 Protection of trees on development sites.

[PCW0985]

[PCWNS01]

43. Landscaping works are to be undertaken in accordance with the approved Landscaping Plan. [PCWNS02]
44. The applicant is to demonstrate that the landscaping works have been and will be undertaken in accordance with the approved Landscaping Plan. [PCWNS03]
45. All works are to be undertaken in accordance with the approved Environmental Restoration Plan (ERP). [PCWNS04]
46. The applicant is to demonstrate that the works have been and will be undertaken in accordance with the approved Environmental Restoration Plan (ERP). [PCWNS05]

DURING CONSTRUCTION

47. All proposed works are to be carried out in accordance with the conditions of development consent, approved management plans, approved Construction Certificate, drawings and specifications. [DUR0005]
48. Construction and/or demolition 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 6.00pm
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]
49. 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.
 $L_{Aeq, 15 \text{ min}}$ 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.
 $L_{Aeq, 15 \text{ min}}$ noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence. [DUR0215]
50. All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded to the satisfaction of Council's General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation. [DUR0225]

51. All waters pumped from the site in the dewatering process are to be treated with an effective deodoriser to the satisfaction of Councils General Manager or his delegate to neutralise any offensive odours. The point of discharge shall be approved by Councils General Manager or his delegate prior to installation and shall include a water sampling outlet.
[DUR0235]
52. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by the Tweed Shire Council General Manager or his delegate.
[DUR0255]
53. 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]
54. 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]
55. 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]
56. 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]
57. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".
[DUR0795]
58. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.
[DUR0815]
59. 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]
60. Provision to be made for the designation of at least 3 durable and pervious car wash-down area/s. The area/s must be appropriately sized and identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.
[DUR0975]
61. 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]

62. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate.

[DUR0995]

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

- Noise, water or air pollution
- dust during filling operations and also from construction vehicles
- material removed from the site by wind

[DUR1005]

64. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. Such materials shall either be recycled or disposed of in a manner acceptable to Councils General Manager or his delegate.

[DUR1015]

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

[DUR1025]

66. Any air-handling system, hot or warm water system or water-cooling system and any other regulated system as defined in Part 4, Section 43 of the Public Health Act shall be installed in accordance with the requirements of Part 2, Clauses 6, 7 and 8 of the Public Health (Microbial Control) Regulation 2000.

[DUR1645]

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

[DUR1715]

68. A concrete footpath 1.2 metres wide is to be constructed on a compacted base from the north-eastern boundary of the development to Laura Street in accordance with Councils Development Design and Construction Specifications and Standard Drawing SD013.

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork and subgrade to be inspected.

[DUR1735]

69. 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]
70. The proponent must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken. [DUR1845]
71. 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 Development Design and Construction Specifications prior to any use or occupation of the buildings. [DUR1875]
72. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act. [DUR1885]
73. Where existing kerb or driveway laybacks are ~~is~~ to be removed for new driveway laybacks, stormwater connections or for any other reason, the kerb or driveway layback must be sawcut on each side of the work to enable a neat and tidy joint to be constructed. [DUR1905]
74. During construction, a "satisfactory inspection report" is required to be issued by Council for all works required under Section 138 of the Roads Act 1993. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection. [DUR1925]
75. All retaining walls in excess of 1.2 metres in height or retaining walls and structures that are approved to be constructed over Council's sewer main, must be certified by a Qualified Structural Engineer verifying the structural integrity of the structures 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 Certificate. [DUR1955]
76. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction/demolition. [DUR2185]
77. 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]
78. The guttering downpiping and roof waste water disposal system is to be installed and operational before the roofing is installed. [DUR2245]

79. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

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

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

[DUR2375]

80. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.

[DUR2435]

81. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

82. 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]

83. **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]

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

[DUR2505]

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

[DUR2515]

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

[DUR2525]

87. 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]

88. 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]

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

* 43.5°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and

* 50°C in all other classes of buildings.

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

[DUR2555]

90. 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.

[DUR2615]

91. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act.

[DUR2625]

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

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

[DUR2655]

93. All works are to be undertaken in accordance with AS 4970-2009 Protection of trees on development sites.

[DURNS01]

94. Landscaping works are to be undertaken in accordance with the approved Landscaping Plan.

[DURNS02]

94. All works are to be undertaken in accordance with the approved Environmental Restoration Plan (ERP).

[DURNS03]

96. The applicant must demonstrate that the trees being retained on the site and on adjacent land to the north and the north-eastern corner can be protected in accordance with AS 4970-2009 Protection of trees on development sites.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

97. 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]

98. Prior to the issue of an Occupation Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council. The bond shall be based on 5% of the value of the civil works approved under Section 138 of the Roads Act and Section 68 of the Local Government Act as set out in Councils Fees and Charges current at the time of payment which will be held by Council for a period of 6 months from the date on which the Occupation Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[POC0165]

99. 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]

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

[POC0225]

101. 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.

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]

103. 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]

104. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.

[POC0745]

105. 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 Development Design and Construction Specifications. [POC0755]
106. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate. [POC0855]
107. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council. Written approval from Councils General Manager or his delegate must be issued prior to the issue of an Occupation Certificate. [POC0865]
108. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices. [POC0985]
109. 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]
110. Prior to the issue of a final occupation certificate, all conditions of consent are to be met. [POC1055]
111. Prior to the issue of an Occupation Certificate, a certificate of practical completion shall be obtained from Council's General Manager or his delegate for all works required under Section 68 of the Local Government Act. [POCNS01]
112. Prior to the issue of an Occupation Certificate, documentary evidence shall be provided to Council to confirm the registration of easements for drainage of sewer, located centrally over all reticulated public sewer within the subject property. The easement width at any one point shall be at least twice the depth to the main to the finished surface level, plus the diameter of the main, with a minimum width of 3.0m for all sewer mains except the mains approved under dwelling Block C which shall provide a minimum width of 3.5m, as specified under separate condition.
All easements shall be void of any structures, unless approved otherwise by this consent or Council's General Manager or his delegate.
All easement shall be created in favour of Council. [POCSN02]
113. An Occupation Certificate shall not be issued for any building associated with this consent until the Road Closure has been completed.
An easement to drain water shall be placed over the drainage infrastructure associated with the Road Closure, providing Council legal rights to discharge stormwater from Elsie Street into this drainage system. [POCNS03]
114. Prior to the issue of an Occupation Certificate, the Developer must have purchased the portion of road closed from Council, at a value as determined by a Registered Valuer. [POCNS04]

115. Prior to the issue of any Occupation Certificate, Works as Executed Plans of all public infrastructure within the subject allotment, shall be submitted in accordance with the provisions of Tweed Shire Council Development Control Plan A5 - Subdivisions Manual and Councils Development Design and Construction Specification, D13 - Engineering Plans.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) all drainage lines, sewer lines, services and structures are wholly contained within the relevant easement created by the subdivision;**
- (b) the plans accurately reflect the Work as Executed.**

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed (WAX) plans.

[POCNS05]

USE

116. 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]

117. 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]

118. 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]

119. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer

[USE0245]

120. All commercial / industrial / residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.

[USE0875]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

120. All landscaping requirements shall be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate.

[PSC0485]

121. Environmental restoration works shall be completed to a level specified in the approved ERP prior to the release of the subdivision certificate and shall be maintained at all times to the satisfaction of the General Manager or his delegate. Trees identified for retention in the Environmental Restoration Plan shall not be removed without separate Council approval. [PSC0495]
122. The applicant is to demonstrate that the trees being retained on the site and on adjacent land have been protected in accordance with AS 4970-2009 Protection of trees on development sites. [PSCNS01]
123. All restoration works shall be completed to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. [PSCNS02]
124. The applicant is to demonstrate that the works have been undertaken in accordance with the approved Environmental Restoration Plan (ERP). [PSCNS03]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

125. At the commencement of building works and in perpetuity 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' except for the patch of rainforest vegetation on the northern side of the property.
126. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
127. Property access roads for the development shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006' except that a reversing bay 6 metres wide and 8 metres deep may be used instead of a turning circle.
128. Roller doors, tilt-a-doors and other such doors shall be sealed to prevent the entry of embers into the building
129. All new fencing shall be non-combustible.
130. A minimum 2 metre high radiant heat shield made of non-combustible materials shall be constructed along the full length of the northern, western and eastern boundaries adjacent to the hazard. All posts and rails shall be non combustible. The bottom of the fence is to be in direct contact with the finished ground level or plinth. The northern heat shields shall be inside the rainforest vegetation on the property.
131. New construction of "block A and B1" shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 29 except for the eastern facade which shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 19.
132. New construction of "block B2" shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 12.5 and undertake the following:
- A. The subfloor space shall be enclosed with either:
- a) a wall that complies with Clause 5.4 of AS39592009; or
 - b) a mesh or perforated sheet with a maximum aperture of 2 mm, made of corrosion resistant steel, bronze or aluminium; or

c) a combination of the items above.

NOTE: There are no construction requirements for subfloor supports where the subfloor space is enclosed

B. Where the subfloor space is unenclosed, the support posts, columns, stumps, piers and poles shall be:

a) of noncombustible material; or

b) of bushfire resisting timber (see AS39592009 Appendix F); or

c) a combination of the items above.

NOTE: This requirement applies to the principal building only and not to verandas, decks, steps, ramps and landings (see Clause 5.7 of AS39592009)

C. Where the subfloor space is unenclosed, flooring material, including bearers, joists and flooring less than 400 mm above finished ground level, shall be:

a) noncombustible (e.g., concrete, steel); or

b) of bushfireresisting timber (AS39592009 see Appendix F); or

c) particleboard or plywood flooring where the underside is lined with sarkingtype material or mineral wool insulation; or

d) a system complying with AS 1530.8.1; or

e) a combination of any of the items above.

NOTE: There are no construction requirements for elements of elevated floors, including bearers, joists and flooring, if the underside of the element is 400 mm or more above finished ground level.

D. In relation to unenclosed verandas, decks, steps, ramps and landings the support posts, columns, stumps, stringers, piers, poles and framing (i.e. bearers and joists) shall be:

a) of noncombustible material; or

b) of bushfire resisting timber (see AS39592009 Appendix F); or

c) a combination of the items above.

E. Parts of handrails and balustrades that are less than 125 mm from any glazing or any combustible wall shall be:

a) of noncombustible material; or

b) of bushfire resisting timber (see AS39592009 Appendix F); or

c) a combination of the items above.

NOTE: Those parts of the handrails and balustrades that are 125 mm or more from the building have no requirements.

F. External framed walls must incorporate either:

a) Breathertype sarking complying with AS/NZS 4200.1 and with a flammability index of not more than 5 (see AS1530.2) and sarked on the outside of the frame; or

b) An insulation material conforming to the appropriate Australian Standard for that material.

133. New construction of "Block B3" shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 19 and undertake the following:

A. The subfloor space shall be enclosed with either:

a) a wall that complies with Clause 6.4 of AS39592009; or

b) a mesh or perforated sheet with a maximum aperture of 2 mm, made of corrosionresistant steel, bronze or aluminium; or

c) a combination of the items above.

NOTE: There are no construction requirements for subfloor supports where the subfloor space is enclosed

- B. Where the subfloor space is unenclosed, the support posts, columns, stumps, piers and poles shall be:**
- a) of noncombustible material; or
 - b) of bushfireresisting timber (see AS39592009 Appendix F); or
 - c) a combination of the items above.
- NOTE: This requirement applies to the principal building only and not to verandas, decks, steps, ramps and landings (see Clause 6.7 of AS39592009)**
- C. Where the subfloor space is unenclosed, flooring material, including bearers, joists and flooring less than 400 mm above finished ground level, shall be:**
- a) noncombustible (e.g., concrete, steel); or
 - b) of bushfireresisting timber (AS39592009 see Appendix F); or
 - c) particleboard or plywood flooring where the underside is lined with sarkingtype material or mineral wool insulation; or
 - d) a system complying with AS 1530.8.1; or
 - e) a combination of any of the items above.
- NOTE: There are no construction requirements for elements of elevated floors, including bearers, joists and flooring, if the underside of the element is 400 mm or more above finished ground level.**
- D. In relation to unenclosed verandas, decks, steps, ramps and landings the support posts, columns, stumps, stringers, piers, poles and framing (i.e. bearers and joists) shall be:**
- a) of noncombustible material; or
 - b) of bushfireresisting timber (see AS39592009 Appendix F); or
 - c) a combination of the items above.
- E. Parts of handrails and balustrades that are less than 125 mm from any glazing or any combustible wall shall be:**
- a) of noncombustible material; or
 - b) of bushfireresisting timber (see AS39592009 Appendix F); or
 - c) a combination of the items above.
- NOTE: Those parts of the handrails and balustrades that are 125 mm or more from the building have no requirements.**
- F. External framed walls must incorporate either:**
- a) Breathertype sarking complying with AS/NZS 4200.1 and with a flammability index of not more than 5 (see AS1530.2) and sarked on the outside of the frame; or
 - b) An insulation material conforming to the appropriate Australian Standard for that material.

- 134. New construction of block C shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 40 except any building elements within 16 metres of the bushfire hazard to the north which are to be constructed to comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" Section 9. However, any material, element of construction or system when tested to the method described in Australian Standard AS1530.8.2 "Methods for fire tests on building materials, components and structures Part 8.2: Tests on elements of construction for buildings exposed to simulated bushfire attack—Large flaming sources" shall comply with Clause 13.8 of that Standard except that flaming of the specimen is not permitted. New construction of the southern elevation shall comply with Australian Standard AS3959-2009 "Construction of buildings in bush fire-prone areas" BAL 29.**
- 135. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall have a Flammability Index of no greater than 5 when tested in accordance with Australian Standard AS1530.2-1993 "Methods for Fire Tests on Building Materials, Components and Structures - Test for Flammability of Materials".**
- 136. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.**

REPORT:

Applicant: Zinkohl Pty Ltd
Owner: Rocksee Pty Ltd
Location: Lot 290, 630 DP 755740; Lot 1 DP 781512, No. 7 Elsie Street, Banora Point
Zoning: Part 2(a) Low Density Residential and Part 2(c) Urban Expansion
Cost: \$4,500,000

BACKGROUND:

The subject application was lodged in September 2007 for forty six (46) multi-dwelling housing units. On 14 October 2008 the applicant submitted a redesign to the development to provide clearance of the sewer main traversing the property.

An amended application was submitted to Council for the erection of a multi dwelling housing development comprising 34 units. The development consisted of three large buildings A, B and C, with Building B separated into B1, B2, and B3. The development consists of seventeen (17) three (3) bedroom units and seventeen (17) two (2) bedroom units:

- Block A consists of four (4) three (3) bedroom units over two residential levels with basement carparking, Block A is the only building with street frontage and pedestrian access and has northern elevation for the internal and external living areas.
- Block B consists of nine (9) three (3) bedroom units over three residential levels. Block B is divided into three modules, Block B2 and B3 are connected and B1 as a stand alone. It has adjacent carports for parking and each module has 1 unit per level.
- Block C consists of twenty two (22) units; four (4) units are three (3) bedroom units the other seventeen (17) units are two (2) bedroom. The building has two residential levels with an undercroft style parking and Block C has one lift in the middle of the building.

The configuration above went to Council on 18 November 2008 recommending refusal. Council resolved to allow 120 days to provide amended information.

The amended information was received with a number of changes including reducing the units to a total of twenty five (25) units. The development consists of three large buildings A, B and C, with Building B separated into B1, B2, and B3. The development consists of thirteen (13) three (3) bedroom units and twelve (12) two (2) bedroom units:

- Block A consists of four (4) three (3) bedroom units over two residential levels with basement carparking, Block A is the only building with street frontage and pedestrian access and has northern elevation for the internal and external living areas.
- Block B consists of nine (9) three (3) bedroom units over three residential levels. Block B is divided into three modules, Block B2 and B3 are connected and B1 as a stand alone. It has adjacent carports for parking and each module has 1 unit per level.

- Block C consists of twelve (12) units all of which are two (2) bedroom. The building has two residential levels with an undercroft style parking.

The subject site is located on the northern side of Elsie Street. The site is an irregular shape and consists of three allotments that has 42.670m frontage and the western boundary has a depth of 159.14m and the eastern boundary has a depth of 93.485m to create a total site area of 9215.59m². The site grades steeply from approximately RL 26m AHD at Elsie Street to RL 1.5m AHD at the northern boundary. The subject site is vacant and on the northern portion of the site is a significant vegetation community, Lowland Rainforest on Floodplain which is classed as an endangered ecological community under the Threatened Species Conservation Act 1995. There are stands of native vegetation across the site which is protected under a tree preservation order.

The surrounding development is characterised by mainly detached dwelling houses single and two storeys in height.

The residential flat development is proposed to be constructed from colourbond for the roof, rendered finishes and colourbond walls, timber privacy screens, timber awnings, feature glass balustrade. Windows are a mixture of fixed and openable windows for the units and Block B has skylights.

The siting of the buildings on the site result in Block A with street frontage, then downward of the site in an east to west direction are Blocks B1, B2 and B3, and at the bottom of the site is Block C. Communal facilities have been provided on the site in the form of a pool area and BBQ recreation area. The driveway is located on the western boundary of the site and access to Block C is provided to the rear of the building.

The application was lodged in September 2007 and has had a long history of event relating to the assessment of the proposal. The following is a summary of the chronological timeframe of processing the application.

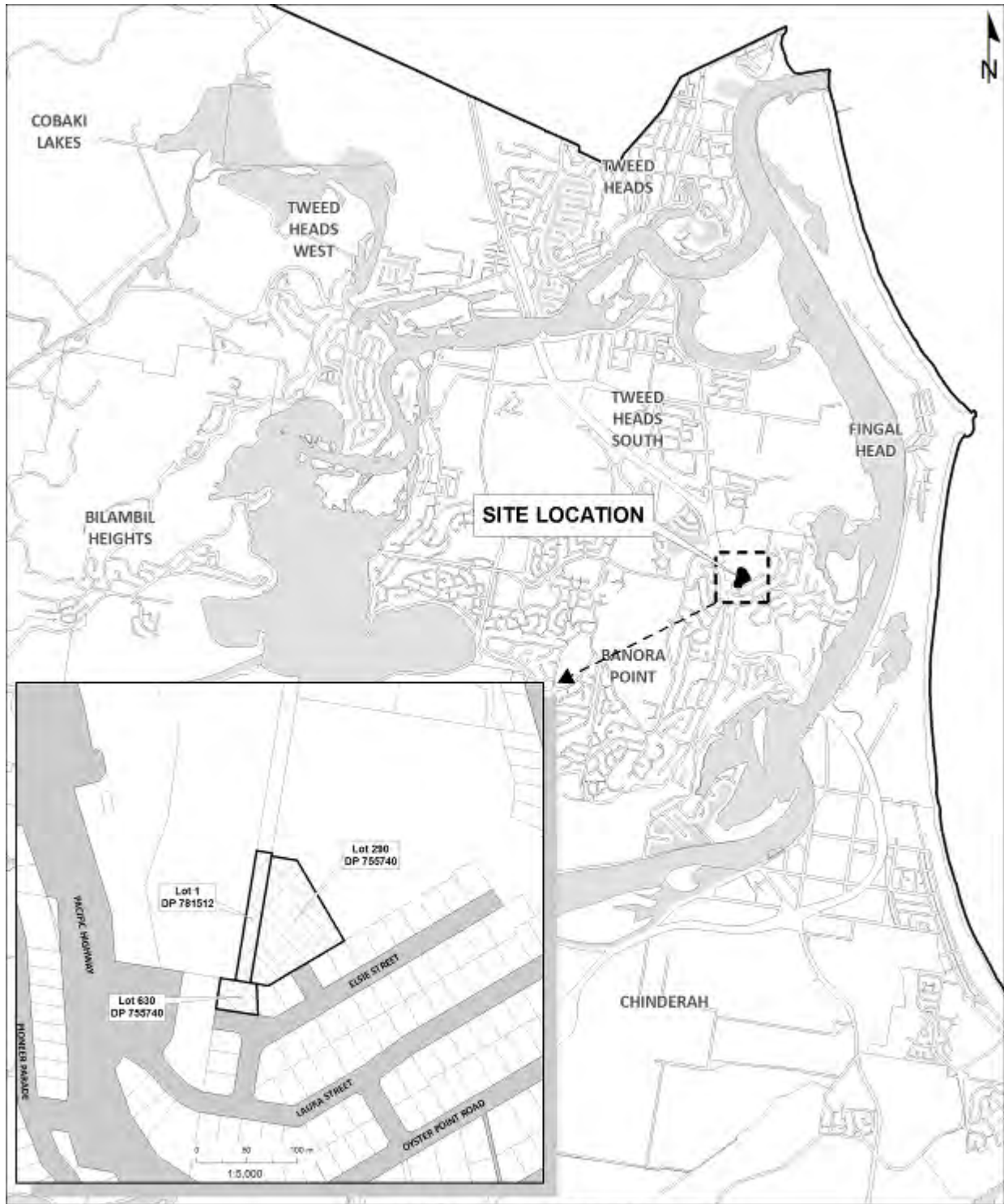
DATE	EVENT
14 September 2007	The application was lodged for forty six (46) multi dwelling housing units without elevation plans.
19 October 2007	<p>Further information request was sent to the applicant in regards to Environmental Health Officer request to carry out an assessment in regards to:</p> <ul style="list-style-type: none"> • Detailed site contamination report as required by SEPP 55; • Details of methods to collect, store and dispose of waste; • Advice on the extent and likely duration of any dewatering operations;
2 November 2007	<p>Further information request was sent to the applicant in regards to the Building surveyor to carryout an assessment in regards to:</p> <ul style="list-style-type: none"> • Levels reduced to AHD are to be provided for each floor, the top of all roofs, carparking/basement areas and finished site levels. A detailed plan of the driveway location in relation to the road reserve, existing pavement and adjoining dwelling is required. • Site plan showing the buildings clear of sewer lines. • Egress and exits from the basement carpark of Block A do not comply with Part D BCA. • Block B1, B2, B3 and Block C has non-compliance with Part C of BCA Protection of Openings • Basement exit stair widths of Block A appear less than 1m wide clear of handrails as required by Part D of the BCA <p>Further information request was sent to the applicant in regards to the Flooding Engineer's request to carryout an assessment in regards to:</p> <ol style="list-style-type: none"> a) <ol style="list-style-type: none"> (i) The applicant is requested to amend the development proposal, so as to provide an unobstructed overland flow path for external stormwater catchment flows along the existing gully line through the centre of the site. (ii) Should the applicant not wish to undertake this redesign, and continue to divert external flows via the internal access road, they shall bear all costs associated with providing this infrastructure, and shall inherit all future maintenance for this system. Details of fill depths and finished surface level contours must be provided, to demonstrate that filling of the existing gully complies with DCP Section A14 - Cut and Fill on Residential Land. b) Provide further measures, such as level spreaders and detention basins, downstream of the discharge headwall and the western overland flow path to ensure

	<p>that discharge to downstream land is dispersed as sheet flow and not concentrated onto adjoining properties.</p> <p>c) The proposed earth bund to protect the basement level carpark from flooding is not acceptable, and the proposal must be amended to provide permanent structural protection from inundation up to 3.1m AHD via driveway regrading, cut off walls and the like.</p>
14 January 2008	The application was referred to Rural Fire Service.
4 February 2008	The application was referred to Council specialist planner/ecologist for comment.
5 February 2008	A further information letter was sent to the applicant regarding flora and fauna issues.
25 March 2008	After six (6) months of no response from the applicant, a letter was sent to the applicant requesting the applicant respond to the outstanding information the letter attached all previous correspondence sent by Council.
30 April 2008	The applicant first contacted Council, seven months after submitted application in regards to the numerous outstanding information requests.
8 May 2008	The applicant submitted Stormwater Quality Assessment Report
26 May 2008	Council's ecologist met the applicant out on site to discuss flora and fauna issues.
29 May 2008	An amended flora and fauna request was sent to the applicant.
12 June 2008	Nine months later elevation plans were submitted to Council.
16 June 2008	Council's Flooding Engineer requested further information in regards to the stormwater report.
25 June 2008	The applicant was sent a request to withdraw the application due the bulk and scale of the development, numerous issues of noncompliance and the outstanding information or to provide a significant redesign of the proposal.
1 July 2008	Meeting with owner, architect, planner and Council staff to discuss the application in regards to areas of non-compliance and outstanding information.
4 August 2008	The applicant submitted amended plans. The application was reviewed by Council staff and found the amended plans still to be significantly non-compliant and still numerous information requests outstanding.
3 September 2008	The applicant was contacted and informed that the application in its current form cannot be supported.
11 September 2008	Meeting with applicant, architect, planner and Council staff, Development Assessment Manager, Director of Planning to discuss issues of non-compliance and outstanding issues. The following issues were raised: <ul style="list-style-type: none"> • The site had considerable constraints that have not been addressed in the application; • The applicant was advised that the sewer main issue had not been addressed and was a significant constraint to the site; and • Council and applicant decide resolve the sewer issue first then address all other issues in the application.

23 September 2008	Council's engineer staff accepted the design of Block C in principle in regards to the sewer access only and advised further detail would be required.
18 September 2008	The applicant was advised by Council town planner that any design to provide clearance over the sewer main could result in the development which would not comply with the height limit under the LEP and this would need to be addressed.
14 October 2008	<p>The applicant submitted amended plans, preliminary contamination report and a Statement of Landscape intent. The plans made the following changes:</p> <ul style="list-style-type: none"> • Reduced the development from 46 units to 34; • Removed the communal swimming pool and BBQ area; • Removed level from Block C and removed the basement carparking and provided undercroft parking that is up to 5 metres in height; and • Amended the façade of the buildings. <p>The amended plans that were submitted were scaled at 1:100 at A1, however, only A3 plans were submitted, no section plan was provided for Block B1 and Block B2 & B3 did not have all the elevation plans provided.</p> <p>To date the following still remains outstanding:</p> <ul style="list-style-type: none"> • Amended stormwater report; • Amended bushfire report; • Requested overlay plan of the development over an aerial photograph to show the proximity of the development to the EEC and the existing vegetation on the site; • Further engineering detail; • SEPP 1 objection for a departure from development standards; • Details of waste management on the site. <p>The plans Council received on the 14 October 2008 did amend some issues of non-compliances but it has resulted in other subsequent areas of non-compliance. Further, over year after the application was lodged there are still numerous issues of outstanding information. In addition to the areas of non-compliances.</p>
18 November 2008	The application went to Council on 18 November 2008 recommending refusal. Council resolved that the item be deferred to allow for further negotiations with applicant.
9 December 2008	It was agreed to allow 120 days to provide amended information. The information was to be submitted to Council on 1 March 2009.
20 January 2009	The applicant was advised that a further extension of time was granted until 28 April 2009.
8 April 2009	Plans were reviewed by a Council officer on the 8 April 2009 and various issues were raised in a meeting with the applicant.
12 May 2009	The applicant was advised that the plans and outstanding information is to be submitted by the 28 June 2009.

19 June 2009	The applicant and engineers were advised that the engineering plans were not consistent with the latest plans on file and therefore reminded needed a coordinated approach, where all information and plans should be submitted together to the assessing officer.
19 October 2009	Additional information was submitted to Council which was forwarded onto relevant sections for assessment.
14 January 2010	Additional information was requested as the plans Council received on the 19 October 2009 did amend some issues of non-compliances but it was determined that a number of issues of non-compliance were not addressed.
22 February 2010	Additional information was received which was sent back to relevant sections within Council. The information provided was not considered to be adequate however conditions of consent were able to be placed in the recommendations for the outstanding information.
12 May 2010	It was determined that the information requested by the Rural Fire Service had not been amended. It was requested that this information be provided.
28 June 2010	The applicant provided the additional information to the Rural Fire Service.
2 August 2010	The Rural Fire service supplied conditions of consent to be included in the recommendations.

SITE DIAGRAM:



LOCALITY PLAN

Lot 290 & 630 DP 755740; Lot 1 DP 781512
No.7 Elsie Street, Banora Point

0 0.5 1.0km
1:50,000

Filename: z:\asn\planning\msd\AAP_B&W_SitePlan.mxd

Author: J Batchelor - Planning Reforms Unit

Date Printed: 05 August, 2010

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Coordinate System - MGA Zone 56
Datum - GDA 94

Cadastre: 05 August, 2010
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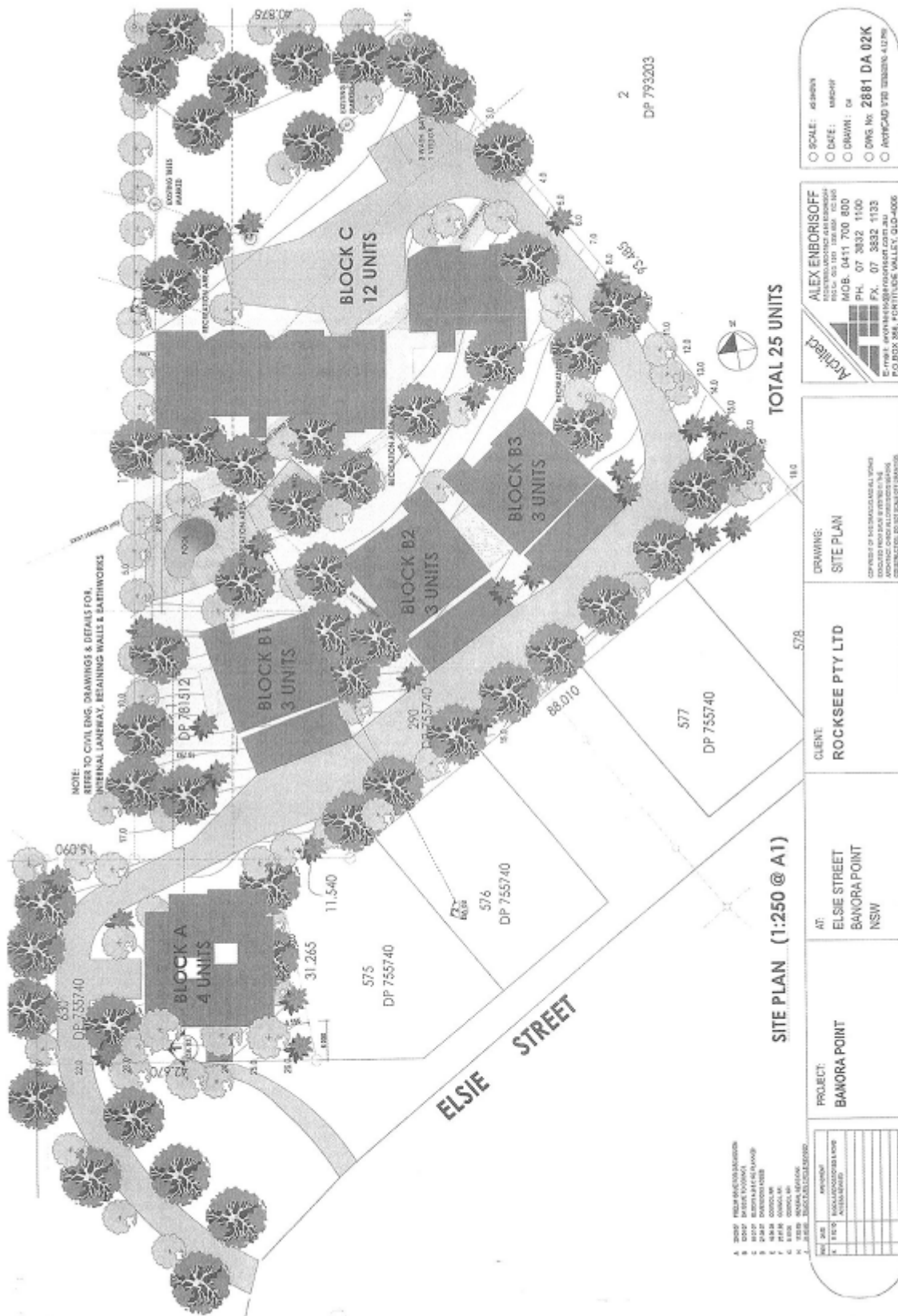
Civic and Cultural Centre
3 Tunbridge Road
Murwillumbah NSW 2484
PO Box 616
Murwillumbah NSW 2484

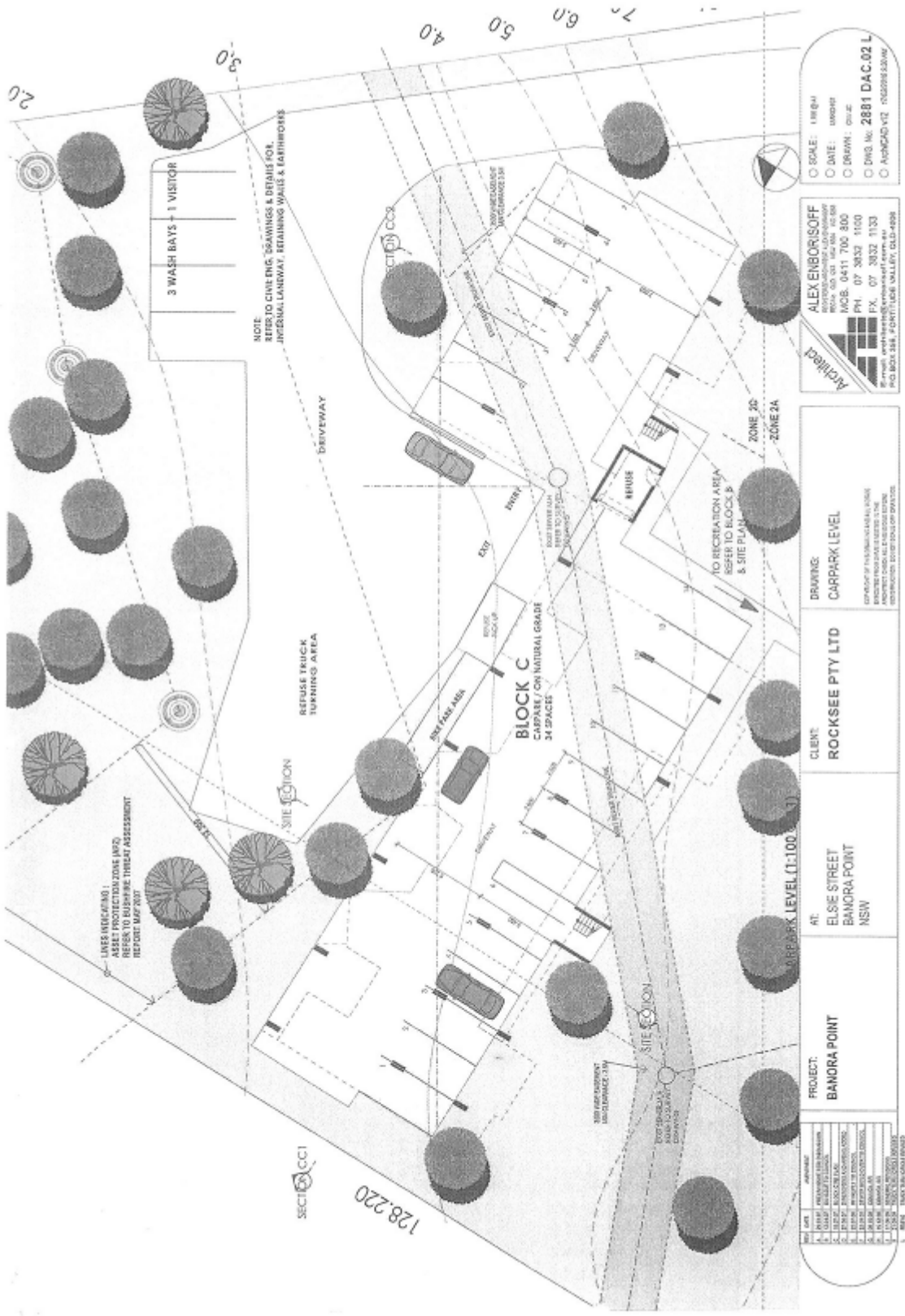
T: (02) 6670 2400 | 1500 292 672
F: (02) 6670 2483
W: www.tweed.nsw.gov.au
E: planningreforms@tweed.nsw.gov.au



TWEED
SHIRE COUNCIL

DEVELOPMENT PLANS:





SCALE: 1:100
 DATE: 08/08/10
 DRAWN: [initials]
 DWG NO: 2881 DAC.02 L
 APPROVED: [signature]

ALEX ENBORISOFF
 ARCHITECT
 MCB: 0411 700 800
 PH: 07 3833 1100
 FX: 07 3833 1133
 10/100, WEST STREET, KERRIMORE VIC 3176
 PO BOX 558 / GORTYLAKE VALLEY, QLD 4898

Rocksee Pty Ltd
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 CLIENT: ROCKSEE PTY LTD
 AT: ELSE STREET
 BANORA POINT
 NSW

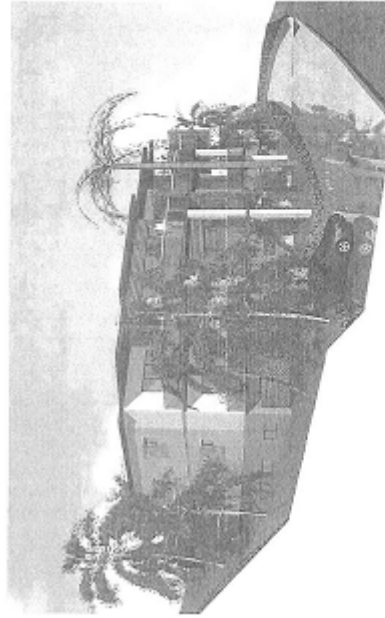
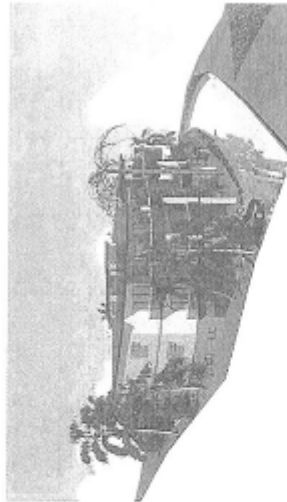
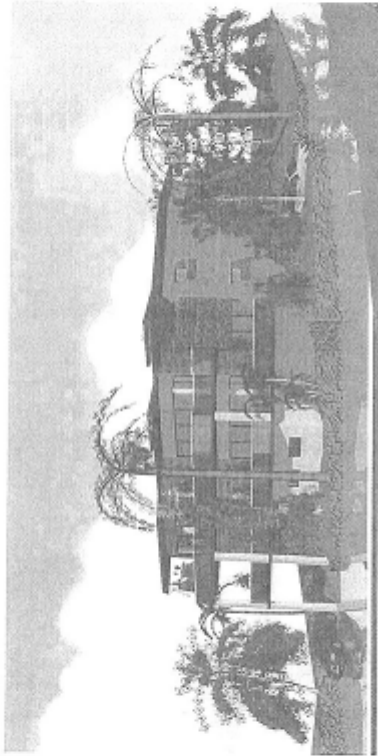
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 NSW

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 AT: ELSE STREET
 BANORA POINT
 NSW

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PROJECT:
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AT:
ELSE STREET
BANORA POINT
NSW

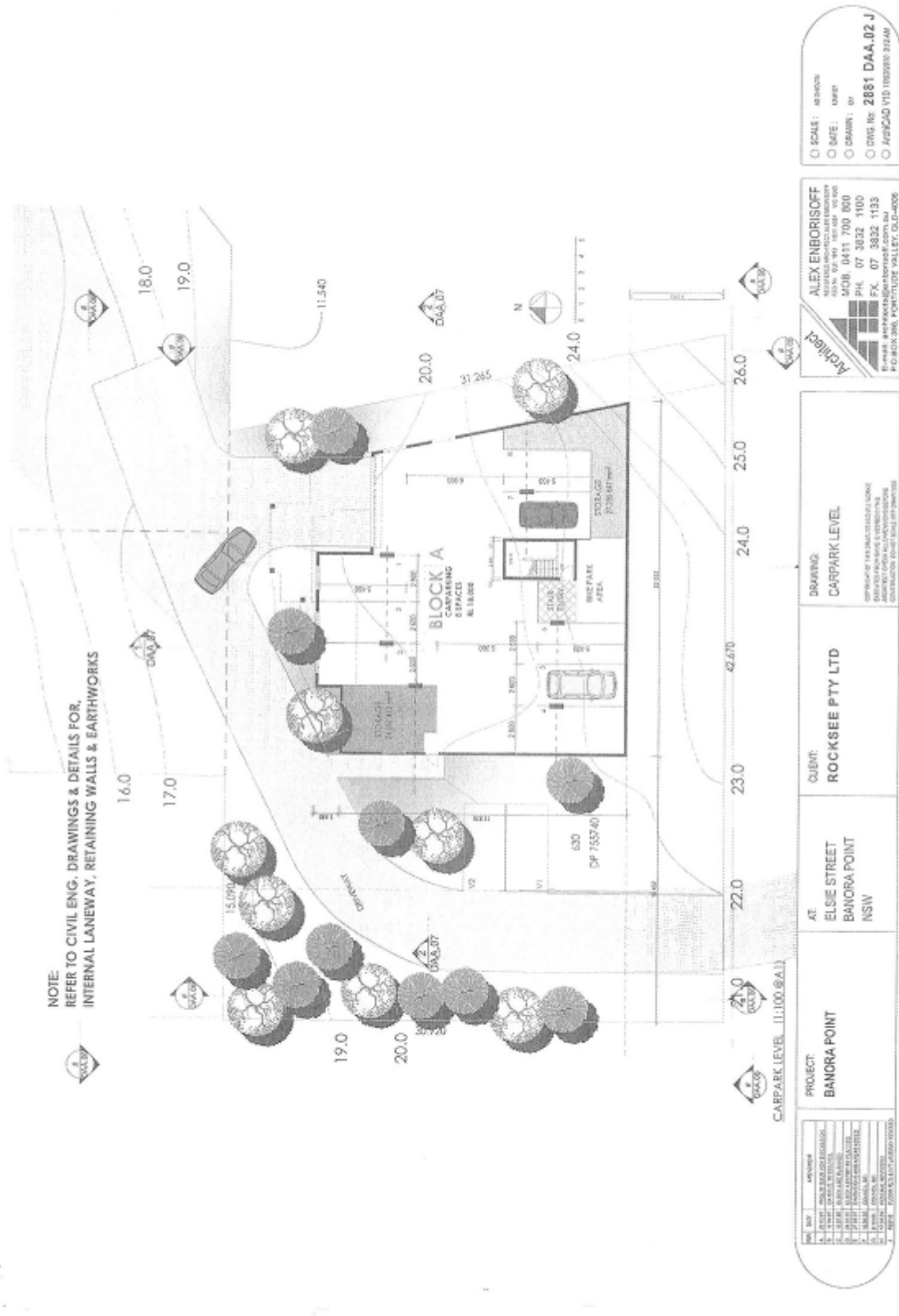
CLIENT:
ROCKSEE PTY LTD

DRAWING:
MASS MODELS - BLOCK A
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CONTRACT NO. 10/07/00000000000000000000

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REGISTERED ARCHITECT
MOB: 0411 700 800
PH: 07 3832 1100
FX: 07 3832 1133
WWW.AENBORISOFF.COM.AU
P.O. BOX 3880, POINT STIDE, MULLUM, QLD 4008

SCALE: AS SHOWN
DATE: 15/08/10
DRAWN: DJ
CHKD BY: 2881 DAA.01 J
NOTICED BY: 10/08/2010 11:33 AM

Rock A Mass Model - Block A - 28/08/2010 11:33 AM



NOTE:
REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR,
INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

PROJECT:
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DATE: 07/08/10
DRAWN: JG
CHKD: JG
APP'D: JG
PROJECT NO: 2881 DAA.02 J
REVISED: 07/08/10

CLIENT:
ROCKSEE PTY LTD
ADDRESS: 630 ELSE STREET, BANORA POINT, NSW
CONTACT: 02 6621 1133
WWW.ROCKSEE.COM.AU

DESIGNING:
CARPARK LEVEL
DRAWN BY: JG
CHECKED BY: JG
DATE: 07/08/10

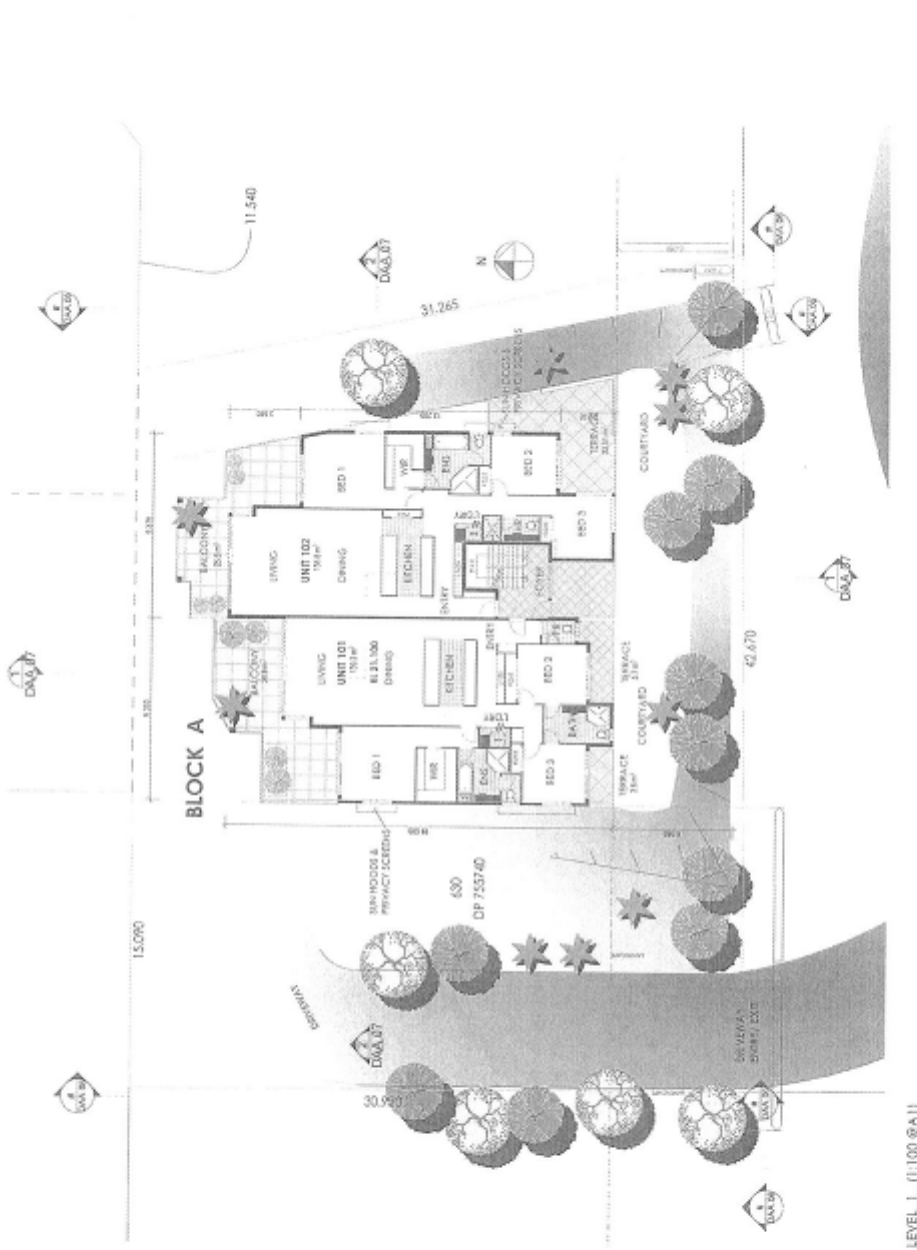
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SCALE: 1:100 (S.A.I.)

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CONTACT: 02 6621 1133
WWW.ROCKSEE.COM.AU

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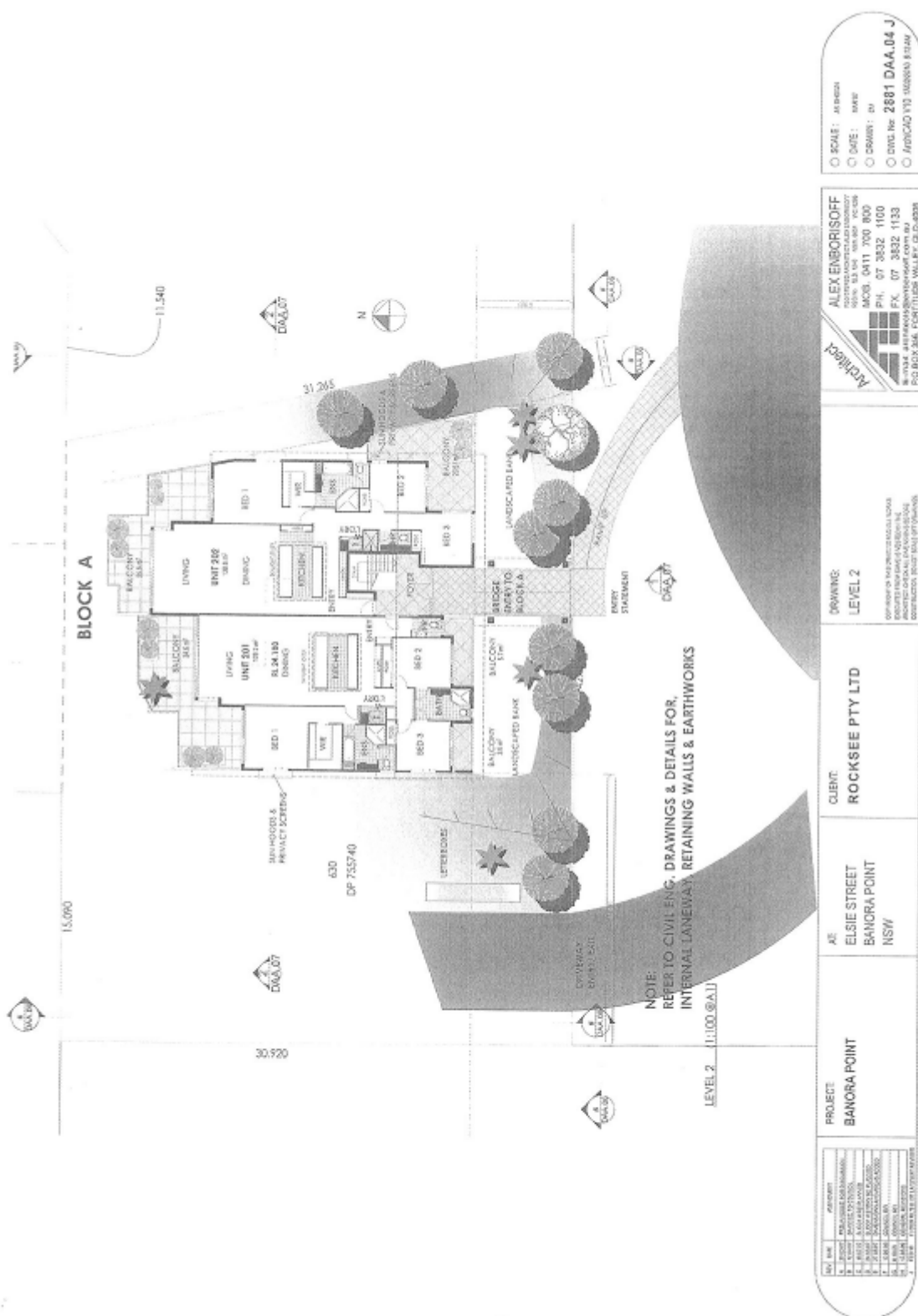
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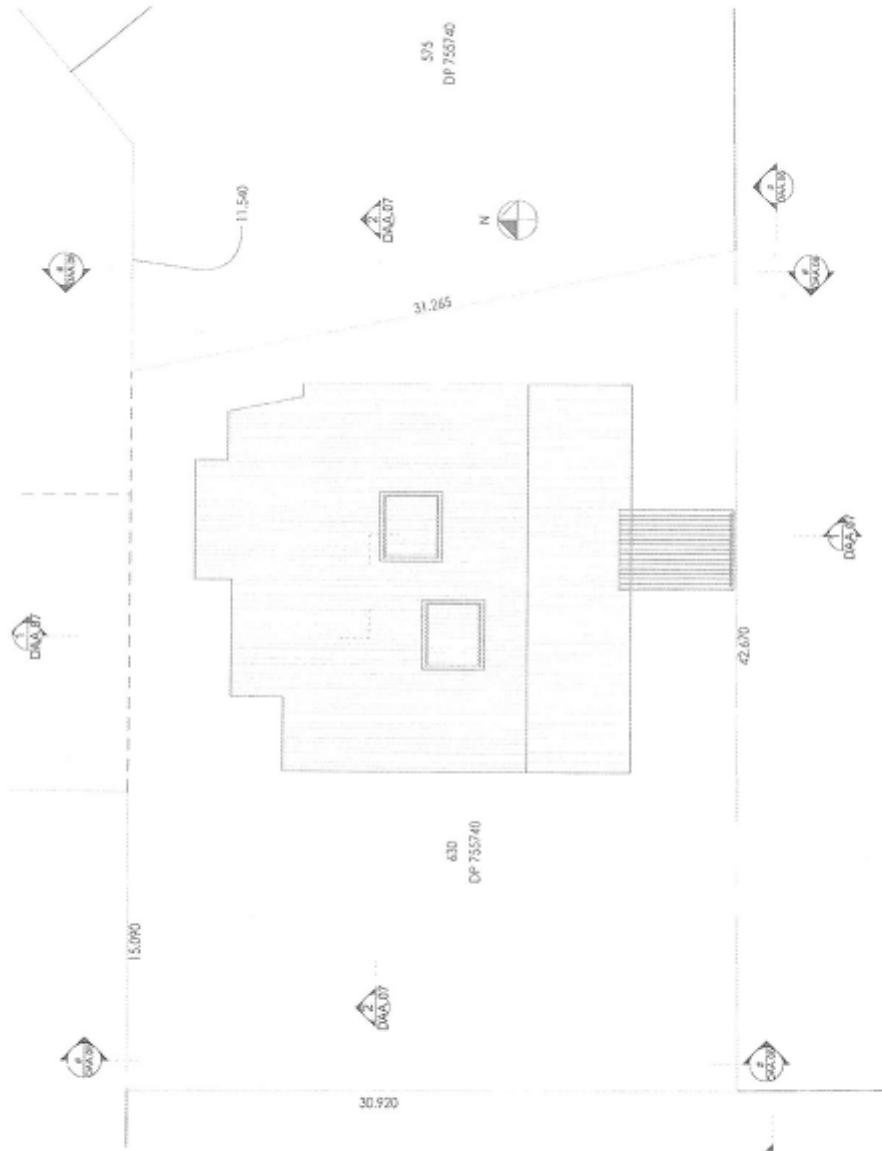


NOTE:
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INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

LEVEL 2 (1:100 @ A1)

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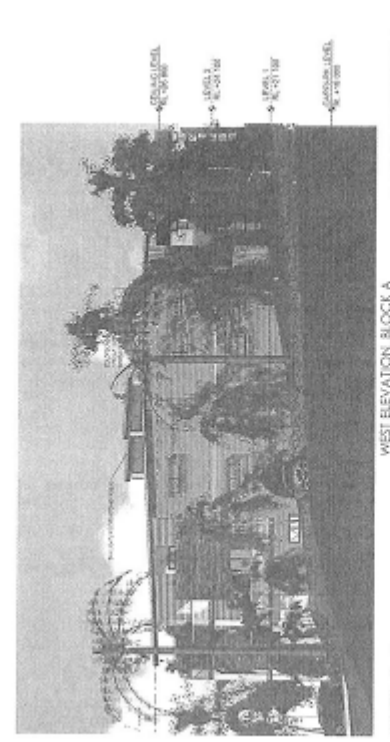
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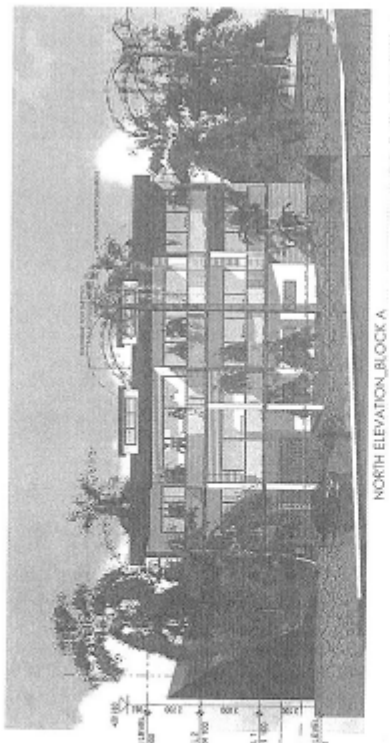
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<p>ALEX ENBORISOFF REGISTERED ARCHITECT (NSW) NO. 0411 700 820 PH. 07 3832 1100 FX. 07 3832 1133 R. 02.03.2008 PORTLITTLE VALLEY, Q.L.D.-4008</p>																											
<p>Architect</p>																											
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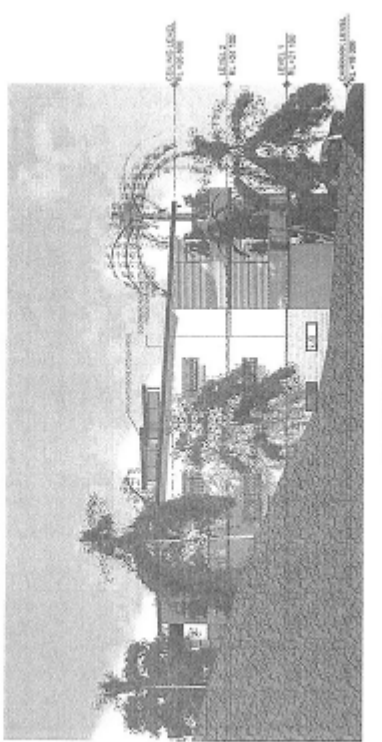
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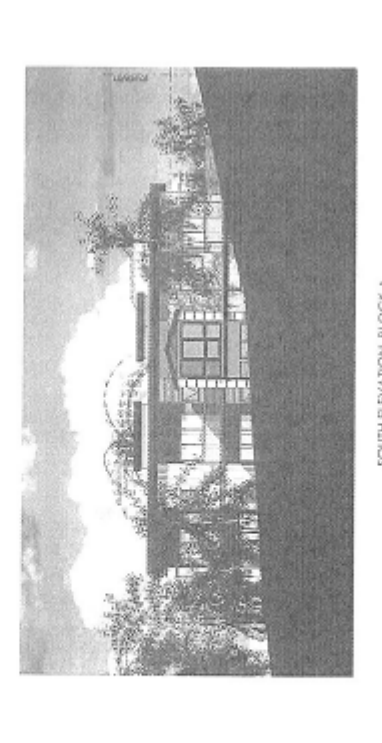
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WEST ELEVATION_BLOCK A



SOUTH ELEVATION_BLOCK A

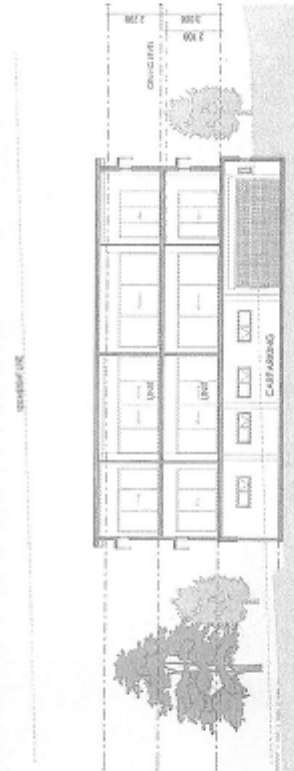
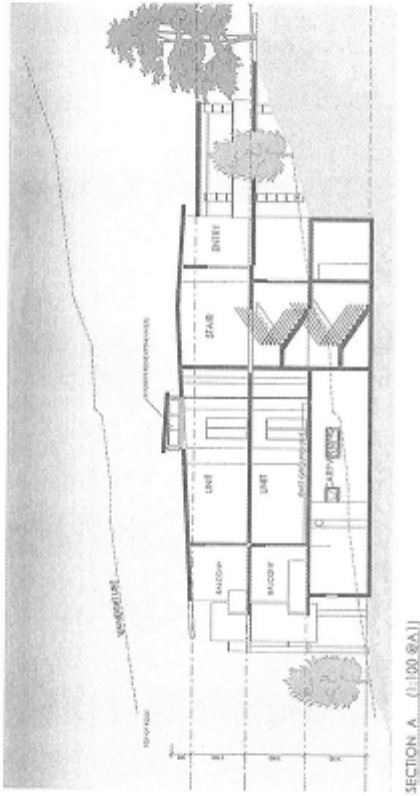


EAST ELEVATION_BLOCK A

NOTE:
REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR
INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

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8000-A-BANGORA POINT ELEVATIONS_BLOCK A_18081008081001.AIA



NOTE: REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR, INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

NO.	DATE	REVISION
1	10/08/10	ISSUED FOR TENDERS
2	10/08/10	CLIENT APPROVAL
3	10/08/10	CLIENT APPROVAL
4	10/08/10	CLIENT APPROVAL
5	10/08/10	CLIENT APPROVAL
6	10/08/10	CLIENT APPROVAL
7	10/08/10	CLIENT APPROVAL
8	10/08/10	CLIENT APPROVAL
9	10/08/10	CLIENT APPROVAL
10	10/08/10	CLIENT APPROVAL

PROJECT:
BANDORA POINT

AT:
**ELSIE STREET
BANDORA POINT
NSW**

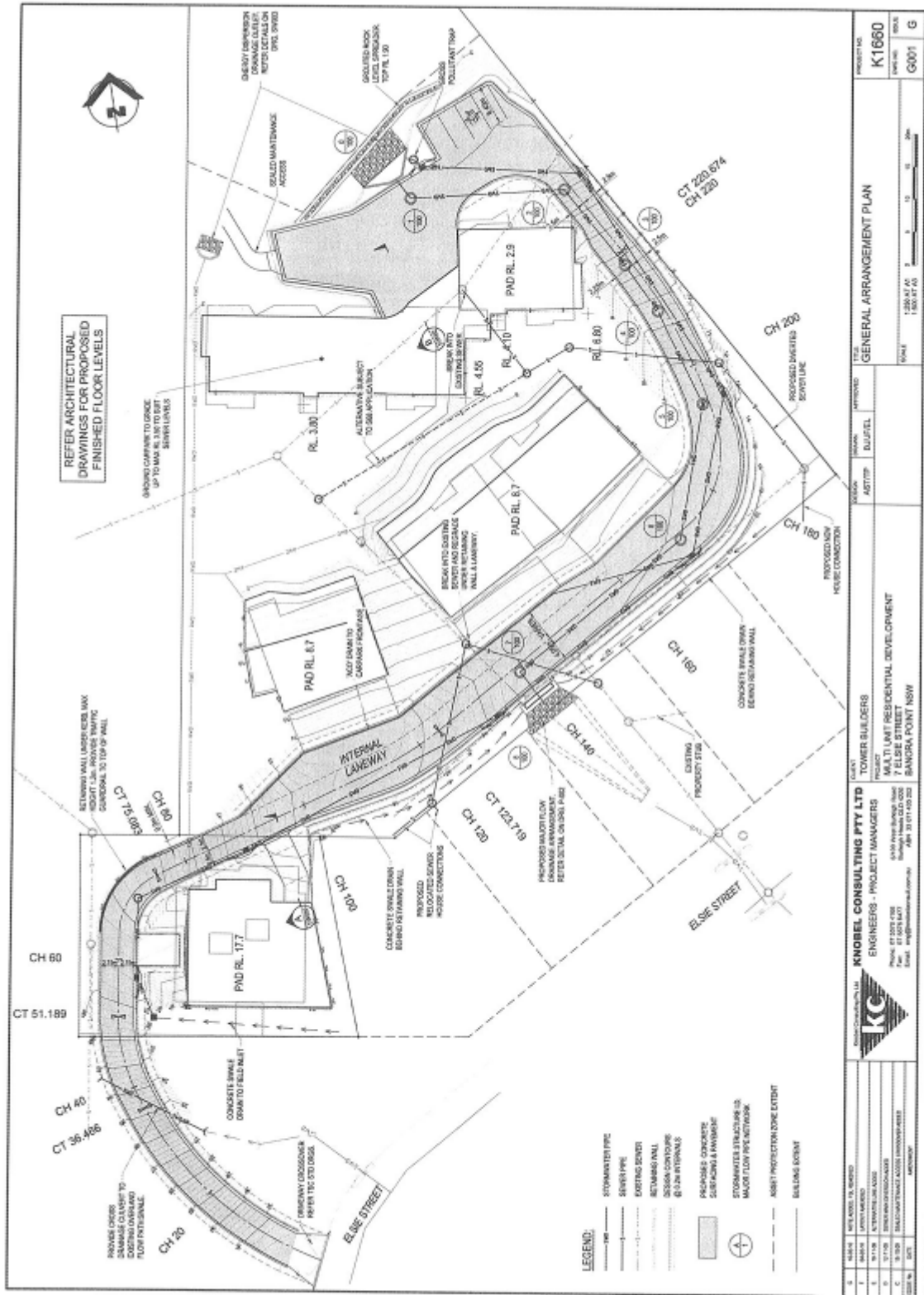
CLIENT:
ROCKSEE PTY LTD

DRAWING:
SECTION A & A1

CONTRACTOR:
ALEX ENBORISOFF
MOB: 0411 700 800
PH: 07 3632 1100
FX: 07 3632 1133
B-VALE INDUSTRIAL PARK AVE, AVE
P.O. BOX 264, FORTITUDE VALLEY, Q.L.D. 4098

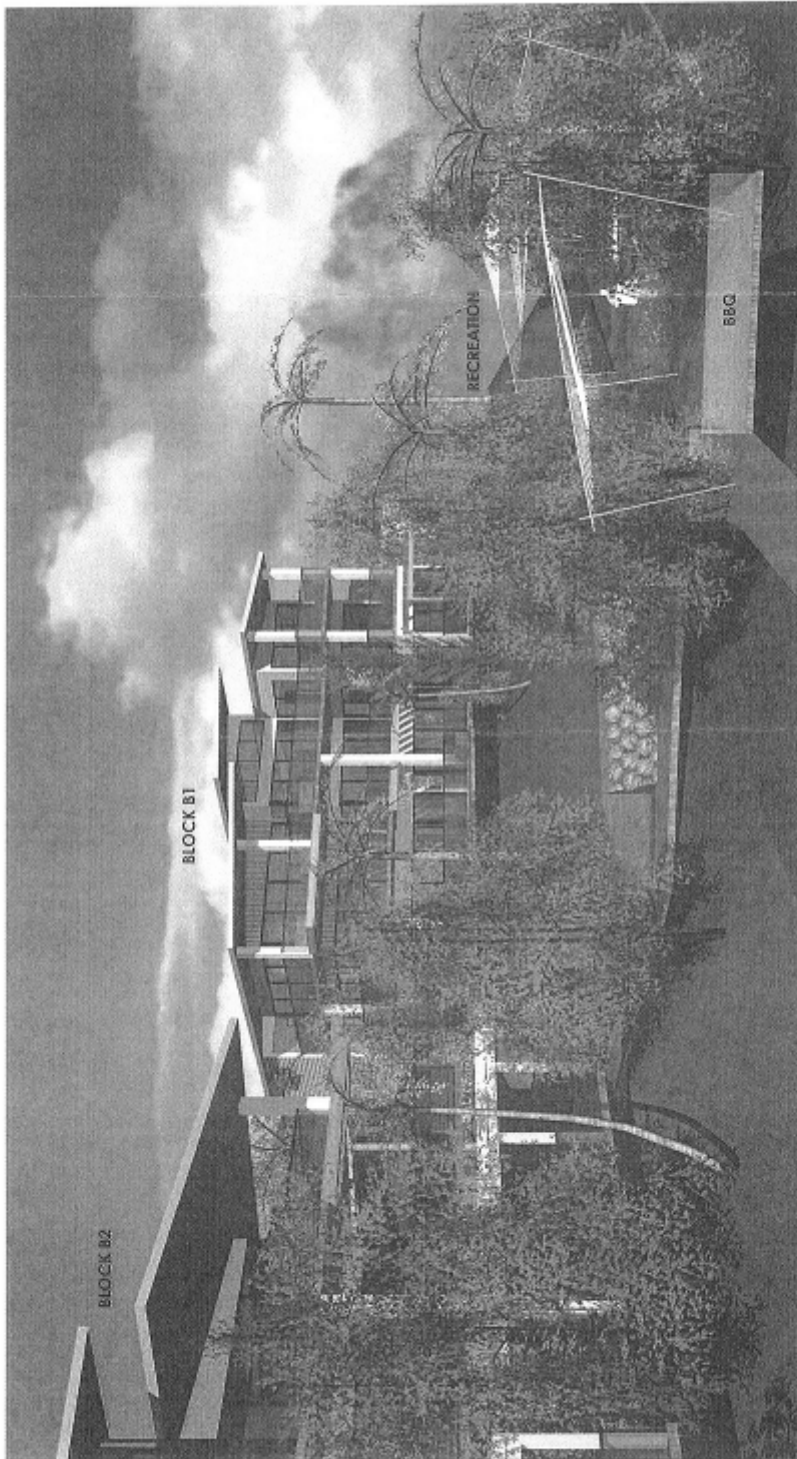
SCALE: A3/SECTION
DATE: 10/08/10
DRAWN: DU
DWG No: 2881 DAA.07 J
APP/CAD Y10 1020208 813M

MADE AT BANDORA POINT SECTION A & A1 (SCALE: 1:100) @ A1



REFER ARCHITECTURAL DRAWINGS FOR PROPOSED FINISHED FLOOR LEVELS

PROJECT NO. K1660		DATE: 12/04/09	
PROJECT: TOWER BUILDERS		SCALE: 1:500 AT A1, 1:500 AT A2	
PROJECT MANAGER: MULTI UNIT RESIDENTIAL DEVELOPMENT		DRAWN BY: G001	
PROJECT ADDRESS: 7 ELISE STREET BANDORA POINT NSW		CHECKED BY: G	
CLIENT: TOWER BUILDERS		DESIGNER: KNOBEL CONSULTING PTY LTD	
PROJECT: MULTI UNIT RESIDENTIAL DEVELOPMENT		ENGINEERS - PROJECT MANAGERS	
ADDRESS: 7 ELISE STREET BANDORA POINT NSW		PHONE: 07 2071 4182	
CONTACT: 08 9438 9999		FAX: 07 2071 4183	
EMAIL: info@knobel.com.au		WEB: www.knobel.com.au	
PROJECT NO. K1660		DATE: 12/04/09	
PROJECT: TOWER BUILDERS		SCALE: 1:500 AT A1, 1:500 AT A2	
PROJECT MANAGER: MULTI UNIT RESIDENTIAL DEVELOPMENT		DRAWN BY: G001	
PROJECT ADDRESS: 7 ELISE STREET BANDORA POINT NSW		CHECKED BY: G	



SCALE: 1:100 @ A1
 DATE: 18/08/10
 DRAWN: CR
 DWG. NO: 2881 DAB.01 H
 ARCH/CD/V12 18/08/2010 11:24 AM

Architect
ALEX ENBORISOFF
 ARCHITECTURE AND INTERIORS
 SUITE 101, 170/172
 PH. 07 3832 1100
 FX. 07 3832 1133
 170/172
 P O BOX 364 FORTITUDE VALLEY QLD 4005

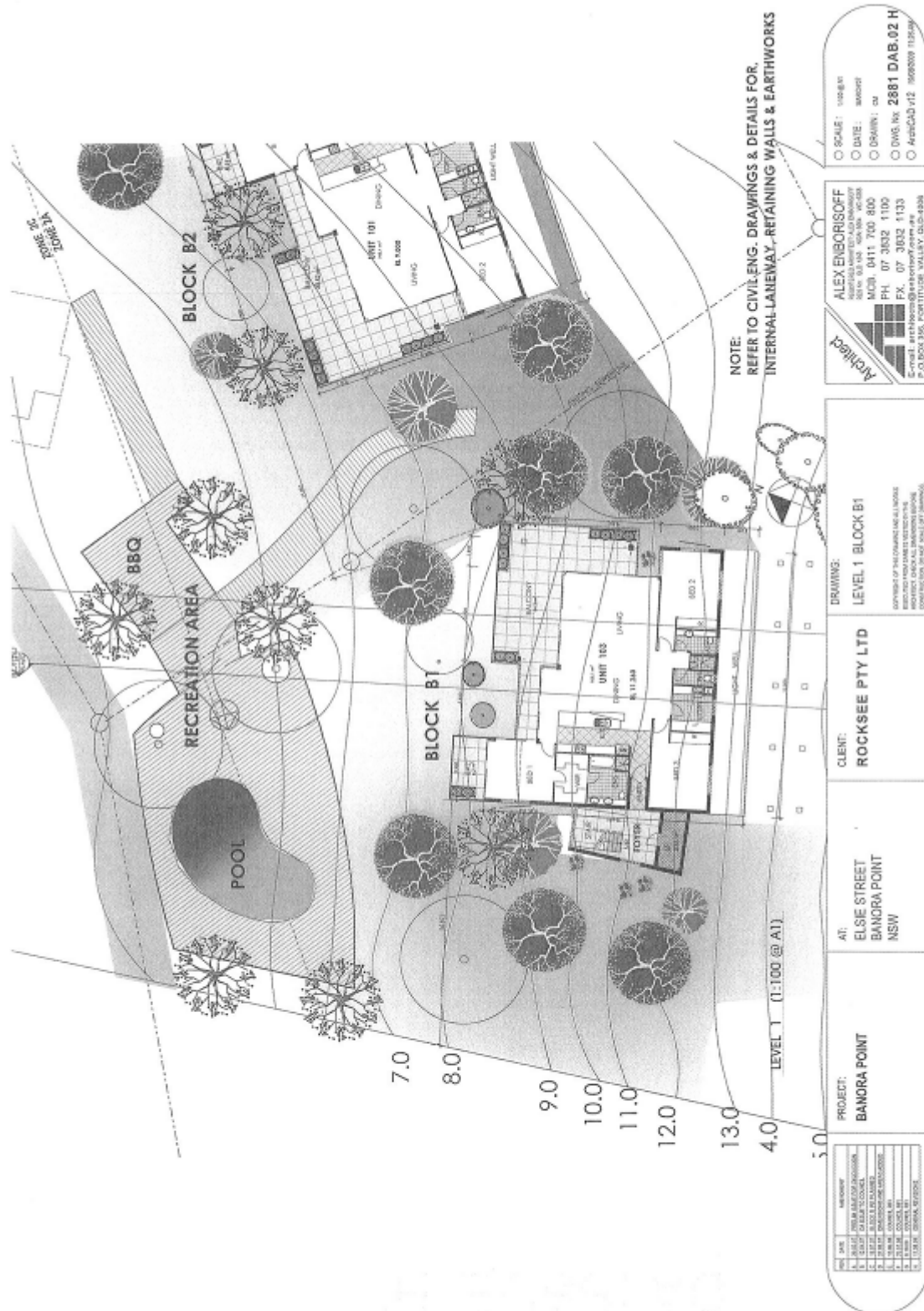
DRAWING:
MASS MODELS - BLOCK B1-3
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 TRANSMITTED IN ANY FORM OR BY ANY
 MEANS, ELECTRONIC OR MECHANICAL, INCLUDING
 PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION
 STORAGE AND RETRIEVAL SYSTEM.

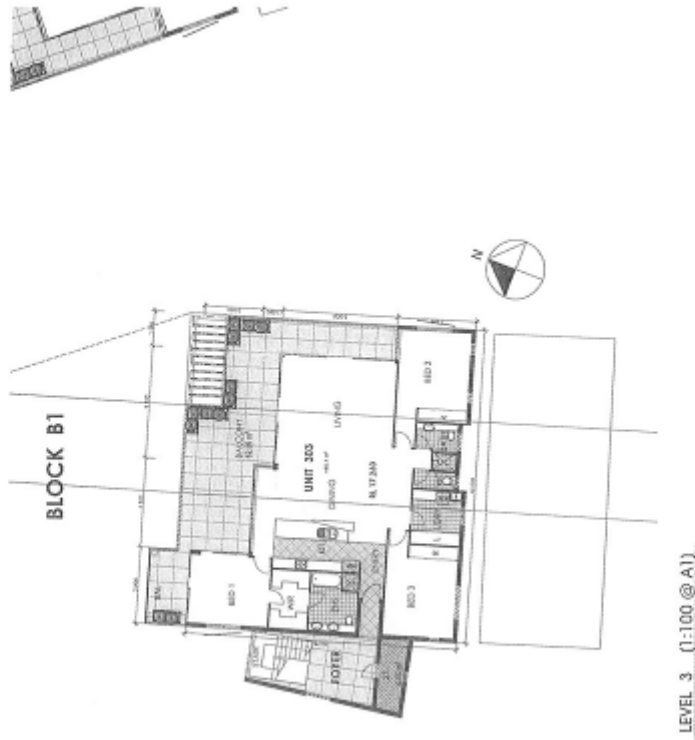
CLIENT:
ROCKSEE PTY LTD

AT:
**ELSIE STREET
 BANORA POINT
 NSW**

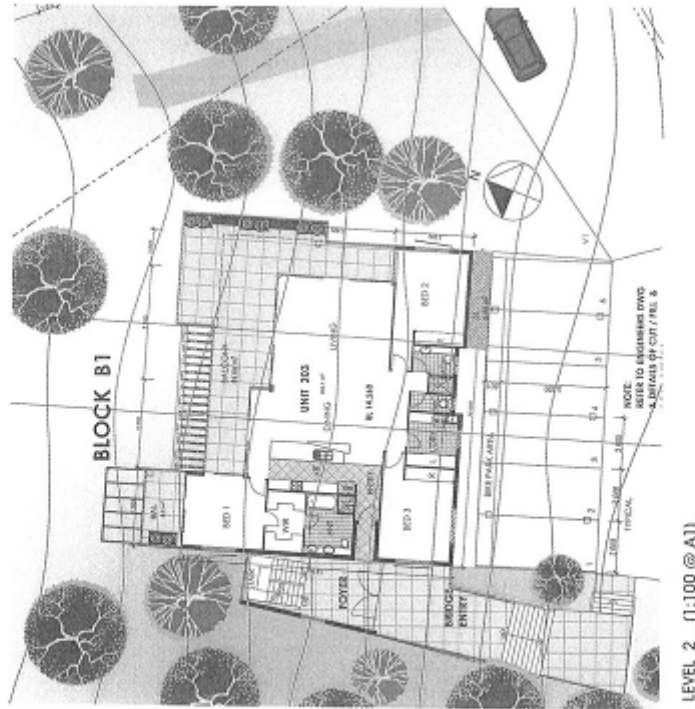
PROJECT:
BANORA POINT

NO.	DATE	DESCRIPTION
1	18/08/10	ISSUED FOR PERMIT
2	18/08/10	ISSUED FOR PERMIT
3	18/08/10	ISSUED FOR PERMIT
4	18/08/10	ISSUED FOR PERMIT
5	18/08/10	ISSUED FOR PERMIT
6	18/08/10	ISSUED FOR PERMIT
7	18/08/10	ISSUED FOR PERMIT
8	18/08/10	ISSUED FOR PERMIT
9	18/08/10	ISSUED FOR PERMIT
10	18/08/10	ISSUED FOR PERMIT





LEVEL 3 (1:100 @ A1)



LEVEL 2 (1:100 @ A1)

NOTE:
REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR
INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

SCALE: 1:100 @ A1
DATE: 28/07/10
DRAWN: CM
DWS No: 2881 DAB.03 H
APPROVED: 28/07/10

Alex Enborisoff
REGISTERED ARCHITECT AND LANDSCAPE ARCHITECT
NO. 0411 700 1600
P.O. BOX 9832 1700
P.O. BOX 308, MOUNTITUDE VALLEY, QLD 4006

PROJECT:
BANORA POINT

CLIENT:
ROCKSEE PTY LTD

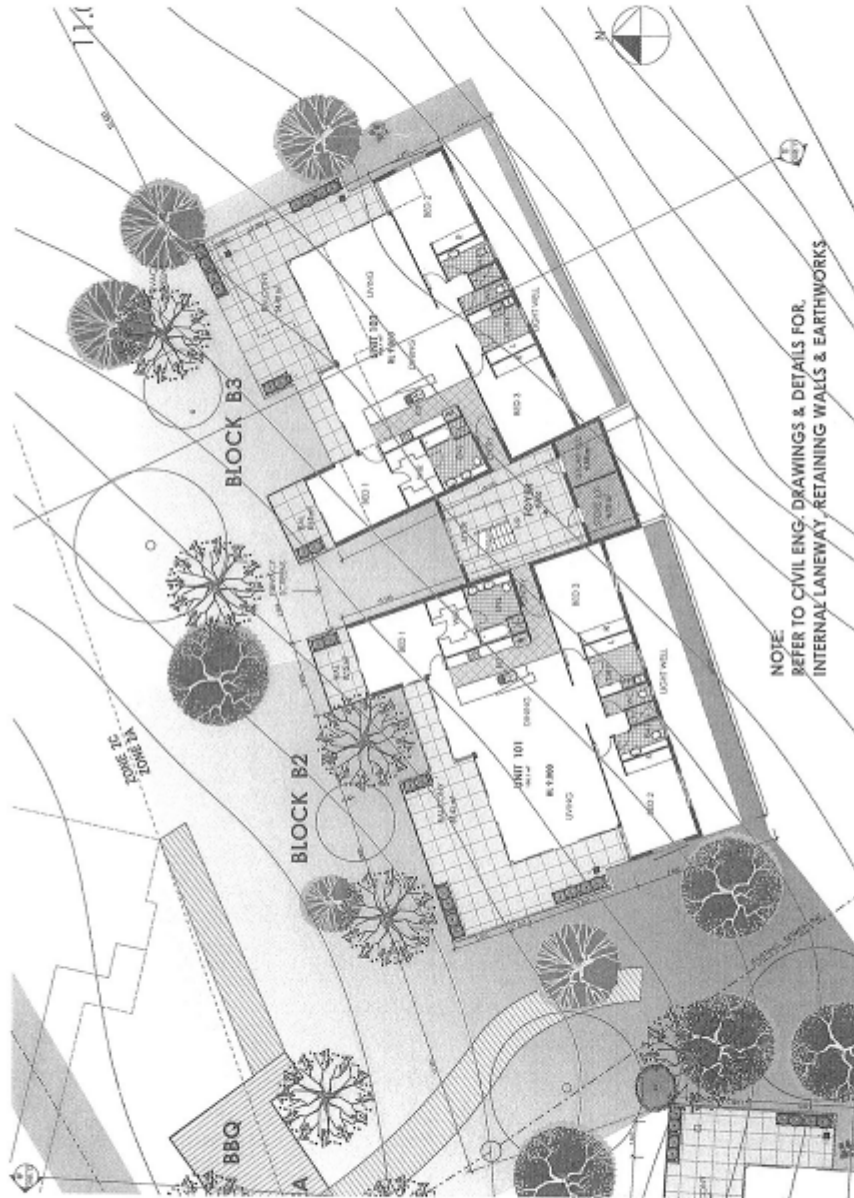
DRAWING:
LEVEL 2 & 3 BLOCK B1

AT:
ELSIE STREET
BANORA POINT
NSW

PROJECT:
BANORA POINT

PROJECT:
BANORA POINT

NO.	DATE	REVISION
1	28/07/10	ISSUED FOR TENDER
2	28/07/10	REVISED PER CLIENT COMMENTS
3	28/07/10	REVISED PER CLIENT COMMENTS
4	28/07/10	REVISED PER CLIENT COMMENTS
5	28/07/10	REVISED PER CLIENT COMMENTS
6	28/07/10	REVISED PER CLIENT COMMENTS
7	28/07/10	REVISED PER CLIENT COMMENTS
8	28/07/10	REVISED PER CLIENT COMMENTS
9	28/07/10	REVISED PER CLIENT COMMENTS
10	28/07/10	REVISED PER CLIENT COMMENTS



NOTE:
REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR
INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

LEVEL 1 (1:100 @ A1)

NO	REV	DESCRIPTION
1	0	ISSUED FOR PERMIT APPLICATION
2	1	ISSUED FOR PERMIT APPLICATION
3	2	ISSUED FOR PERMIT APPLICATION
4	3	ISSUED FOR PERMIT APPLICATION
5	4	ISSUED FOR PERMIT APPLICATION
6	5	ISSUED FOR PERMIT APPLICATION
7	6	ISSUED FOR PERMIT APPLICATION
8	7	ISSUED FOR PERMIT APPLICATION
9	8	ISSUED FOR PERMIT APPLICATION
10	9	ISSUED FOR PERMIT APPLICATION

PROJECT:
BANORA POINT

AT:
**ELSIE STREET
BANORA POINT
NSW**

CLIENT:
ROCKSEE PTY LTD

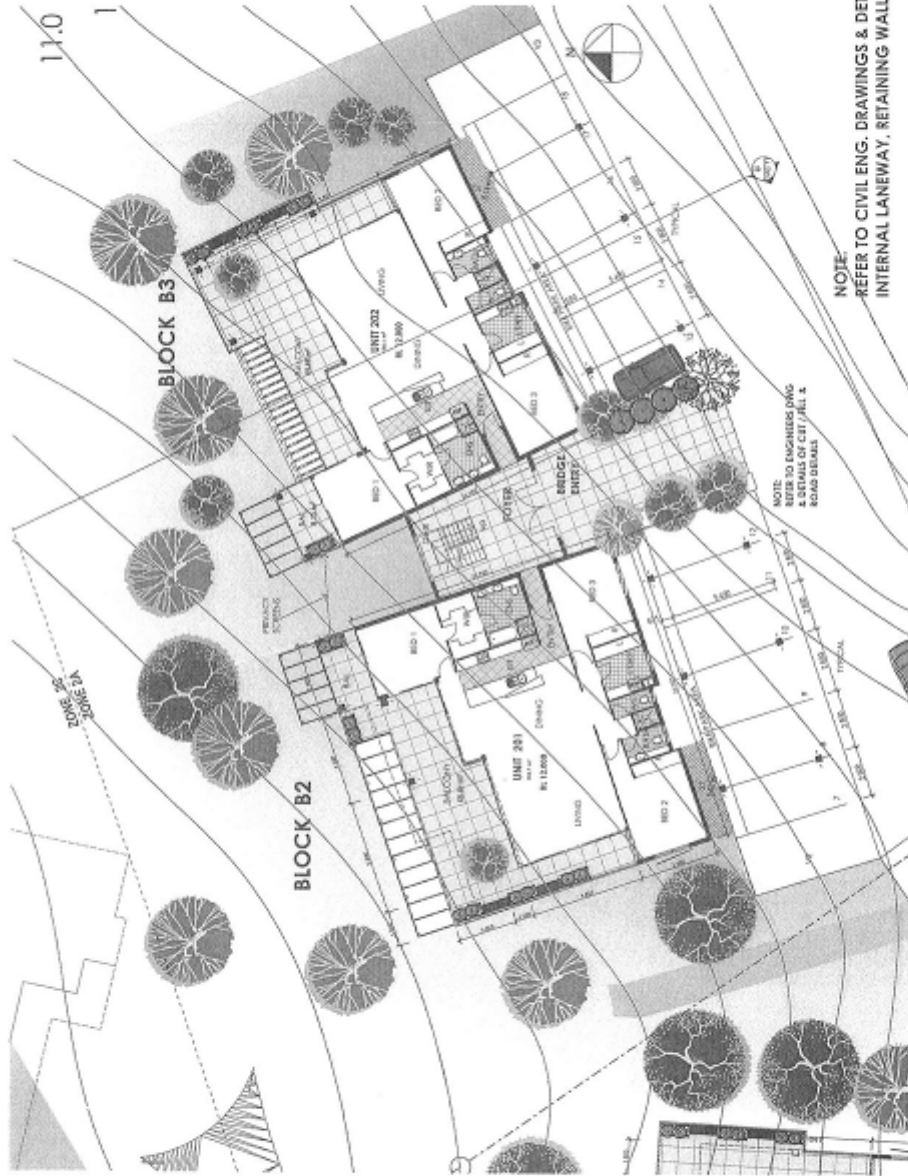
DRAWING:
LEVEL 1 BLOCK B2 & 3

Architect

ALEX ENBORISOFF
REGISTERED ARCHITECT
NO. 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200

MOB: 0411 700 800
PH: 07 3832 1100
FX: 07 3832 1133
E-mail: alex@alexenborisoff.com.au
7/30 DENISON, PORTLAND VICTORIA 3207

SCALE: 1:100 @ A1
DATE: MARCH
DRAWN: CK
DWS NO: 2881 DAB.04 H
APPROVED: 1/28/09



NOTE:
REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR
INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

NOTE: DO ENGINEERING
& DETAILS OF C/P & J/L'S
ROAD DETAILS

LEVEL 2 (1:100 @ A1)

REV	DATE	DESCRIPTION
1	17/08/10	ISSUED FOR TENDER
2	17/08/10	ISSUED FOR TENDER
3	17/08/10	ISSUED FOR TENDER
4	17/08/10	ISSUED FOR TENDER
5	17/08/10	ISSUED FOR TENDER
6	17/08/10	ISSUED FOR TENDER
7	17/08/10	ISSUED FOR TENDER

PROJECT:
BANORA POINT

AT:
**ELSIE STREET
BANORA POINT
NSW**

CLIENT:
ROCKSEE PTY LTD

DRAWING:
LEVEL 2 BLOCK B2 & 3

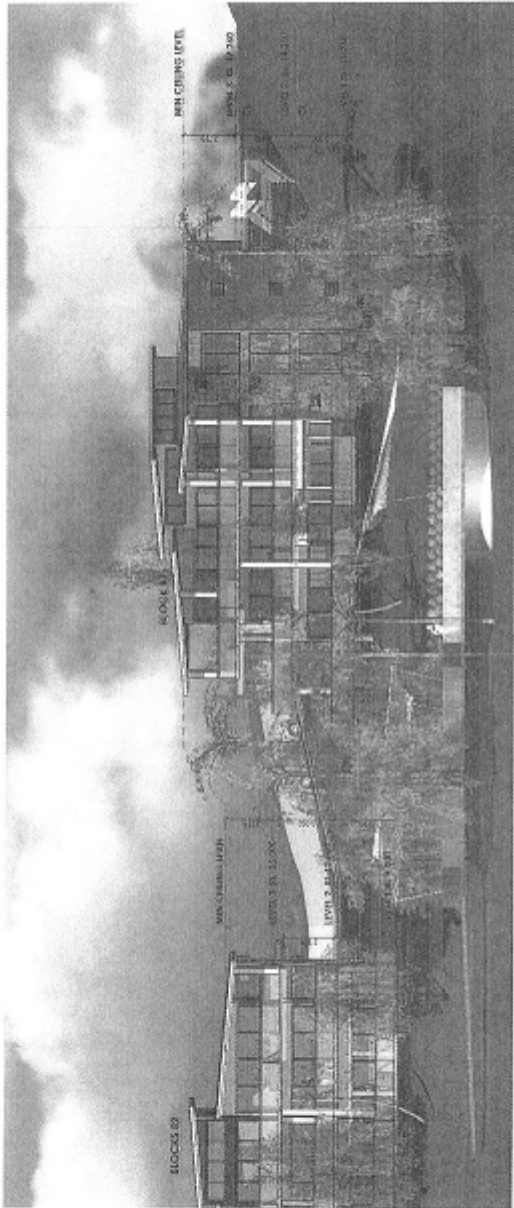
Alex ENBORISOFF
REGISTERED ARCHITECT (NSW)
10/100 WILSON ROAD
WILSON, QLD 4070
PH: 07 3832 1100
FX: 07 3832 1133
www.aenborisoff.com.au
P.O. BOX 385, PORTFOLIO VALLEY QLD 4088

SCALE: 1:100 @ A1
DATE: 17/08/10
DRAWN: [Signature]
CHKD: [Signature]
DESIGN NO: 2881 DAB.05 H
REVISED V2 19/08/10



LEVEL 3 (1:100 @ A1)

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NO.	DATE	DESCRIPTION																																					
1	15/08/10	ISSUED FOR PERMIT																																					
2	15/08/10	ISSUED FOR PERMIT																																					
3	15/08/10	ISSUED FOR PERMIT																																					
4	15/08/10	ISSUED FOR PERMIT																																					
5	15/08/10	ISSUED FOR PERMIT																																					
6	15/08/10	ISSUED FOR PERMIT																																					
7	15/08/10	ISSUED FOR PERMIT																																					
8	15/08/10	ISSUED FOR PERMIT																																					
9	15/08/10	ISSUED FOR PERMIT																																					
10	15/08/10	ISSUED FOR PERMIT																																					



BLOCK B1 NORTH WEST ELEVATION



BLOCK B1 SOUTH EAST ELEVATION

NOTE:
REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR
INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

NO.	DATE	DESCRIPTION
1	11/08/10	ISSUED FOR TENDER
2	11/08/10	ISSUED FOR TENDER
3	11/08/10	ISSUED FOR TENDER
4	11/08/10	ISSUED FOR TENDER
5	11/08/10	ISSUED FOR TENDER
6	11/08/10	ISSUED FOR TENDER
7	11/08/10	ISSUED FOR TENDER
8	11/08/10	ISSUED FOR TENDER
9	11/08/10	ISSUED FOR TENDER
10	11/08/10	ISSUED FOR TENDER

PROJECT:
BANORA POINT

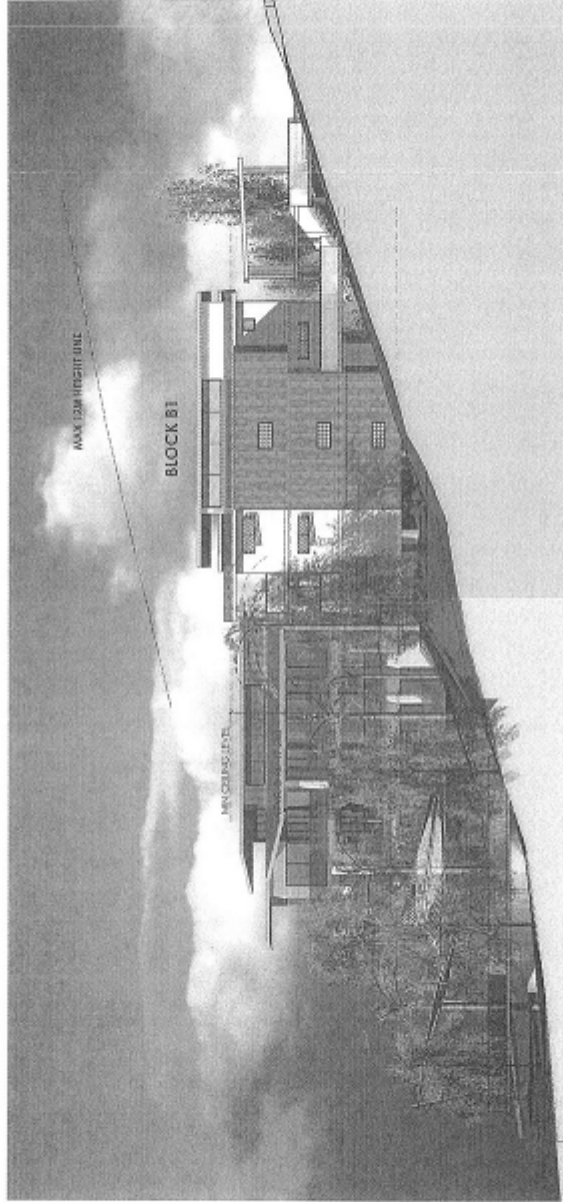
AT:
ELSE STREET
BANORA POINT
NSW

CLIENT:
ROCKSEE PTY LTD

DRAWING:
ELEVATIONS BLOCK B1

ALEX ENBORISOFF
REGISTERED ARCHITECT AND LANDSCAPE ARCHITECT
NO. 10111
MOB 0411 700 800
PH 07 3832 1100
FX 07 3832 1133
WWW.ALEXENBORISOFF.COM.AU
P.O. BOX 256, FORTITUDE VALLEY, QLD 4005

SCALE: 1:100
DATE: 11/08/10
DRAWN: DM
DWG. NO: 2881 DAB.07 H
APPROVED: 11/08/10



BLOCK B1 SOUTH WEST ELEVATION

NOTE:
 REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR,
 INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

NO.	DATE	REVISION
1	18/08/10	PRELIMINARY DRAWING
2	18/08/10	ISSUE FOR PERMITS
3	18/08/10	ISSUE FOR PERMITS
4	18/08/10	ISSUE FOR PERMITS
5	18/08/10	ISSUE FOR PERMITS
6	18/08/10	ISSUE FOR PERMITS
7	18/08/10	ISSUE FOR PERMITS
8	18/08/10	ISSUE FOR PERMITS
9	18/08/10	ISSUE FOR PERMITS
10	18/08/10	ISSUE FOR PERMITS

PROJECT:
BANORA POINT

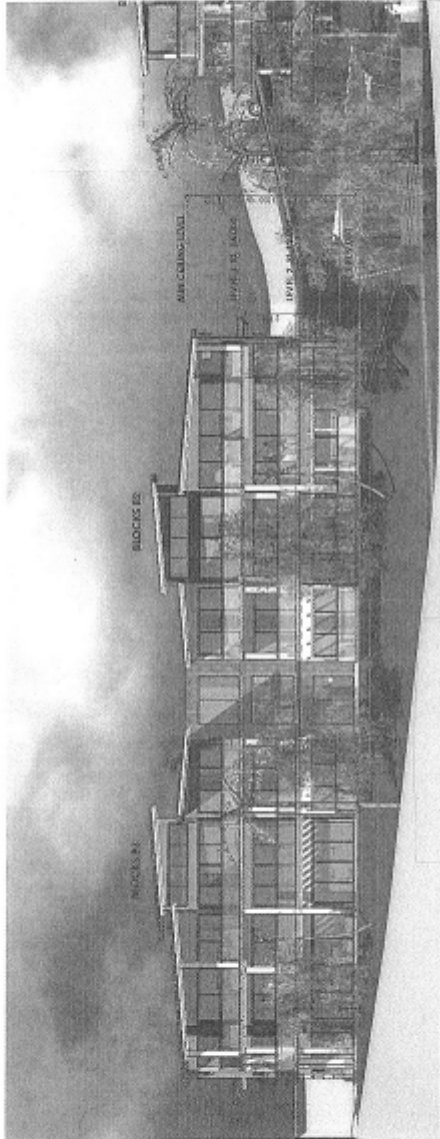
AT:
 ELSIE STREET
 BANORA POINT
 NSW

CLIENT:
 ROCKSEE PTY LTD

DRAWING:
 ELEVATIONS BLOCK B1

ALEX ENBORISOFF
 ARCHITECT
 10/110 12/110 10/110 10/110
 MOB: 0411 700 600
 PH: 07 3832 1100
 FX: 07 3832 1133
 E-mail: alex@alexenborisoff.com.au
 P O BOX 306, FORTITUDE VALLEY, QLD 4086

SCALE: 1:100 @ A1
DATE: 18/08/10
DRAWN: [Signature]
DWG No: 2881 DAB.08 H
APPROVED: [Signature]



BLOCK B1 & 2 NORTH WEST ELEVATION



BLOCK B1 & 2 SOUTH EAST ELEVATION

NOTE:
REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR
INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

REV	DATE	DESCRIPTION
1	17/08/10	ISSUED FOR TENDERS
2	17/08/10	ISSUED FOR TENDERS
3	17/08/10	ISSUED FOR TENDERS
4	17/08/10	ISSUED FOR TENDERS
5	17/08/10	ISSUED FOR TENDERS
6	17/08/10	ISSUED FOR TENDERS

PROJECT:
BANDORA POINT

AT:
**ELSE STREET
BANDORA POINT
NSW**

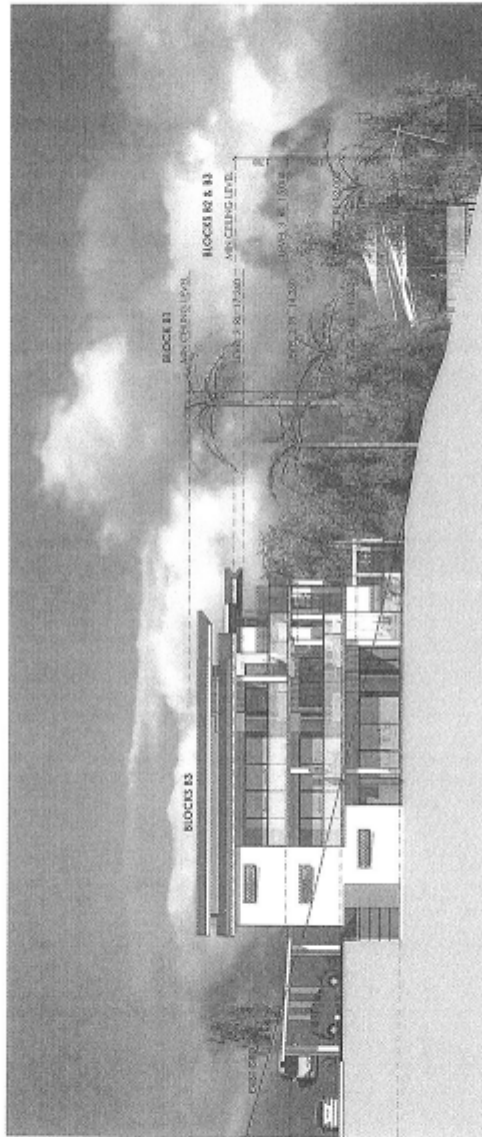
CLIENT:
ROCKSEE PTY LTD

DRAWING:
ELEVATIONS BLOCK B2 & B3

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ARCHITECT
ALEXENBORISOFF
ARCHITECTS
100/101 ST. JOHN ST. SUITE 101
MICKLEBURGH VIC 3000
PH: 03 9332 1100
FX: 03 9332 1133
WWW.ALEXENBORISOFF.COM.AU
P. 0302 9561 FORTITUDE VALLEY QLD 4008

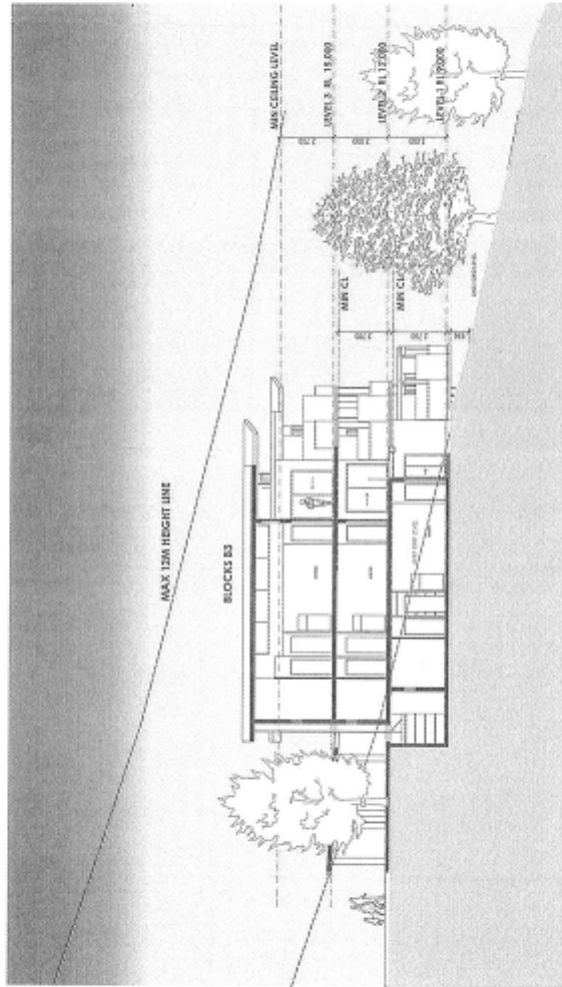
SCALE: 1:100 (PLAN)
DATE: 17/08/10
DRAWN: CA
DWG NO: 2881 DAB.09 H
APP'D: JG



BLOCK B3 NORTH EAST ELEVATION

NOTE:
REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR
INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

PROJECT: BANORA POINT	AT: ELSIE STREET BANORA POINT NSW	CLIENT: ROCKSEE PTY LTD	DRAWING: ELEVATIONS BLOCK B3	ARCHITECT: ALEX ENBORISOFF ARCHITECTS 1/200 ELIZABETH STREET SYDNEY NSW 1500 MOB: 0411 700 800 PH: 07 3832 1100 FX: 07 3832 1133 E-mail: alex@alexenborisoff.com.au P.O. BOX 236, FORTITUDE VALLEY, QLD 4006	SCALE: 1:50 (H) DATE: MARCH DRAWN: CH DWG. NO: 2881 DAB.10 H ARCHDwg V2 198209 1123AM



SECTION BB

NOTE:
REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR
INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

REV	DATE	REVISION
1	15/08/10	ISSUED FOR PERMIT APPLICATION
2	15/08/10	ISSUED FOR PERMIT APPLICATION
3	15/08/10	ISSUED FOR PERMIT APPLICATION
4	15/08/10	ISSUED FOR PERMIT APPLICATION
5	15/08/10	ISSUED FOR PERMIT APPLICATION
6	15/08/10	ISSUED FOR PERMIT APPLICATION
7	15/08/10	ISSUED FOR PERMIT APPLICATION

PROJECT:
BANDORA POINT

AT:
**ELISE STREET
BANDORA POINT
NSW**

CLIENT:
ROCKSEE PTY LTD

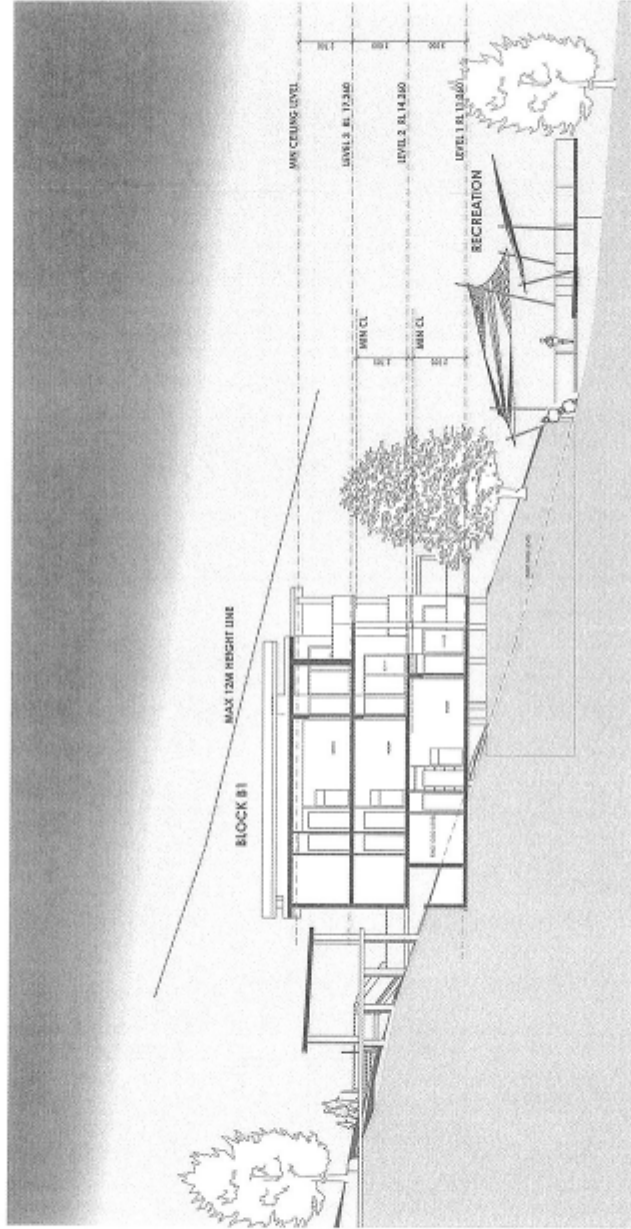
DRAWING:
SECTION B

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Architect

ALEX ENBORISOFF
REGISTERED ARCHITECT (NSW) & (ACT)
MEMBER OF THE ARCHITECTS BOARD OF AUSTRALIA
A.O.C. NO. 103,104 104,004 103,104
MOB. 0411 700 800
P.H. 07 3832 1100
FAX 07 3832 1133
E-MAIL: alex@alexenborisoff.com.au
7/2020/001 FORTITUDE VALLEY, QLS14499

SCALE: 1:100 @ A1
DATE: 15/08/10
DRAWN: ca
DWG. NO: **2881 DAB.11 H**
APP/CAJ/V12 15/08/2010 11:18:58



SECTION B1

NOTE:
REFER TO CIVIL ENG. DRAWINGS & DETAILS FOR
INTERNAL LANEWAY, RETAINING WALLS & EARTHWORKS

NO.	DATE	DESCRIPTION
1	12/12/09	PRELIMINARY DESIGN
2	15/01/10	REVISED DESIGN
3	15/01/10	REVISED DESIGN
4	15/01/10	REVISED DESIGN
5	15/01/10	REVISED DESIGN
6	15/01/10	REVISED DESIGN
7	15/01/10	REVISED DESIGN
8	15/01/10	REVISED DESIGN
9	15/01/10	REVISED DESIGN
10	15/01/10	REVISED DESIGN

PROJECT:
BANORA POINT

AT:
**ELSIE STREET
BANORA POINT
NSW**

CLIENT:
ROCKSEE PTY LTD

DRAWING:
SECTION B1

APPROVED BY THE ARCHITECT FOR THE ABOVE PROJECT AND ALL MODIFICATIONS THERE TO. THIS DRAWING IS NOT VALID OUT OF CONTEXT.

Alex Emborsicoff
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SCALE: 1:100 @ A1
DATE: MARCH
DRAWN: M
DWS No: 2881 DAB.12 H
PROJECT: BANORA POINT



DA ISSUE (K)

C SCALE: 1/8"=1'-0"
 C DATE: 08/08/10
 C DRAWN: CAJ
 C DWG. No: 2881 DAC.01 K
 C ASHCAD V12 01/2009 8:45 AM

ALEX ENBORISOFF
 ARCHITECTURE
 102/10-23 ST NEB NSW VIC 3084
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 FX: 07 3832 1130
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 P.O. BOX 395, PORTITTOE VALLEY, Q.D. 4066

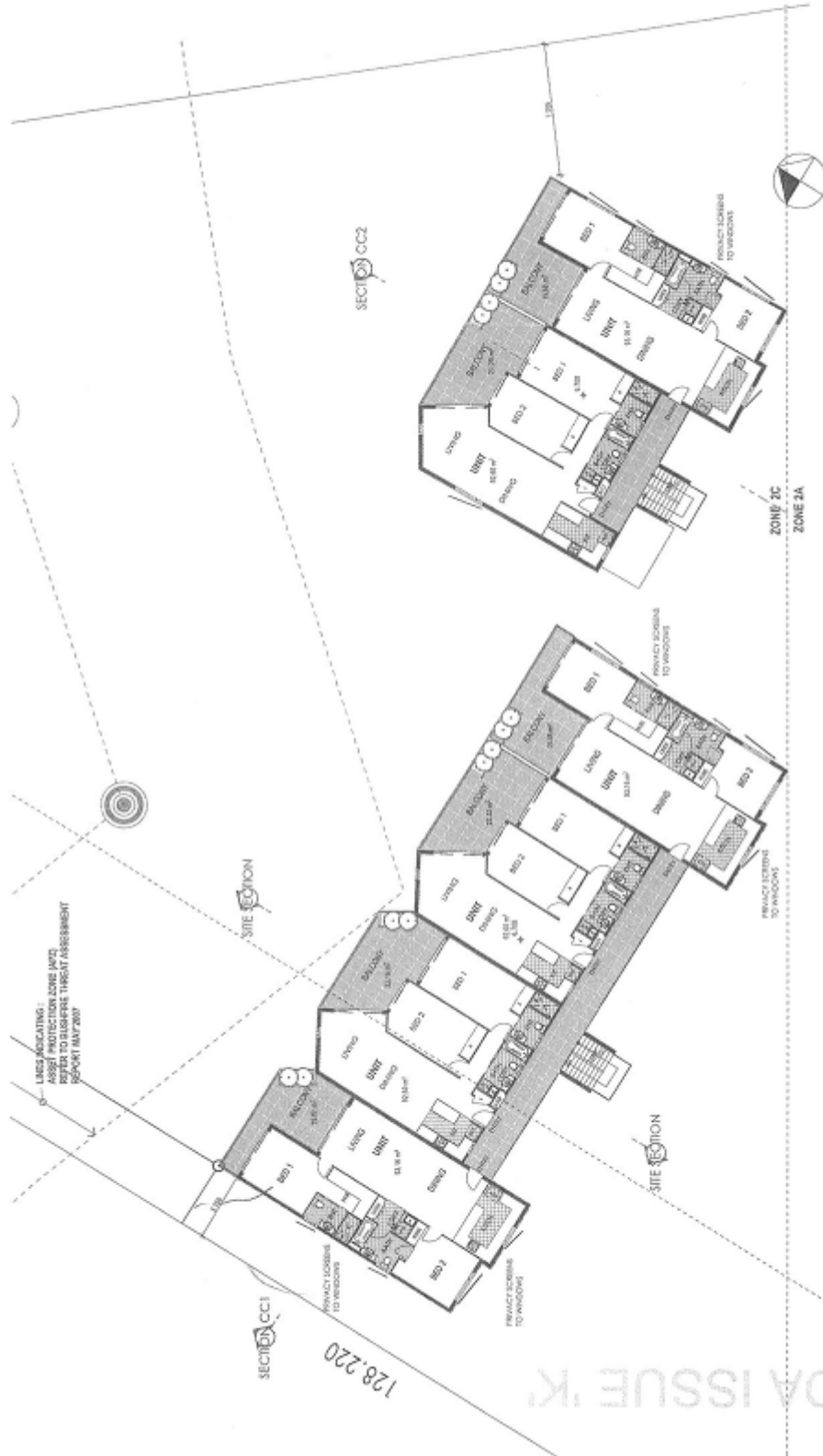
Architect
 DRAWING:
 MASS MODELS - BLOCK C
 COPYRIGHT © 2010 ALEX ENBORISOFF ARCHITECTURE
 ALL RIGHTS RESERVED
 PROJECT ORIGIN: BENDIGO BREWERY
 CONSTRUCTION OF 102/10-23 ST NEB

CLIENT:
 ROCKSEE PTY LTD

AT:
 ELSIE STREET
 BANDORA POINT
 NSW

PROJECT:
 BANDORA POINT

NO	REV	DESCRIPTION
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10	1	ISSUE FOR PERMIT



SCALE: 1:100 @ A
 DATE: 04/07
 DRAWN: 04/07
 DWG. No: 2881 DAC.03 K
 ARCHICAD 12 01/03/09 14:14

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 P. DUNDAS ST, PORTLAND VALLEY, VIC 3208

CLIENT:
 ROCKSEE PTY LTD
PROJECT:
 BANORA POINT
AT:
 ELSIE STREET
 BANORA POINT
 NSW

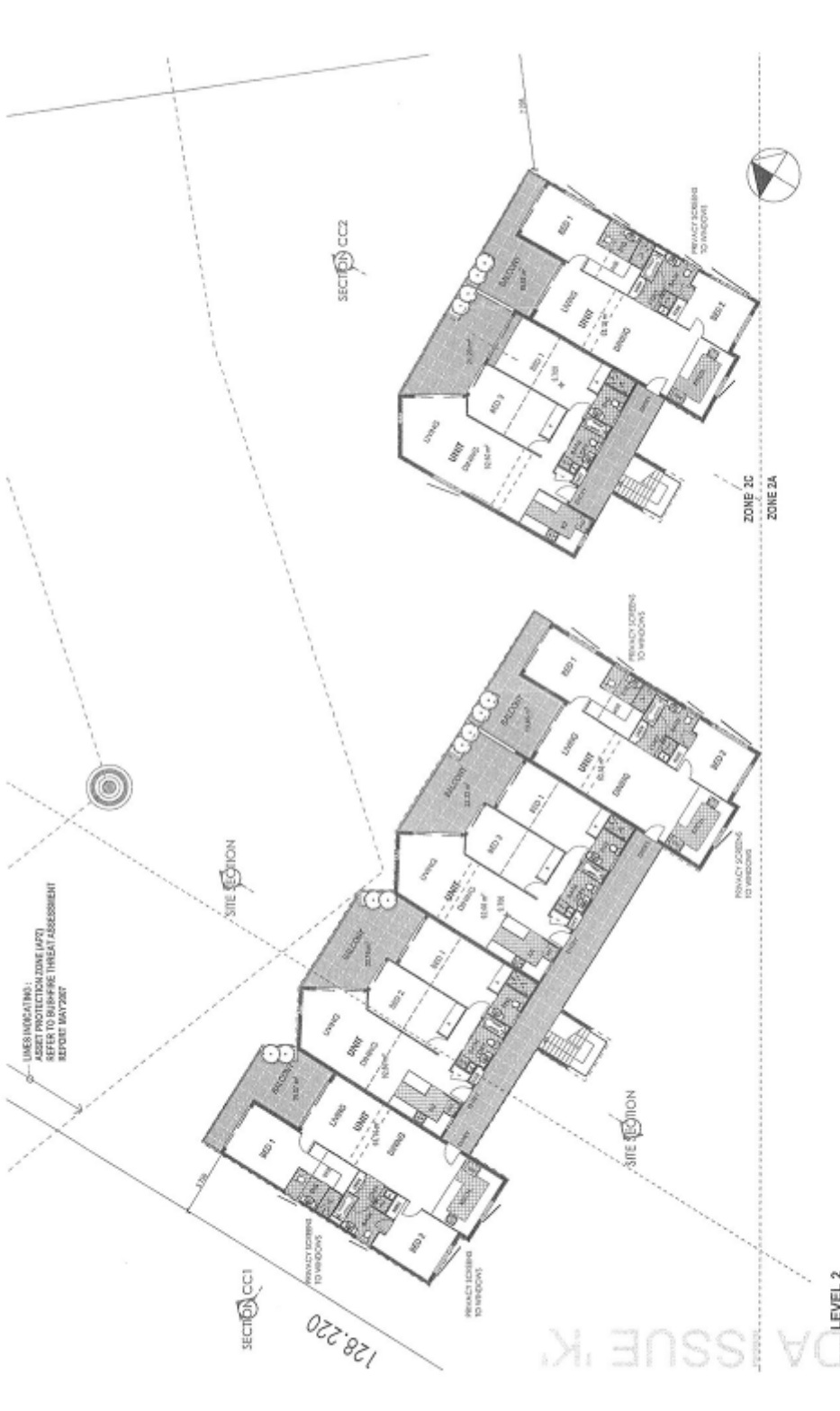
DRAWING:
 2. LEVEL 1
CONTRIBUTOR OF INFORMATION INCLUDING ARCHITECT, ENGINEER, PLANNING PROFESSIONAL, STRUCTURAL ENGINEER, SURVEYOR, etc.

PROJECT:
 BANORA POINT
AT:
 ELSIE STREET
 BANORA POINT
 NSW

CLIENT:
 ROCKSEE PTY LTD

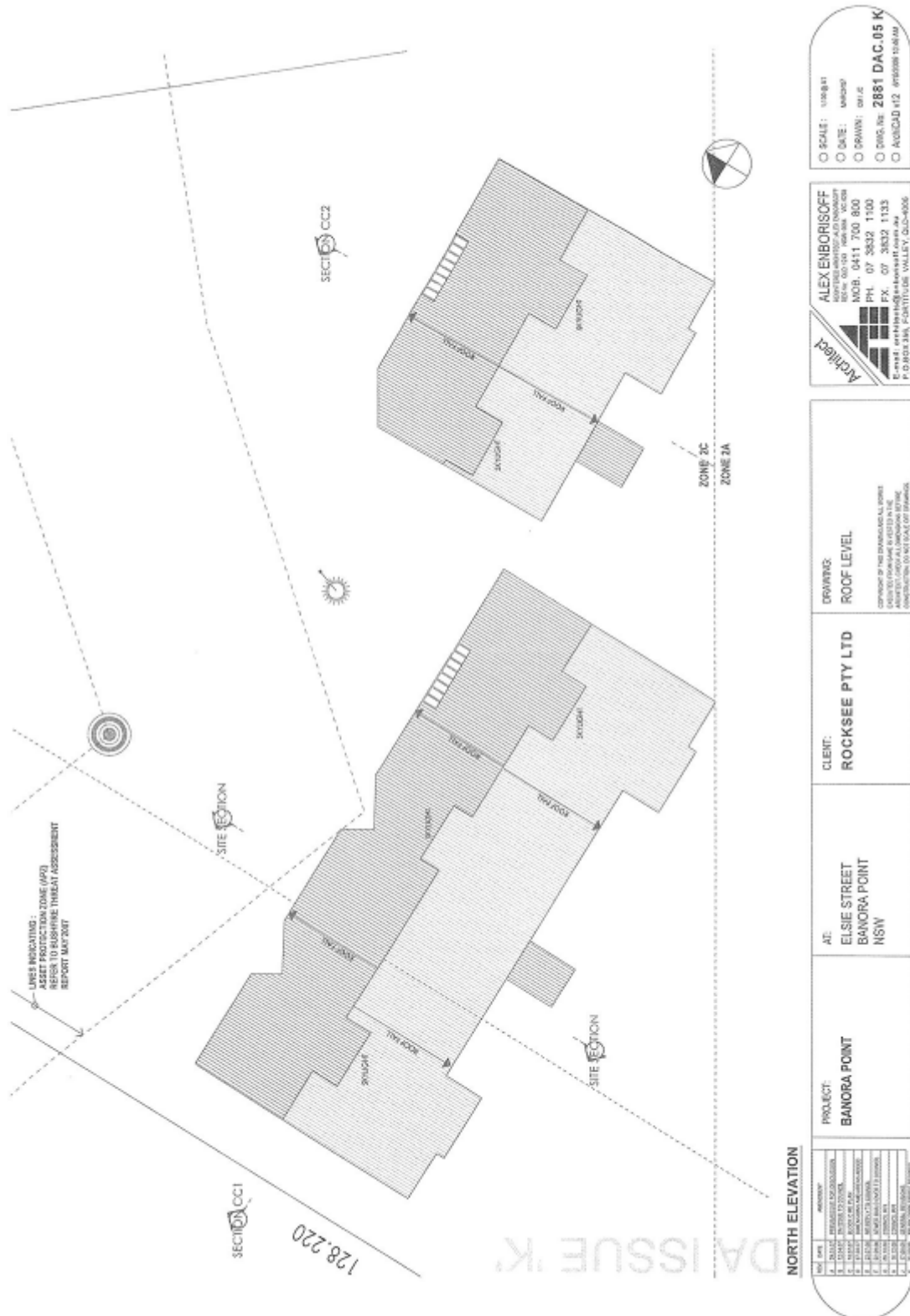
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LEVEL 2

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 O DRAWN: CH/E
 O DWS: 2881 DAC.05 K
 O ARCH: 212 8/08/10

ALEX ENBORISOFF
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 15/150 WINDYBUSH RD
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 P O BOX 354, PORTFOLIO VALLEY, Q.L.D. 4066

CLIENT:
ROCKSEE PTY LTD
DRAWING:
ROOF LEVEL
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 ARCHITECTURE & ENGINEERING
 REGULATED BY THE BOARD OF ARCHITECTS

PROJECT:
BANORA POINT

AT:
ELSIE STREET
BANORA POINT
NSW

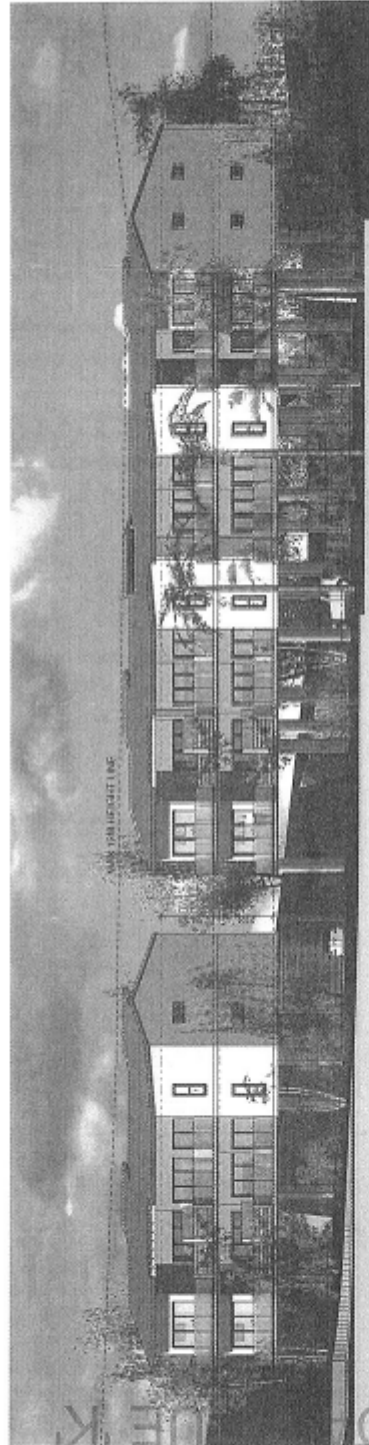
PROJECT:
BANORA POINT

NORTH ELEVATION

NO	DATE	REVISION
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NORTH EAST ELEVATION



NORTH WEST ELEVATION

NO.	DATE	REVISION
1.	20/08/10	PRELIMINARY EXPLANATIONS
2.	21/08/10	REVISED PLAN
3.	22/08/10	REVISIONS TO EXPLANATIONS
4.	23/08/10	REVISED EXPLANATIONS
5.	24/08/10	REVISED EXPLANATIONS
6.	25/08/10	REVISED EXPLANATIONS
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10.	29/08/10	REVISED EXPLANATIONS

PROJECT:
BANORA POINT

AT:
**ELSIE STREET
BANORA POINT
NSW**

CLIENT:
ROCKSEE PTY LTD

DRAWING:
ELEVATION BLOCK C SHEET 1

DESIGNED BY: ALEX ENBORISOFF
DRAWN BY: ALEX ENBORISOFF
CHECKED BY: ALEX ENBORISOFF
SCALE: 1:100
DATE: 20/08/10
PROJECT NO: 2881 DAC.06 K
DRAWING NO: 2881 DAC.06 K
REVISED BY: ALEX ENBORISOFF
DATE: 20/08/10

Alex Enborisoff
Architect
10/100 TULLAGH WALK
MULLAGOY, CO. DUBLIN 15, IRELAND
TEL: +353 1 452 3454
FAX: +353 1 452 3455
WWW.ALEXENBORISOFF.COM



SOUTH WEST ELEVATION



SOUTH EAST ELEVATION

SCALE: 1:100 @A4
 DATE: 08/08/10
 DRAWN BY: AM/SHF
 CHECKED BY: AM/JO
 DWG No: 2881 DAC.07 K
 REVISED BY: AM/SHF 17/08/10

Alex Enborisoff
 ARCHITECTURAL PRACTICE
 10/11-13/15 WILSON ST
 MOB: 0411 700 800
 PH: 07 3832 1100
 FX: 07 3832 1133
 E-mail: alex@enborisoff.com.au
 P.O. BOX 368, PORT HURDISLE VALLEY, QLD 4066

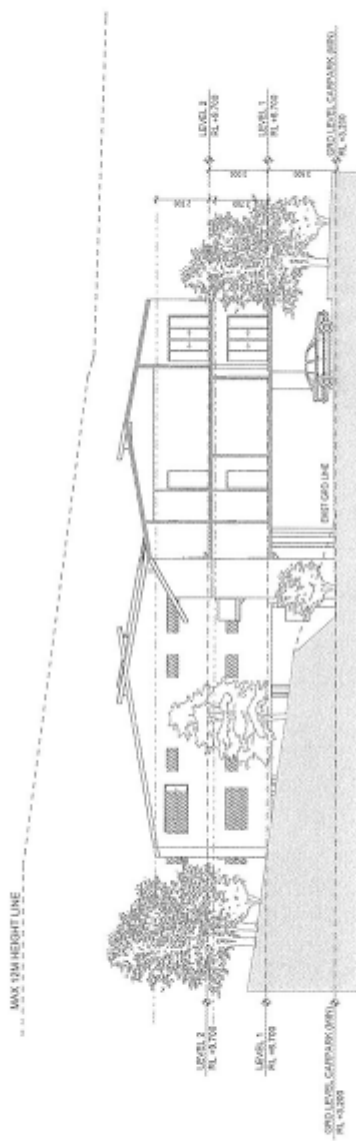
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 APPROVED FOR BUILDING BY: AM/SHF
 APPROVED FOR ARCHITECTURE BY: AM/SHF
 ARCHITECT: ALEX ENBORISOFF

CLIENT:
ROCKSEE PTY LTD

AT:
**ELSE STREET
 BAWORA POINT
 NSW**

PROJECT:
BAWORA POINT

NO.	DATE	REVISION
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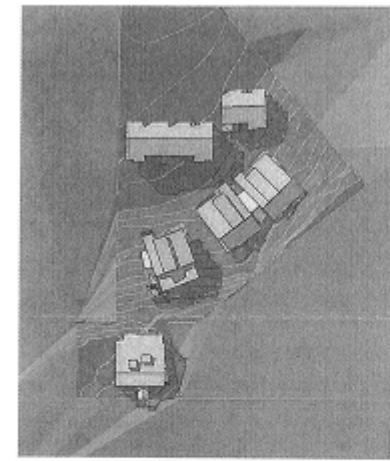


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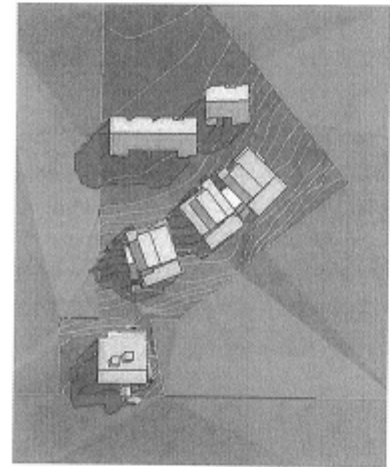


SECTION CC1

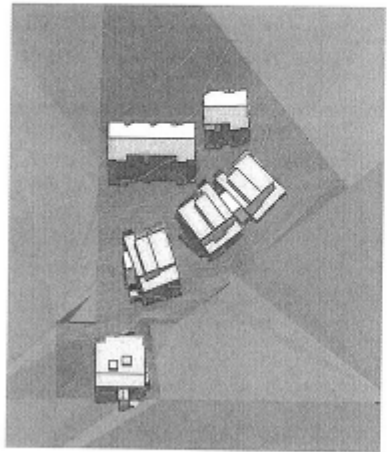
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<p>APPROVED BY: [Signature]</p>				<p>ALEX ENBORISOFF REGISTERED ARCHITECT AND SURVEYOR NSW No. 0411 700 800 PH. 07 3832 1100 FX. 07 3832 1133 E-mail: alexenborisoff@alexenborisoff.com.au 110 DON 255, NORTHGATE VALLEY, NSW 1585</p>



21 JUNE 12 NOON 1:1

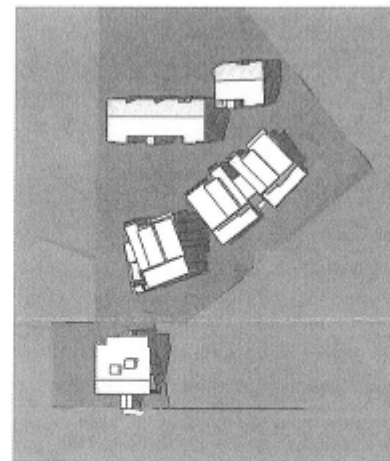


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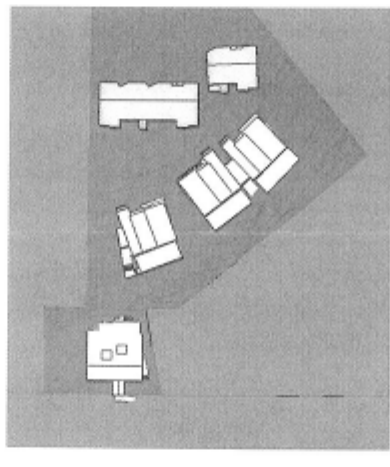


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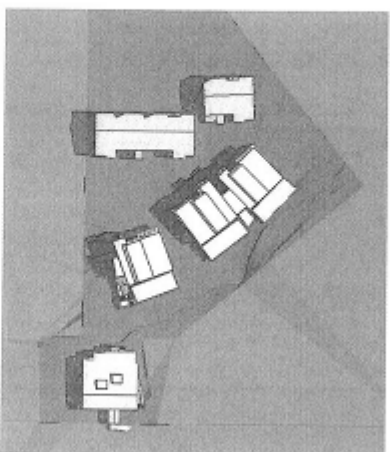
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Alex Enbrisooff
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ALEX ENBRISOFF
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 PM: 07 3832 1000
 PK: 07 3832 1333

SCALE: AS SHOWN
 DATE: 10/08/10
 DRAWN: OK
 DWG No: 2881 DA 06J
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PROJECT:
 BANORA POINT

CLIENT:
 ROCKSEE PTY LTD

DATE:
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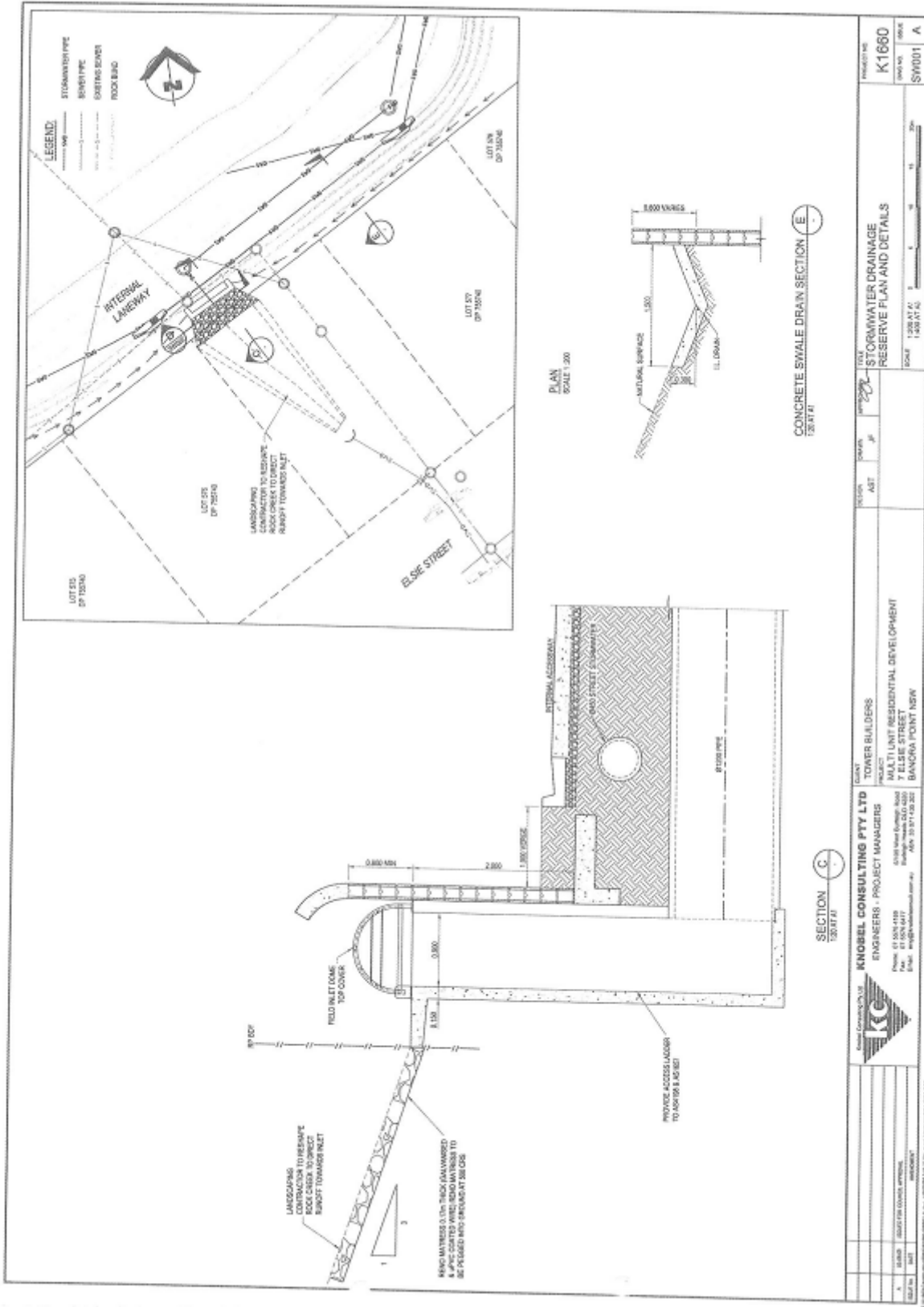
DRAWING:
 SHADOW DIAGRAMS

PROJECT:
 BANORA POINT
 ELISIE STREET
 BANORA POINT
 NSW

DATE:
 21 DEC 12 NOON

DRAWING:
 SHADOW DIAGRAMS

DESIGNED BY: ALEX ENBRISOFF
 DRAWN BY: ALEX ENBRISOFF
 CHECKED BY: ALEX ENBRISOFF
 APPROVED BY: ALEX ENBRISOFF



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.

Council’s Strategic Plan 2004 – 2024 references effective control of new development and redevelopment as a key element of the Plan, with development controls being implemented ‘fairly and rigorously’ in order to minimise adverse impacts of development. The Plan notes that developers will be...‘*expected to adhere to planning controls as part of their contribution towards achieving more sustainable development*’.

The subject proposal results in a multi-dwelling residential development to form part of Banora Point. The original application has been amended which has resulted in an improved design and density which aims to provide a residential development that is in keeping with the character of the Tweed Shire. It is considered that the proposed development will have a positive effect upon the community and the Tweed Shire as a whole.

Clause 5 - Ecologically Sustainable Development

Clause 5 of the LEP relates to 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*.

The proposal was forwarded on to Council’s ecologist/specialist planner for comment who has provided a number of Deferred Commencement conditions relating to the ecological integrity of the site. It is considered that these conditions will be consistent with the aims and the ecological sustainable development principles outlined within the plan

Clause 8 – Consent considerations

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.*

The subject proposal is unlikely to result in an unacceptable cumulative impact on the community, locality, catchment or Tweed Shire as a whole.

Clause 11 - Zone objectives

The subject land is zoned part 2(a) Low Density Residential and part 2(c) Urban Expansion under the Tweed LEP 2000. The 2(a) zone provides the following primary and secondary objectives:

Primary objectives

- *to provide for and maintain a low density residential environment with a predominantly detached housing character and amenity.*

Secondary objectives

- *to allow some diversity of housing types provided it achieves good urban design outcomes and the density, scale and height is compatible with the primary objective.*
- *to allow for non-residential development that is domestically based, or services the local needs of the community, and does not detract from the primary objective of the zone.*

The proposed development complies with the primary objective for low density residential development being that the area in the 2(a) zone maintains a residential density of 1 dwelling per 450m². Although the proposed development does not appear as detached styled housing it is considered that it complies with the secondary objective being that it provides for a range of housing types.

The secondary objective allows for a variety of housing types, provided that the development achieves “good urban design outcomes”. The proposed development has been amended to reduce the density and provides for improved communal open space for residents and as such achieves a good urban design.

It is considered that the proposal complies with the 2(a) zone provisions. The 2(c) Urban Expansion zone provides the following primary and secondary objectives:

Primary objectives

- *to identify land for urban expansion (which will comprise mainly residential development focused on multi-use neighbourhood centres) and to ensure its optimum utilisation consistent with environmental constraints and the need to minimise residential landtake.*

Secondary objectives

- *to allow associated non-residential development which meets the recreation, shopping, commercial, employment and social needs of future residents.*
- *to ensure that sensitive environmental areas within and outside the zone are protected from any adverse impacts of development.*

Block C is contained within the 2(c) zone, the development originally provided for thirty three (33) units and the latest amended plans provided twelve (12) units. Therefore the proposed design has sought to ensure optimum utilisation of the site.

The applicant's response in relation to the objectives of the zone is supported in this instance. The site has been maximised and developed efficiently given the constraints affecting the site. This is demonstrated further throughout this report.

Clause 14 - Development near zone boundaries

Clause 14 relates to development near the boundaries of the 2(a) and 2(c) zone. The objective of the zone 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.*

It is considered that the proposal is consistent with the objectives of each of the zones. The design of the development shows compliance within each of the zones and is therefore recommended for approval.

Clause 15 - Essential Services

The subject site is within an existing residential area and there are existing services available to the site. Therefore the proposed development complies with this clause. Existing services may require relocation to accommodate the development. Accordingly, the proposal complies with the provisions of this clause.

Clause 16 - Height of Building

The clause states that the height and scale of the development is appropriate to its location, surrounding development and environmental characteristics of the land. The subject site has a three storey height limit.

A storey is defined under the Tweed Local Environmental Plan 2000 as:

- (a) the space between two floors, or
- (b) the space between a floor and any ceiling or roof immediately above it, or
- (c) foundation areas, garages, workshops, storerooms and the like, excluding access paths to basement areas, where the height between the finished ground level and the top of the floor immediately above them exceeds 1.5 metres in height. A storey which exceeds 4.5 metres for residential buildings is counted as two storeys. For the purpose of counting the number of storeys in a building, the number is to be the maximum number of storeys of the building which may be intersected by the same vertical line, not being a line which passes through any wall of the building.

The amended plans submitted to Council on the 14 October 2008 were scaled at 1:100 at A1, however, only A3 plans were provided. Therefore the plans were not accurately provided to scale. Further the RL for the finished ground level do not provide the minimum finished ground level. However, based on the available information it would appear that building Block B and C did not comply with the three (3) storey limit.

As such it was requested that amended plans be provided to an appropriate scale which is to show compliance with the maximum height. Amended plans were received on 19 October 2009 showing compliance with the three storey height limit. All blocks now comply with the three storey limit and therefore complies with this clause.

Clause 17 - Social Impact Assessment

The subject proposal does not require a social impact assessment.

Clause 34 - Flooding

The objective of the clause is to minimise future potential flood damage by ensuring that only appropriate compatible development occurs on flood liable land.

The proposed development was assessed by Council's flooding engineer who provided the following comments:

"The application generally complies with the flooding requirements."

The amended plans of Block C have resulted in the carpark being an open structure which is required to be above 2.6m AHD. The proposed development complies with this requirement. Therefore the proposed development satisfies this clause.

Clause 35 - Acid Sulfate Soils

A small portion of the site on the north western corner has been identified on Council's GIS mapping system as possessing Class 2 acid sulphate soils. No development or disturbance of soils will be carried out in that location of the site. Therefore this clause is not relevant to the proposed development.

Clause 39A - Bushfire protection

The objective is to minimise bushfire risk to built assets and people and to reduce bushfire threat to ecological assets and environmental assets. The northern portion of the site is identified as bushfire prone land.

A bushfire report was sent to the local Rural Fire Service, in correspondence from the local Rural Fire Service it was advised that an adequate assessment of the proposed development could not be carried out as there was still outstanding information in regards to access and asset protection zones.

The applicant submitted the additional information to the Rural Fire Service on 28 June 2010. The Rural Fire Service responded in the form of a Letter dated 2 August 2010 with a number of conditions to be included in the recommendations. It is therefore considered that the proposal complies with the clause.

Clause 51A - Multi-dwelling housing densities in 2(a) zone

The objective of the clause is to control the density of multi-dwelling housing in Zone 2(a) Low Density zone. Multi-dwelling housing in the 2(a) zone is not to exceed one dwelling per 450 square metres of site area.

Amended plans reducing the density to one dwelling per 450m² for the land zoned 2(a) have been provided and therefore complies with this clause.

Clause 54 - Tree Preservation Order

The objectives of this clause are to enable the protection of vegetation for reasons of amenity or ecology. The northern portion of the site is covered by a Tree Preservation Order. The Statement of Environmental Effects did not fully address this clause. However, Council's ecologist/specialist planner has included a number of Deferred Commencement conditions relating to the ecological integrity of the site.

Therefore this clause has been satisfied and it is considered that appropriate measures can be taken to ensure compliance with this clause.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 43: Residential development

1. *The council shall not grant consent to development for residential purposes unless:*
 - (a) *it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,*
 - (b) *it is satisfied that the proposed road widths are not excessive for the function of the road,*
 - (c) *it is satisfied that, where development involves the long term residential use of caravan parks, the normal criteria for the location of dwellings such as access to services and physical suitability of land have been met,*
 - (d) *it is satisfied that the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles, and*
 - (e) *it is satisfied that site erosion will be minimised in accordance with sedimentation and erosion management plans.*

The North Coast Regional Environmental Plan states that Council shall not grant consent for residential purposes unless it is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land.

As a multi-unit development which complies with the one dwelling per 450m² of 2(a) zoned land, the proposed density is considered to be a reasonable response to the land use character of the area and will not result in the creation of any adverse physical impacts upon the locality. Further, a sedimentation and erosion control plan will be enforced in relation to the construction.

The proposal is considered to be consistent with the relevant provision of Clause 43 of NCREP 1988.

SEPP No. 55 - Remediation of Land

State Environmental Planning Policy 55 provides a statewide planning approach to the remediation of contaminated land and promotes the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7 of the SEPP refers to the consideration of contamination in the determination of a development application, stating that:

1. *A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) *it has considered whether the land is contaminated.*

A preliminary site contamination report was assessed by Council's Environmental Health Officer who provided the following comments:

"this report concludes that on the basis of site history information and soil testing for contaminants associated with banana cropping that the site is suitable for the proposed use".

Therefore the proposed development is considered to be compliant with SEPP 55.

SEPP No. 65 - Design Quality of Residential Flat Development

This Policy applies to a new residential flat building which is defined as:

- "(a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops)."*

The proposal is consistent with the definition of a residential flat building as it is three to four storeys in height.

The 10 design quality principles of the SEPP provides a guide to achieving good design and the means of evaluating the merit of a proposal. The application has provided a section 65 architect statement.

Context

The site is on the perimeter of existing residential locality which predominantly consists of single dwellings that are single or double storey dwellings. The dwellings are of a design from the 60 - 70's that are predominantly brick and tile construction. Recently houses in the locality have been renovated with rendering brick and provision of front balconies.

Block A is the only building visible from Elsie Street. The amended plan submitted provides a more domestic scale that is in keeping with the North Coast Design Guidelines. The built form has provided a good articulation and break up of materials to the building and is considered to be in keeping with the context of the surrounding locality.

Block B and C are not visible from the surrounding streetscape and therefore are not considered in regards to the context of the surrounding area. The proposed development therefore complies with this design requirement.

Scale

The scale of the surrounding locality is two storeys in height. Block A streetscape elevation appears two storeys in height and is in keeping with the scale of the surrounding locality. Upon entering the site, Block B1 and Block C appear as 3 storey development although it is considered that the slope of the land and the reduction in the density has reduced the scale of the original proposal and therefore complies with this design requirement.

Built Form

The amended design is an improvement on the built form from the original design, as Block A, B and Block C have been provided with articulation and variation of building materials and variation to the roof form. It is considered that the built form will be in keeping with the surrounding locality and therefore complies with this design requirement.

Density

The subject site is a large site of over 9000m² and therefore is capable of supporting a number of dwellings on the site. The applicant has reduced the density so the area of the proposal on 2(a) zoned land now complies with the provision of 1 dwelling per 450m². It is therefore considered that the proposal complies with the density requirement.

Landscaping

The submitted application has provided a plan of Landscape Intent. The plan was assessed by Council ecologist/specialist planner, who identified numerous weed species not to be included on the plan. Conditions have been included to remove these weed species and provide a Statement of Landscaping Intent to be submitted prior to the issue of construction certificate.

Amenity

The site has provided communal open space areas which have been improved with a pool and BBQ area. Footpaths are provided from every block to these communal areas.

It is considered that the separation of the blocks and the orientation towards the north where possible will increase the amenity for residents of the proposal. Therefore the proposal complies with the amenity requirement.

Safety and Security

The design criteria states that the visibility, functionality and safety of building entrances can be achieved by orientating the entrances to the public street.

The site slopes down from Elsie Street and therefore street frontage for the whole development is not achievable. However, the site layout promotes entryways visible from access road.

The amended plans have provided doors on the corridor and created a lobby walkway and windows on the corridor which is considered to improve safety and security on the site.

Therefore the proposed development complies with this design principle.

Aesthetics

The amended plans have significantly improved the external appearance of the building through the articulation of the built form and the variation in materials.

It is considered that with the improvements to the building design, the improved communal open space areas and landscaping have considerably increased the aesthetics and therefore complies with this provision.

SEPP No 71 – Coastal Protection

Clause 8 of the Policy details sixteen matters for consideration for land within the coastal zone. The application is considered to satisfy the matters for consideration. Specifically it is considered that the type, bulk, scale and size of the proposed development is appropriate for the location. Further detail is provided later in this report which supports the argument that the proposed development is suitable for the subject site.

SEPP (Infrastructure) 2007

SEPP (Infrastructure) aims to facilitate the effective delivery of infrastructure across the State. Clause 13 of the SEPP states that the consultation is required when the development is likely to generate traffic to an extent that will strain the capacity of the road system in a local government area.

The application was referred to Development Traffic Advisory Group (DTAG) who advised that the application should be referred to the RTA. The RTA responded that they had no concerns with the application provided a condition was included that noise attenuation measures are implemented into the design of the buildings.

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

The Tweed Local Environmental Plan 2010 is on public exhibition from 27th January 2010 until 30 April 2010. In this Draft LEP the site is within the R1 – General Residential Zone and R2 - Low Density Residential. Within the R1 and R2 zone a Multi-Dwelling unit is permitted with consent. It is therefore considered that the proposal complies with the intent of the Draft Tweed LEP 2010.

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

Tweed Development Control Plan

A1-Residential and Tourist Development Code

The subject application was submitted prior to the adoption of the current Tweed Development Control Plan which was adopted on 22 April 2008. Council resolved in the Planning Committee meeting of Tuesday 22 April that for applications that have been lodged prior to that date that have not yet been determined will be saved from strict compliance with the plan.

The subject application has been amended substantially to show compliance with the majority of the A1. The minor non-compliance areas are shown below. A full assessment against the A1 provisions is available on the file.

CHAPTER 2 - SITE AND BUILDING CONTROLS

DESIGN CONTROL 2 - Site Configuration

Landscaping

The applicant has not provided deep soil zone plans, however, this was not required as a part of the original application as it was submitted prior to DCP section A1 coming into force. However, it is considered that the condition requiring a Landscape Intent Plan being submitted with the removal of weed species is adequate for the development.

Impermeable Site Area

No information has been provided that there will be rainwater tanks on the site, however, a BASIX assessment has been complete and indicates that the proposal complies with water saving provisions.

A2-Site Access and Parking Code

The carparking requirements for multi-dwelling housing is 1.5 carparking spaces per 2 bedroom unit and 2 carparking spaces for 3 bedroom units, one space per four units for visitor parking.

The proposed development has twenty five (25) units of which thirteen (13) are three (3) bedroom units and twelve (12) are two (2) bedroom units

Block A has four (4) units that are three (3) bedroom and therefore requires eight (8) carparking spaces and one (1) visitor space. Block A has provided eight (8) carparking spaces and two (2) visitor spaces and therefore complies with this requirement.

Block B has nine (8) three (3) bedroom units and therefore requires sixteen (16) car parking spaces and therefore requires four (4) visitor spaces. Block B has provided eighteen (18) carparking spaces and three (3) visitor parking spaces and therefore satisfies the parking for Block B.

Block C has four thirteen (13) two (2) bedroom units, therefore requires twenty (20) spaces and four (4) visitor spaces. The proposed development provides twenty one (21) residential spaces and four (4) visitor parking spaces and therefore complies with this requirement.

The DCP requires the storage for two (2) bicycles spaces per unit and therefore needs to provide storage for 50 bicycles. The proposed development has provided adequate space at each building for the storage of bicycles.

Therefore the proposed development complies with the DCP.

A3-Development of Flood Liable Land

Section A3.3.3 Residential Development on Flood Liable Land in regards to development at Banora Point. The control states that all habitable areas of the residential buildings are to be at a level of not less than Council's adopted minimum floor level for development.

As mentioned above the application was assessed by Council's Flooding Engineer who found that the proposed development was generally compliant with the flooding controls. Therefore the proposed development complies with this development control plan.

Section A9 – Energy Smart Homes Policy

The proposal is consistent with Section A9 and the requirements of SEPP Building Sustainability Index: BASIX 2004.

A11 – Public Notification of Development Proposals

The development application was notified to surrounding properties for a period of two weeks closing on 31 October 2007. During this period there were eight (8) written submissions received. The issues raised by the submissions have been addressed later in this report.

B3-Banora Point West- Tweed Heads South

The site is partly located within the Banora Point West - Tweed Heads South DCP. The design philosophy for the DCP has five broad considerations as follows:

- (i) *The need to retain the current identities of both Banora Point West (living area) and Tweed Heads South (township/holiday area);*
- (ii) *The need to integrate the development whilst providing neighbourhoods of residential development and buffering possible incompatible land uses;*
- (iii) *The need to ensure that development is in harmony with the natural environment;*
- (iv) *The need to take into account constraints inhibiting development; and*
- (v) *To ensure that urban subdivision design has regard to slope, drainage patterns, geological hazards, landscape features; road hierarchy; open space networks and the provision of public facilities and services.*

The subject site is nominated as a Residential 'B' Area. In this area, multi-dwelling housing is expected to reach a density of 24 dwellings per hectare (the equivalent for townhouses). The proposed development reaches a density of 25 dwellings per 0.9215 hectares, which is a density slightly above that outlined in the DCP for the site. This is considered to be acceptable as it is only slightly above the density.

The current multi-dwelling housing proposal has a density that is similar to or greater than any of the previous integrated housing developments in the locality which are predominantly single storey detached dwellings. The developer has responded to a demand for secure independent housing from retirees and has incorporated two-storey housing where possible along the Elsie Street frontage.

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

Clause 92(a) Government Coastal Policy

Clause 92 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) prescribes additional matters that a consent authority must take into consideration in determining a development application and relates primarily to demolition and the NSW Coastal Policy 1997. No demolition is proposed, however, the subject application is located in the coastal zone and therefore the proposed development is required to be assessed in regards to the NSW Coastal Policy.

The NSW Coastal Policy 1997

The 1997 Coastal Policy is based on the four principles of ESD. These principles are the Conservation of biological diversity and ecological integrity, inter-generational equity, improved valuation, pricing and incentive mechanisms and the precautionary principle. These principles are included in the Tweed Local Environmental Plan clause 5 ecological sustainable development and therefore have been addressed above.

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

Compatibility with Adjoining Land Uses

The surrounding development is predominantly single and double storey dwellings. The proposed development is for 25 units in three residential flat block buildings. It is considered that the subject site is large and capable of supporting medium density housing with the majority of the bulk of the buildings is located down slope and will not be visible from Elsie Street. It is therefore considered that the proposal is in keeping with the surrounding residential character, and compliant with the applicable DCP.

Privacy

Block A has balconies adjoining living areas that are overlooking the neighbouring property to the east. Privacy screens have been provided for that elevation of the building. As the subject site is a large site and slopes away from Elsie Street, it has provided a configuration that does not result in privacy impacts on the neighbouring property.

Bulk Scale & Design

The original application was for 46 residential units within three buildings in particular, Block C is over 60 metres long and three storeys in height and was not considered in keeping with the bulk and scale of good design principles of a residential flat building.

The amended plans improved the façade treatment of Block A & C, reduced the density on the site from 46 units to 34 units which included removed of level 3 of Block C.

The application was further amended and reduced the density from 34 units to 25 units. It is therefore considered that the bulk and scale of the development has been significantly improved and is a suitable development for the size of the site.

Stormwater

Council's Flooding Engineer has provided the following:

"The applicant has elected to provide a piped system to convey the Q100 external flows through the site, in accordance with (ii), rather than redesign the proposed buildings as per option (i). The stormwater consultant has calculated that a 1200mm pipe can accommodate these flows. In order to provide adequate inlet capacity, the internal road that separates the inlet from the adjacent habitable dwelling would need to be built 1.72m above invert level of the inlet structure. One way cross fall on the internal driveway away from the buildings will provide additional protection from stormwater flooding. No arrangement for this inlet system has been provided. It is considered that further design is required so that the adequacy of this inlet can be properly assessed, and the consequences of failure examined.

For the area between the proposed buildings, an overland flow path is to be constructed, to drain the gully area along the western boundary. Design of this drain has been provided, but no details of other cut and fill / regrading works in this area have been provided to demonstrate compliance with the DCP, as was requested."

An amended stormwater report was requested on numerous occasions which was submitted on 14 January 2010 and Council's Flooding Engineer provided Conditions of consent on 29 March 2010. It is therefore considered that the Stormwater issues have been rectified and are no longer an issue.

Noise

Council's Environmental Health Officer has reviewed the proposal and provided the following comments:

"A Revised Traffic Noise Impact report is to be prepared for submission to council prior to the issue of the Construction Certificate. Such Report shall consider any proposed Pacific Highway upgrading information and shall make recommendations relating to the provision of noise barriers and the like and/or any necessary building shell acoustic treatments required to achieve internal noise criteria.

The Report shall be prepared by an appropriately qualified and experienced acoustic consultant.

All recommendations as to barriers and building shell treatments as contained within the Report shall be implemented to the satisfaction of Council's General Manager or his Delegate.

Notwithstanding the above the following internal noise objectives for all habitable rooms under ventilated conditions shall as a minimum comply with the following:

*All habitable rooms other than sleeping rooms: 45 dB(A) Leq(15hr);
and
40 dB(A) Leq (9hr) and Sleeping rooms : 35 dB(A) Leq(9hr)."*

It is considered that an appropriate condition can be implemented to mitigate any noise issues.

Site Design and Internal Design

Originally, the proposed development was not considered to provide good urban design for the site layout and the internal design of the units. However, as a result of amended designs and a reduction in the density it was considered that the site and internal design improved significantly. Through the use of landscaping, providing usable communal open spaces and providing each unit with private open space, it is considered that the design of the proposal is suitable in the locality.

Cumulative Impacts

The subject application, in its current form will not result in a negative cumulative impact on the environment. The application has satisfactorily demonstrated how the stormwater will be managed, and deferred conditions have been included to protect the endangered ecological community. It is therefore considered that the proposal is suitable in the location.

(c) Suitability of the site for the development

Natural Hazards

The application as submitted has demonstrated that suitable mitigation measures for risks to the development from natural hazards. The site is bushfire prone land and as such was submitted to the Rural Fire. The RFS responded on 2 August 2010 with conditions. The site has significant stormwater issues, however, an amended stormwater report has been received by Council and as such was assessed by the Engineering section. Conditions have been included for the stormwater issues.

Therefore, it is considered that the application satisfies the risks of the natural hazards.

Flora and Fauna

Council's specialist planner/ecologist has reviewed the proposal and provided the following comments:

"The area contains significant vegetation of high conservation value that is classed as an Endangered Ecological Community (EEC) under the Threatened Species Conservation Act 1995.

The vegetation community is Lowland Rainforest on Floodplain which intergrades with Swamp Sclerophyll Forest. Both of these communities exist where the groundwater and surface water regime is suitable, and rely upon the current regime continuing unchanged.

The applicant has failed to demonstrate that the development will not impact directly or indirectly on the significant vegetation and habitat. A request (see below) for an aerial photograph with the development footprint (which includes any required asset protection zones, recreational areas and stormwater treatment devices) overlain has never been provided.

A site plan at a scale of 1:1000 or greater for the whole site clearly indicating:

- i. mapped extent of existing vegetation communities;*
- ii. final building design and locations;*
- iii. extent of asset protection zones;*
- iv. location of any stormwater treatment devices*
- v. the location of any trees identified for retention in the development application plans;*
- vi. location of grassed areas, boardwalk (if any), paved areas (if any) and stormwater infrastructure including swales and infiltration basins.*

The applicant has failed to demonstrate that the quantity, quality and velocity of surface water runoff can be maintained at or near current levels, a factor necessary for the long-term survival of the EEC."

Therefore given the lack of information in regards to the flora and fauna on the site, a deferred commencement condition has been included so it can be concluded with certainty that the proposed development will not impact on the EEC directly or indirectly.

The deferred commencement condition is based on the following understanding of the possible-likely and actual impacts of the proposed development on the local biodiversity and ecological values:

- *The proposed development will result in the ground surface across the site increasing in imperviousness, with stormwater moving faster toward the remnant of Lowland Rainforest on Floodplain at the bottom of the site. Council's flood engineer has advised that the measures are appropriate to allow for the natural flow to the area identified as an endangered ecological community.*

- *The Asset Protection Zones identified by the bushfire consultant in the latest amended report are 13.3 m to the north, 8 m to the east, 3 m to the west and 0 m to the south.*
- *There were Section 5A assessment of significance's undertaken for species and ecological communities considered relevant to the proposal.*
- *There was no tree survey provided that demonstrated exactly which trees or species would be removed.*
- *There were no specific details provided of the measures to be implemented to address impacts to trees and native vegetation being retained as a result of the proposal, particularly in relation to earthworks and retaining walls.*
- *The proposed landscaping plan remains inappropriate in species selection for biodiversity conservation, reducing bushfire risk and suitability to development sites. It also appears (from photos in the landscaping plan) that some of the landscaping will be in pots and it is not clear if these are part of the proposed plant densities in the landscaping plan.*
- *There was no Restoration Plan for the Lowland Rainforest on Floodplain provided with the application or additional information, despite this being a requirement of Council.*

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

Roads and Traffic Authority

The application was referred to Development Traffic Advisory Group (DTAG) as required under the provisions of SEPP (Infrastructure) 2007. DTAG stated that the application should be referred to the Roads and Traffic Authority of NSW.

The RTA provided the following comments:

“The Roads and Traffic Authority (RTA) has no objection to the proposed Multi Dwelling housing providing the noise requirements stated below are incorporated into the approval. The proposed development is located in the vicinity of and could be affected by traffic noise from the existing Pacific Highway”.

The comments were reviewed by Council Environmental Health Officer, who has provided an appropriate condition of consent will be added.

Local Rural Fire Service

The application required referral to the RFS under section 100B of Rural Fires Act 1997. The RFS requested further information from the applicant which was received on 28 June 2010. The Rural Fire Service responded in the form of a Letter dated 2 August 2010 with a number of conditions to be included in the recommendations. It is therefore considered that the proposal complies with the clause.

(e) Public interest

The proposed development was advertised for fourteen (14) days from Wednesday 17 October to Wednesday 31 October 2007. Eight submissions were received. The issues raised in the submissions are addressed in the following table.

ISSUE	COMMENT
Concern with the current street layout ability to handle an increase in traffic during construction and on completion of the development	The application was referred to Development Traffic Advisory Group (DTAG) on 15 November 2007. The committee had no concerns with the subject application in regards to traffic numbers of the area. DTAG had advised a condition regarding the resealing of Elsie Street if the application be approved.
The proposed development will result in increase in younger people who will increase the noise in the locality.	The proposed development is considered to result in general residential noise and therefore is not considered to be an excessive noise generation. The demographic that the proposed development will attract, is not an issue for consideration. Council is only concerned that diversity in housing is created to provide for the variety of the community's needs.
Increase in offstreet parking being generated from the development.	The proposed development complies with the parking requirement for residents and visitors under the Tweed Development Control Plan Section A2 and therefore this is not considered to result in an increase in off street parking in the area.
Increase in noise generated from increased use of the garbage service	The increase in noise from the servicing for garbage disposal is not considered an excessive noise incompatible with residential locality. Therefore, this is not considered an issue for refusal for the proposed development.
Concern for tree clearing and impact on wildlife	A number of deferred commencement conditions have been included to ensure the Endangered Ecological Community will be protected and therefore this is not considered an issue for refusal of the development.

<p>Concern the proposed development will block views</p>	<p>The proposed development slopes down significantly from Elsie Street, only Block A is visible from the street and this building appears as two storeys from the street. The views from the dwelling across the street therefore will not be affected by the proposed development.</p>
<p>Concerned the reflection of the roofs if zincalume, or a tiled roof would be an eyesore.</p>	<p>The original and amended plans have predominantly been for flat roof design that would not impact on neighbouring properties views, the amended design has dark roof and therefore would not result in a reflection to surrounding properties.</p>
<p>The proposed development will devalue property prices and make the property unliveable.</p>	<p>The impact of the development on property prices is not a matter for consideration under section 79C of the Environmental Planning and Assessment Act 1979.</p>
<p>Large stormwater flow over the site</p>	<p>Council's Engineers have assessed the stormwater issues and have indicated that the stormwater flow will be adequately dispersed over the low lying area to the north of the subject site.</p>
<p>Out of character with the area</p>	<p>The locality of Elsie Street is predominantly low density residential housing, consisting of single dwelling houses.</p> <p>Block A is the only building visible from Elsie Street, this building is only two storeys in height from the street elevation and therefore this building alone is considered in keeping with the scale and built form of the dwellings in the locality.</p> <p>The density for the development has been reduced to comply with the one dwelling per 450m² density as set out in Tweed Local Environmental Plan 2000. As such it is considered that this submission does not warrant refusal of the proposal.</p>
<p>Concerned with the line of sight in both directions when accessing the site.</p>	<p>The application was referred to Development Traffic Advisory Group (DTAG) on 15 November 2007. The committee had no concerns with the subject application in regards to line of sight into and out of the development site.</p>

The proposed development raised a significant number of objections. While a number of the issues are not issues that Council can consider under s79C matters for consideration. Whilst the issues that can be addressed have been conditioned so that the proposed development does not significantly affect the public interest. As such it is considered that the proposed development be approved with conditions.

OPTIONS:

1. Approve the application subject to the recommended conditions of consent.
2. Refuse the application, with reasoning

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be unsatisfied with Council's determination an appeal may be lodged with the NSW Land & Environment Court.

POLICY IMPLICATIONS:

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

CONCLUSION:

The proposed development is consistent with the applicable environmental planning instruments. Having had regard for the proposed development and controls provided for the site it is considered that conditional consent is warranted.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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12 [PR-CM] Development Application DA09/0594 for a Change of Use from Dwellings to a Group Home and Internal Alterations at Lot 5 DP 621935, No. 91 Burringbar Road, Burringbar

ORIGIN:

Development Assessment

FILE NO: DA09/0594 Pt1

SUMMARY OF REPORT:

An application was originally lodged for minor additions and alterations (bathroom and laundry) to an existing dual occupancy dwelling. However, after an investigation into the proposed development it was apparent that the proposal included a change of use to a group home and a number of buildings that do not have Development Consent outlined below. The applicant provided correspondence confirming the change of use on 13 October 2009 and 20 October 2009.

The development site contains: a main residence; a dual occupancy dwelling approved under Development Consent D88/0802; a garage approved under Development Consent D82/0497, that appears to have been converted to a self-contained unit of accommodation without a Development Consent; a storage shed that was originally dairy bales and renovated to a self contained unit of accommodation without Development Consent; a shed and a laundry building that also do not have Development Consent.

The applicants have established a group home permanent residence for 4 residents with physical or intellectual disabilities that provides 24 hour staff supervision to the occupants. The group home was established in February 2009. This application seeks the regularisation of the existing structures and the use of the buildings as a group home. The report suggests a number of options for regularising the unlawful works as well as managing the issues raised by submitters via appropriate conditions. This report highlights the issues raised by the proposed development and provides reasons for the recommendation of approval for the proposed change of use.

RECOMMENDATION:

That Development Application DA09/0594 for a change of use from dwellings to a group home and internal alterations at Lot 5 DP 621935 No. 91 Burringbar Road, Burringbar be approved subject to the following conditions:

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan No 683 Sheet 1 of 3 (Site Plan) prepared by Outpost Design and Drafting Service and dated July 2009, 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. **A maximum of 4 residents shall occupy the group home on the site known as 91 Burringbar Road, unless otherwise approved by the General Manager or his delegate.**
4. **The building known as the 'Dairy Bales' as labelled on Plan No 683 Sheet 1 (Site Plan) shall be decommissioned in accordance with details to be approved by the General Manager or his delegate. The details shall incorporate the removal of the kitchen sink and associated plumbing, the removal of the internal laundry and associated plumbing and shall provide an amended plan of the building illustrating a revised floor plan. The building known as the 'Dairy Bales' shall thereafter not be used for permanent residential purposes.**
5. **If the use of the site as a group home facility ceases to continue, the building known as the 'Studio/Garage' on Plan No 683 Sheet 1 (Site Plan) shall be decommissioned in accordance with details to be approved by the General Manager or his delegate. The details shall incorporate the removal of the kitchen sink and associated plumbing, and shall provide an amended plan of the building illustrating revised floor plans. .**
6. **The residents of the approved group home are to permanently reside in the main dwelling house and the dual occupancy dwelling/granny flat only. No other buildings within the site are to be used for permanent residential habitation.**
7. **One member of staff is to be present on the site at all times.**
8. **There shall be no clearance of vegetation on the site, unless otherwise permitted by the General Manager or his delegate.**
9. **The building known as the 'Storage Shed' on Plan No 683 Sheet 1 (Site Plan) shall be used for storage purposes only.**
10. **A Building Certificate application shall be submitted for all of the unauthorised building works on the site within 30 days of the date of this consent.**
11. **A Plan is to be submitted to the General Manager or his delegate officer for approval indicating the vegetation to be removed and retained in accordance with the General Terms of Approval from the Rural Fire Service. The plan is to be submitted within 30 days of the date of this consent.**
12. **The applicant is requested to provide a statutory declaration from a person with suitable detailed personal historical knowledge of uses and activities conducted on the land within six months of the date of this decision. The statement should confirm the occurrence or otherwise of potentially contaminating activities and storage, decanting and mixing of chemicals. In the absence of such a statement a preliminary contaminated lands assessment should be completed in accordance with relevant NSW EPA Guidelines.**

13. A detailed Flood Response Assessment Plan is to be submitted to and approved by the General Manager or his delegate officer within six months of the date of this decision. The plan submitted shall have prior approval of the State Emergency Service.
14. A detailed Management Plan including methods of managing operations and safety measures is to be submitted to and approved by the General Manager or his delegate within six months of the date of this decision. The Management Plan shall address complaint handling procedure, incident reporting, daily management of safety risk, monitoring and emergency support for staff.

[GENNS03]

PRIOR TO COMMENCEMENT OF WORK

15. The erection of a building works relating to the bathroom refit and removal of existing laundry 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]

16. 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]

17. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, 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

18. Construction and/or demolition 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 6.00pm

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]

19. 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]

20. 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]

21. 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]

22. 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]

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

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

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

[DUR2555]

24. 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

25. 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]

26. Prior to the occupation of any building and prior to the issue of any occupation certificate a final inspection report is to be obtained from Council to verify the satisfactory installation of all plumbing and drainage and the on-site sewage management facility.

[POC1035]

USE

27. 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]

28. 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]

29. 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]

30. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003*, FSANZ Food Safety Standards and AS 4674-2004 Design, construction and Fit-out of Food Premises and other requirements of Councils Environmental health Officer included in this approval.

[USE0835]

31. Adequate natural or mechanical ventilation must be provided to the satisfaction of the General Manager or his delegate.

[USE0865]

32. The premises shall be maintained in a clean and tidy manner.

[USE0965]

33. The premises must be provided with facilities that are adequate for the purpose of keeping towels, appliances, utensils and the like clean.

[USE1005]

34. Suitable receptacles with close fitting lids must be provided and maintained in a clean and serviceable condition for soiled towels and trade wastes.

[USE1015]

35. Bedding and flooring is to be provided to each guest room, which are regularly cleaned and maintained so as not to provide harbourage for vermin of any description.

[USENS01]

36. Each guest room shall be provided with flyscreening to at least one openable window.

[USENS02]

37. Any refrigerator utilised for the storage of food for guests shall maintain food at below 5 degree Celsius.

[USENS03]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

- 1. At the commencement of the change of use and in perpetuity the property around all existing dwellings to a distance of 30 metres or to the property boundary, shall be maintained 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'.**
- 2. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'planning for bush fire protection 2006.'**
- 3. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'planning for bush fire protection 2006'.**
- 4. The existing dwellings are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. Where applicable, this includes any sub floor areas, openable windows, doors, vents, weepholes and eaves.**

REPORT:

Applicant: Accommodation Network Pty Ltd
Owner: Accommodation Network Pty Ltd
Location: Lot 5 DP 621935 No. 91 Burringbar Road, Burringbar
Zoning: 1(a) Rural
Cost: \$40,000

BACKGROUND:

The subject site

The subject site is legally known as Lot 5 DP 621935 and is more commonly known as 91 Burringbar Road. The site has an area of 0.7 hectares and contains an existing residential building, a dual-occupancy dwelling and a number of out buildings and car parking area. To the north of the site is the Burringbar Road and rail line; to the east is an adjacent block of land with a number of buildings and livestock; to the west is a rural block located across a small creek tributary of Burringbar Creek; and to the south Burringbar Creek and rural pastureland.

The site is located on designated flood land within 40 metres of Burringbar Creek. Vehicular access to the site is provided by way of an existing bitumen driveway from Burringbar Road. Aerial imagery indicates that the site is heavily vegetated to the southern section adjacent to Burringbar Creek although it is evident that part of the site has been cleared of vegetation.

The proposed development

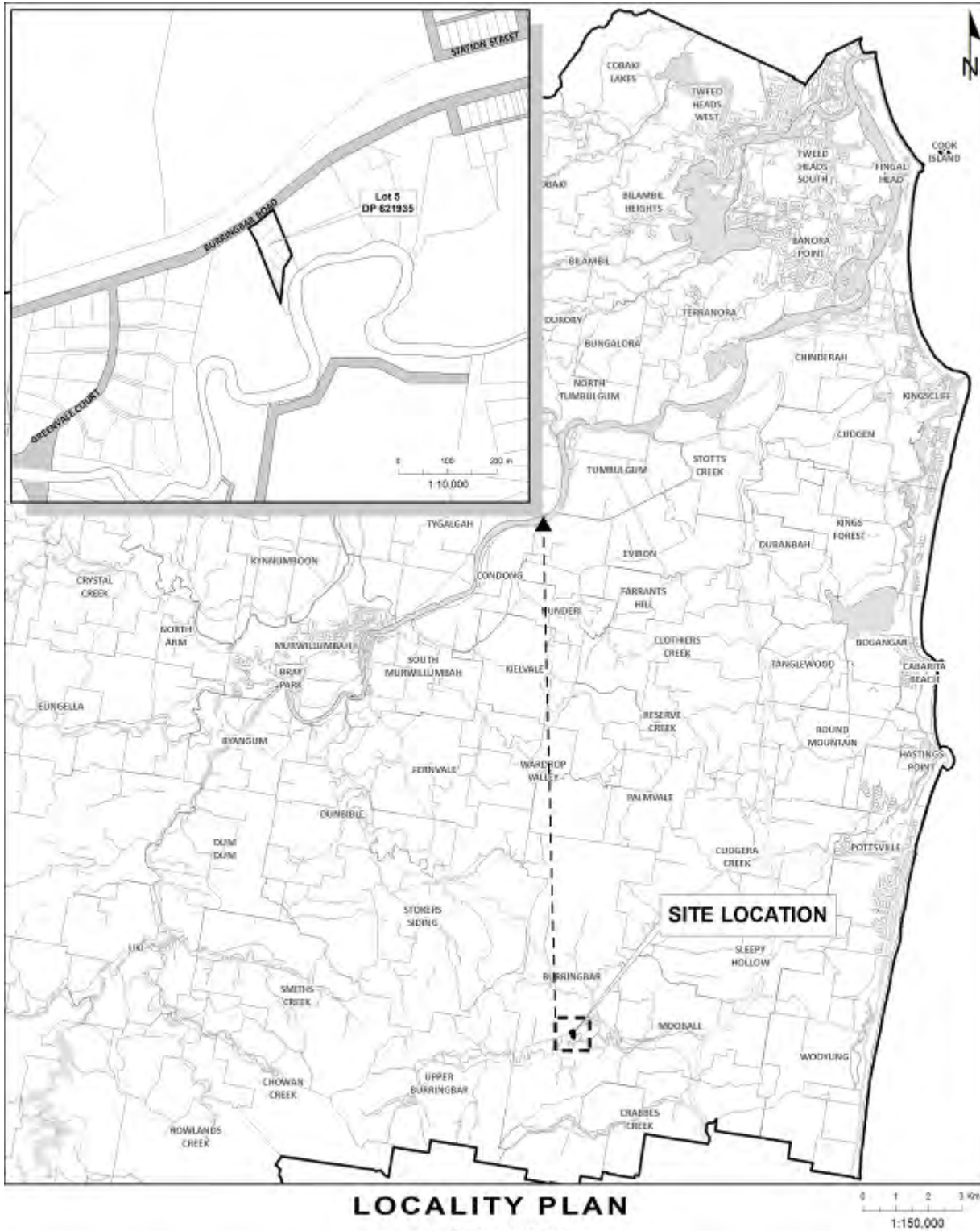
The applicant has advised that the property was purchased to provide an appropriate environment for people with Intellectual Disability living in a group model. The site has been used as a group home since February 2009. The residents have time together or time apart. Most meals are prepared at the main house with staff supervision. Staff are on-site 24 hours on a rotation basis, with one staff supporting residents during the night and one staff member available during the day.

The applicant clarified that the use is not a respite care but is a permanent home for four people who require supported assistance with daily living. The use includes use of a shed at the rear of the property which is used for craft or a BBQ area. The studio/garage has been renovated as a place for residents to meet and for staff toilets. There is a small kitchen area with sink and refrigerator and a bench and chairs. Connected to the studio/garage is a laundry building that has been constructed over the septic tank servicing the main dwelling. The site also includes old dairy bales including a full kitchen, bathroom, laundry and one bedroom. The applicant advises that this shed is not used as a permanent living accommodation however site assessment indicated that the unit may be presently utilised as living quarters. The applicant advises that the additional shed is used for storage purposes only with a roof area to the side to accommodate a vehicle utilised by staff.

A second dwelling was approved on the site and is built in accordance with the approved plans with the following exceptions: the approved plan illustrates the dual occupancy is attached to the main residence by a covered walkway however the building is separated from the main residence by approximately 10 metres; there is a carport to the western side of the building not indicated on the approved plans. The applicant advises that building is used by one resident to increase his independent living skills and meal preparation. The kitchen is not used in the second dwelling. All washing is undertaken in the common laundry at the rear of the garage.

Limited floor plans and elevations were provided and there is no information relating to boundary treatment of the site. Furthermore, limited information was provided relating to the suitability of the buildings for their proposed uses or details relating to incident reporting and safety following reported incidents involving residents of the group home in the local community. The applicant has clarified that the reported disturbances occurred when the group home was first established and there have been no reports of recent disturbances. Furthermore, the applicants have advised that the residents are now integrating with the local community. A detailed Management Plan relating to a suitable complaints strategy, incident reporting, police and emergency services liaison, safety risk and monitoring will be requested in order to alleviate concerns in the surrounding community relating to safety.

SITE DIAGRAM:



<p>Filename: z:\usr\planning\mxd\A4P_B&W SitePlan.mxd</p> <p>Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representation or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and declares all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including interest or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way, and for any reason. This information is supplied for the general guidance and to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavation a "Dig before You Dig" enquiry must be made by calling 1300. The information contained on this document remains valid for 30 days only from the date of supply.</p>	<p>Author: J.Batchelor - Planning Reform Unit</p> <p>Cadastre: 05 August, 2010 © Dept. of Lands & Tweed Shire Council</p> <p>Coordinate System - MGA Zone 56 Datum - GDA 94</p> <p>DO NOT SCALE COPY ONLY - NOT CERTIFIED</p>	<p>Date Printed: 05 August, 2010</p> <p>Civic and Cultural Centre 3 Tumbulgum Road Murrumbidgee NSW 2484 PO Box 810 Murrumbidgee NSW 2484</p> <p>T: (02) 9870 2400 / 1300 202 872 F: (02) 9870 2403 W: www.tweed.nsw.gov.au E: planningreform@tweed.nsw.gov.au</p>
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DEVELOPMENT PLAN:

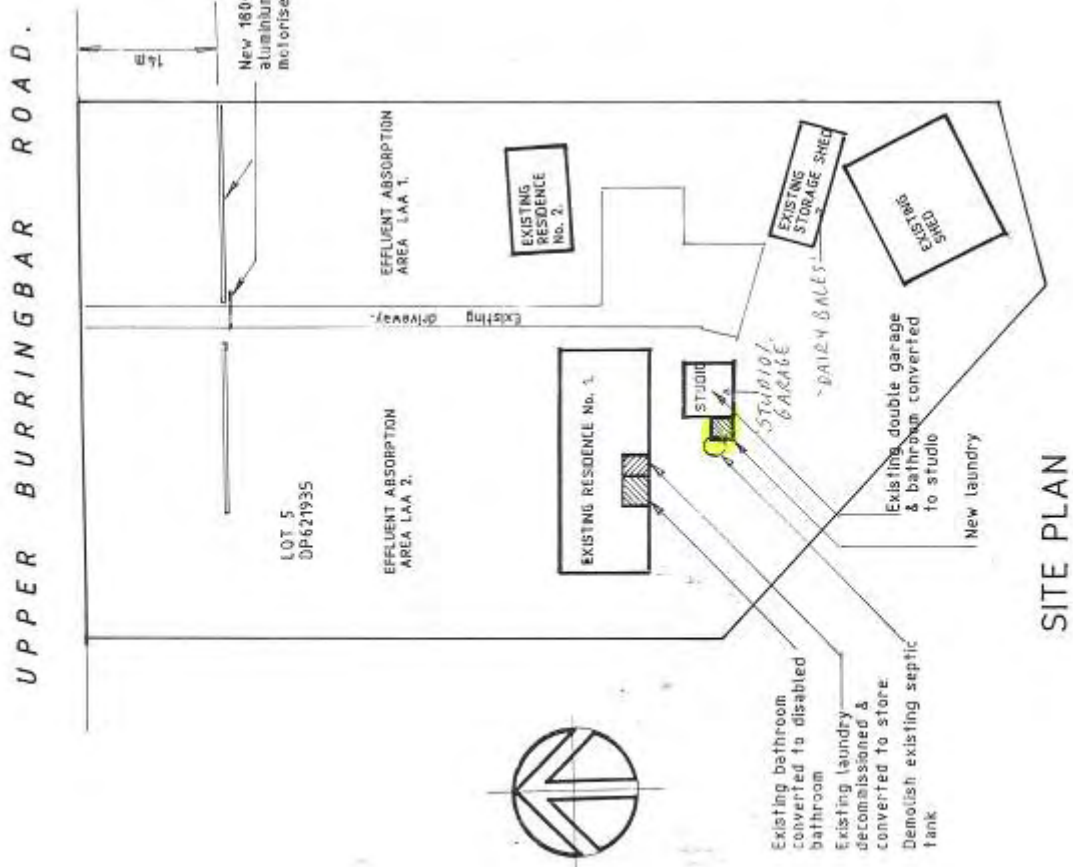
TWEED SHIRE COUNCIL	
File No.	
Doc No.	

RENOVATIONS TO EXISTING RESIDENCE
 AT Lot 5 91 UPPER BURRINGBAR ROAD,
 BURRINGBAR
 FOR ACCOMMODATION NETWORK PTY. LTD.

outPost
 DESIGN & DRAFTING SERVICE

RICK HENRY
 P.O. BOX 252
 BYRON BAY,
 PH./FAX
 (02)66871118

DRAWING No. 683
 DATE, July 2009
 SHEET 1 of 3.



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

Unauthorised building works and activity

This application seeks the regularisation of the existing buildings that do not have Development Consent or a Construction Certificate. The applicants have advised that the use of the main residence is for the four individuals who permanently reside there. The second dual occupancy dwelling is used by one resident. The applicant advises that the former dairy bales are not used for permanent residential habitation but the internal renovation to form a fully independent self contained unit suggests otherwise. This is reinforced by the level of separation from the main residence. The applicant advises that the studio/garage is not used as a self-contained unit but for recreational use; given that the building does not have a fully functioning kitchen and is relatively small scale this is considered feasible.

The options for the regularisation of the unauthorised building works are as follows:

1. To require the decommissioning of the former dairy bales via the removal of the kitchen sink, laundry and plumbing and to ensure an appropriate condition to ensure the building is not used as a dwelling and/or to ensure an appropriate condition to ensure that the studio/garage is not used as a dwelling.
2. To allow the existing use to remain despite the lack of approval.
3. To issue a planning infringement notice (PIN) or to pursue legal action for unauthorised development.

It is arguable that the applicants bought the site in good faith and are operating a charitable community service that is needed. On this basis it is considered reasonable not to pursue a compliance notice for unauthorised building works. The storage shed is set back in the lot and relatively obscured from public vantage points. It is considered that the storage shed is acceptable in planning terms provided a suitable condition to ensure it remains only for storage purposes.

However, there is a concern that the buildings known as the dairy bales and studio/garage structures will be used for permanent residential occupancy which would be unlawful given the site already has approval for a main residence and a dual occupancy dwelling. It is therefore recommended that option 1, as detailed above, for the decommissioning of the former dairy bales building and to ensure both the dairy bale shed and the studio/garage are not used for permanent residential occupancy is enforced. Detailed amended floor plans will be requested via condition and shall indicate alternative internal layout of the dairy bales.

Furthermore, it appears that vegetation clearing has taken place within the site, particularly adjacent the creek. A penalty for the clearance of the vegetation is not recommended given the difficulties in establishing the extent of the unlawful works and the charitable nature of the development proposal. Council's Ecologist has suggested a number of conditions to ensure the Asset Protection Zone for bushfire is not compromised and to prevent erosion of the creek banks and sedimentation of the waterway. Providing a condition to ensure no further clearance of vegetation on the site without the appropriate consent, it is considered such measures are adequate.

The unlawful structures will require a Building Certificate to ensure their structural integrity.

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

Tweed Local Environmental Plan 2000

Clause 8 – Consent considerations

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 those other 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 site is located in a 1(a) Rural Zone. The primary objective of this zone is:

“To protect identified prime agricultural land from fragmentation and the economic pressure of competing land use.”

The secondary objective:

“To allow other development that is compatible with agricultural activities.”

The development does not propose a loss of agricultural land or a subdivision of the allotment. Whilst there is no specific category for group homes the development may be considered as ‘housing for people with disabilities’. With regard to Item 3 of the LEP such development is allowed only with consent in the 1(a) zone providing it satisfies clause 8(2) of the LEP. Whilst the proposal meets an ‘identified urgent community need’, as detailed in clause 8(2) (a), the development fails to satisfy Items (b), (c) and (d) of the LEP. On this basis Council Officers are not satisfied that the development is consistent with the primary objective of the 1(a) zone.

The proposed change of use is not categorised as a rural land use however the SEPP (Affordable Rental Housing) 2009 takes precedence over the LEP in its encouragement of group homes on low density, rural land.

Clause 15 - Essential Services

The primary objective is to ensure that development does not occur without adequate measures to protect the environment and the community’s health.

The property is serviced by reticulated water. The application has been supported by an On-site Sewage Management Design Report (HMC Environmental Consulting Pty Ltd; May 2009). This report details the decommissioning of the existing wastewater primary treatment system and provides a recommended effluent application area and design for on-site sewer. Council's Environmental Health Officer (EHO) has assessed the proposed system and considers it to be sufficient. On this basis the development accords with Clause 15.

Clause 16 - Height of Building

No additional buildings are proposed – this Clause is not applicable.

Clause 17 - Social Impact Assessment

The objective is to ensure proper consideration of development that may have a significant social or economic impact.

A social impact assessment is not required for the proposed use given its relatively small scale in nature. Notwithstanding, it is recognised that the proposed group home provides a community service and meets a social need and therefore meets the objective of Clause 17.

Clause 35 - Acid Sulfate Soils

The site is not subject to Acid Sulfate Soils – this Clause is not applicable.

Other Specific Clauses

Clause 34 – Flooding

The objectives 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 LEP continues to state that: *in the consent authority's opinion, land is likely to be subject to flooding, then it must not grant consent to development on that land unless it has considered:*

(a) the extent and nature of the flooding hazard affecting the land,

The site is designated as being affected by the probable maximum flood (PMF) level with a small area of the southern section site adjacent to the creek affected by the 1 in 100 year flood level of 21.7 metres. There is suitable access from PMF affected areas to land above the PMF level to the north of the site.

(b) whether or not the development would increase the risk or severity of flooding of other land in the vicinity

A relatively small proportion of the site is covered in impermeable surfaces, such as buildings or hardstanding. Provided a condition to ensure no further vegetation clearance, that may otherwise reduce the ability of the site to absorb and store water, it is considered that the proposal will not result in risk or severity of increased flooding to surrounding land.

(c) *whether the risk or severity of flooding affecting the development could be reasonably mitigated,*

The principle of residential occupation on the site has already been accepted under the previous Development Consents. Provided that the additional buildings on the site are not used for residential use on a permanent basis it is considered that the proposal will not cause any further unacceptable risk. As the buildings have already been constructed it is not considered necessary to condition flood proofing materials. Once again, provided a condition to ensure no further vegetation clearance it is considered that the development reasonably mitigates the risk and severity of flooding.

(d) *the impact of the development on emergency services,*

The site is located in close proximity to the Old Pacific Highway that is located above the PMF level and therefore provides an adequate means of escape from the site and refuge. It is considered that with a condition to ensure that there are no more than 5 permanent residents of the group home, the proposal will not result in any impact to emergency services than would otherwise occur given the residential use of the site.

(e) *the provisions of Section A3 – Development of Flood Liable Land of Tweed DCP*

Under the provisos of Section A3 of the DCP the development is considered sensitive 'new development' that requires permanent high level road evacuation route to land above PMF level/and or adequate PMF refuge, subject to recommendations of an acceptable Flood Response Assessment Plan. The Old Pacific Highway to the north of the site is outside of the designated PMF area and provided a FRAP is conditioned the proposal accords with Clause 34.

Clause 39 – Remediation of Contaminated Land

The objective is to ensure that contaminated land is adequately remediated prior to development occurring.

Limited information was provided in relation to contaminated land and further information was requested in this regard. No indication of contaminating activities was evident from historical aerial photos, which show a residential structure on the property since 1962. A 'Stage 1 Preliminary Environmental Site Assessment' was prepared by EBG Environmental Geoscience (April 2010) and submitted in response to the Council information request. The report concludes that the site is suitable for the proposed use and Council's Environmental Health Officer is satisfied that no further information is required.

Clause 39A – Bushfire

The objective is to minimise bushfire risk to built assets and people and to reduce bushfire threat to ecological assets and environmental assets.

The subject site is bushfire prone and required referral to the Rural Fire Service (RFS). RFS reviewed the proposal and provided conditions for inclusion in the consent. Conditions require that an inner asset protection zone is provided around all existing dwellings to a distance of 30 metres or to the property boundary. Clearing works would be required in this regard. (Refer discussion below on Flora and Fauna). On this basis and provided suitable conditions the development complies with Clause 39A.

State Environmental Planning Policies

SEPP (Affordable Rental Housing) 2009

The proposed development is defined as a permanent group home with regard to Clause 42 of the SEPP. Under Clause 42 such development is allowed in either a prescribed zone, or in

any other zone in which development for the purpose of dwellings, dwelling houses or multi dwelling housing may be carried out with or without consent under an environmental planning instrument.

On this basis the development is considered to accord with Clause 42 of the SEPP as the site has an existing residential use with an approved main residence and dual occupancy.

Clause 43 relates to development in prescribed zones and states:

- 1) Development for the purpose of a permanent group home or a transitional group home on land in a prescribed zone may be carried out:
 - a) without consent if the development does not result in 10 bedrooms being within one or more group homes on a site and the development is carried out by or on behalf of a public authority, or
 - (b) with consent in any other case..

On this basis as the development is not being carried out by a public authority it requires development consent.

Clause 46 of the SEPP states that in the determination of development applications:

- (1) *A consent authority must not:*
 - a) *refuse consent to development for the purpose of a group home unless the consent authority has made an assessment of the community need for the group home, or*
 - b) *impose a condition on any consent granted for a group home only for the reason that the development is for the purpose of a group home.*
- (2) *This clause applies to development for the purpose of a group home that is permissible with consent under this or any other environmental planning instrument.*

It is acknowledged that there is an established requirement for a group home within the locality of Tweed Shire. On this basis the proposal for a group home cannot be refused.

The aims of the policy are as follows:

- (a) *to provide a consistent planning regime for the provision of affordable rental housing,*

SEPP (ARH) 2009 encourages approval for proposals for group homes to which planning bodies should pay due attention to in the consideration of development applications.

- (b) *to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*

The site is located in a rural 1(a) zone and on this basis such development would not normally be permissible. SEPP (ARH) 2009 encourages group homes in zones that would not otherwise have been permissible.

- (c) *to facilitate the retention and mitigate the loss of existing affordable rental housing,*

Should the group home use of the site be abandoned and its use ceases, an appropriate condition ensuring the decommissioning and removal of the buildings will be enforced to ensure that the buildings do not become market value dwelling houses in a location that would otherwise not be permitted.

- (d) *to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*

The proposal seeks the regularisation of a current use of the site as a group home. The proposal is considered to accord with the policies set out in SEPP (ARH) 2009 and provided conditions to ensure that should the use of the site as a group home cease the buildings (other than the dual-occupancy and main residence) will no longer be used for habitable purposes.

- (e) *to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*

The development proposes a community facility that is lacking in the local area and recognised by State Government as in strong demand.

- (f) *to support local business centres by providing affordable rental housing for workers close to places of work,*

Not applicable as the residents of the group home are not in full time employment.

- (g) *to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.*

The proposal facilitates the development of housing for disadvantaged people who require support services and 24 hour care.

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12 – Impact of development on agricultural activities

Clause 12 states:

‘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 application site is not used for agricultural purposes and will not result in the subdivision of rural land. There are existing structures on the site to which this development proposal relates. On this basis the development is not considered to contravene the intentions of Clause 12 of the NCEP 1988.

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

The Draft LEP proposes alterations to land use and permissibility of development in rural zones. The objectives of the zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate to the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

The proposal does not result in the loss or fragmentation of agricultural land or industry. The proposal does not seek the construction of additional buildings and proposes permanent residential accommodation solely within those dwellings that have been granted Development Consent for such a purpose. The Draft LEP does not make reference to group homes as being permitted with consent however the policies and principles contained within SEPP (Affordable Rental Housing) 2009 override the objectives of the Draft LEP.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

No alterations are proposed to existing access of parking arrangements. The site adequately provides parking facilities for staff and the applicants have advised that the residents of the site do not require parking facilities.

A3-Development of Flood Liable Land

As previously detailed within Clause 34 of the LEP, the site is designated as being affected by the probable maximum flood (PMF) level, with a small area to the southern section of the site being affected by the 1 in 100 year flood inundation level of 21.7 metres. Under the provisos of Section A3 of the DCP the development is considered sensitive 'new development' that requires permanent high level road evacuation route to land above PMF level/and or adequate PMF refuge, subject to recommendations of an acceptable Flood Response Assessment Plan. The Old Pacific Highway to the north of the site is outside of the designated PMF area and provided a FRAP is conditioned the proposal accords with Section A3 of the DCP.

A11-Public Notification of Development Proposals

A number of neighbouring residential dwellings were notified of the Development Application via letter dated 8 December 2009. Two submissions were received as a result of the notification process, the contents of which shall be considered later in this report.

A13-Socio-Economic Impact Assessment

The development proposes a community facility that is in vital need in this locality and in the State of NSW as a whole, as stipulated in SEPP (Affordable Rental Housing) 2009. The proposal will not result in a significant number of permanent employment positions and is not considered to impact significantly on the economy of Tweed Shire.

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

There are no other matters relevant to the application as prescribed by the Regulations.

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

Context and Setting

The proposal relates to existing buildings that have been converted to form residential purposes within the site. The out buildings are single storey and relatively in keeping with the existing main residence and dual occupancy dwelling on the site. The buildings are set back from the main road and relatively well screened by mature trees and vegetation. The site is surrounded by high wire fencing with an electronic security gate adjacent to the Old Pacific Highway. Whilst the site is a secure compound, it does not have the appearance of a high-security development due to the level of vegetation that screens the site and remains residential in character. A condition to ensure that should the use of the site as a group home cease, the buildings are to be removed and the land returned to its former condition, will prohibit any long term impact to the context or setting of the surrounding rural area in terms of unnecessary proliferation of buildings in the open countryside.

Access, Transport and Traffic

As detailed within this report, the site does not propose any alterations to the existing access arrangement and has adequate parking space for the proposed use. The proposal is not anticipated to generate large volumes of traffic given the limited number of staff and residents do not themselves drive.

Flora and Fauna

According to Council details there are no recorded threatened or protected flora or fauna on the site. The Council's Ecologist has proposed a number of conditions to ensure the retention of the Asset Protection Zone (APZ) through a Vegetation and Fuel Management Plan, retention and protection of existing trees, ensuring the stability of the creek and measures to prohibit sedimentation of the waterway and details of monitoring existing plantings health and vigour. Clearing of vegetation has already been undertaken however provided conditions to ensure the longevity of the APZ, stability of the creek and no further clearance of vegetation, it is considered that the proposal will not have a significant impact to flora or fauna.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The site is located in a low-density rural area characterised by single or dual occupancy dwellings located in considerable lot sizes with agricultural buildings immediately to the west and agricultural pasture land to the north and south. Given the distance between the proposed buildings and neighbouring residential dwellings it is considered that the physical aspect of the buildings will not have an unacceptable impact to nearby residential amenity in terms of loss of amenity or privacy.

In terms of the use of the site as a group home, submissions have been received from local residents relating to behavioural issues and concerns about community safety in the area. In response to this the applicants have provided details pertaining to a Management Plan to ensure that future issues concerning residents in the local community are mitigated and responded to. Provided a condition to ensure that the measures within the Management Plan are adhered to, it is considered that the development will not pose an unacceptable impact to surrounding landuses or development.

Whilst the rural location of the proposed development may not be generally supported under the LEP and is better suited to towns or villages with improved access to other community facilities, amenities and emergency services, the SEPP (Affordable Rental Housing) encourages such development in this location. As detailed earlier, provided a condition to ensure that should the use of the site as a group home ceases, the buildings are decommissioned, it is considered that the site is suitable for the development.

Flora and Fauna

As outlined above there are no recorded protected or threatened species on the site. Provided adequate conditions to ensure no further vegetation clearance and protection of the APZ and creek, it is considered that the proposed development will not impact on flora and fauna.

Topography

The site is generally flat at 20 metres AHD with areas of sloping land toward the creek to the southern aspect of the site. The topography of the site and the surrounding area is considered acceptable for the proposed development.

Site Orientation

The use of the site for residential purposes has already been established under the previous development consents for the main residence and dual occupancy dwelling. The orientations of the buildings, subject to this development application, are considered adequate for their purposes.

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

Two submissions have been received. The main issues relate to:

- Site already been used as a group home prior to application;
- Not all residents in locality notified.
- Inappropriate location (close proximity to elderly persons and school);
- Residents displaying violent behaviour;
- A resident gaining entry to a neighbouring home;
- Indecent exposure
- Reported reluctance of police enforcement as this may only worsen situation;
- Issues relating to security (locked gate broken for more than 3 months);
- Excessive noise;
- Offensive language;

It is acknowledged that the group home has been operating without development consent for a number of months. This application seeks to regularise the existing unlawful use, taking into consideration local community concerns.

The Council has notified sixteen adjoining occupiers of the proposed development in accordance with Section A11.2.1 of the DCP.

The location of the development is supported under the relevant SEPP (Affordable Rental Housing) 2009 and cannot be refused on the grounds of proximity to a local school or elderly members of the community. Provided adequate measures of ensuring future disturbances to the surrounding community are put in place and retained as such, it is considered that the proposal is acceptable.

In response to the community's concerns a suitable Management Plan is to be conditioned relating to complaint handling, incident reporting, daily management of safety risk and monitoring of incidents, liaison with the emergency services and emergency support for staff. It has been advised by the applicant that incidents within the local community have ceased over the last 12 months and that the residents of the site are integrating with residents of the surrounding area. However, a detailed Management Plan of how any potential occurrences are to be mitigated is considered to be an appropriate method of ensuring that the use of the site as a group home will not pose a risk to neighbouring residents in the future.

(e) Public interest

There is a shortage of group homes within NSW and on this basis the proposal, albeit on a small scale with only 4 residents, is providing a public services that is in strong demand. On this basis it is considered that the proposal is accords with the public interest.

OPTIONS:

1. Approve the proposed development subject to conditions for the decommissioning of the former dairy bales and that the buildings on the site, other than the main residence and dual occupancy dwelling, are not used for permanent residential use;
2. Refusal of the proposed development;
3. Options for the unauthorised building works:
 - a) take no action;
 - b) issue a planning infringement notice (PIN) and/or take legal action for unauthorised building works.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

As the existing use of the site is residential it is therefore difficult to justify financial contributions for water, sewerage and other contributions; and in any case if the applicant were a public authority provider this type of proposal for a group home would not require a Development Application.

CONCLUSION:

The development application seeks to regularise an existing use of the site as a group home, a use that is encouraged via SEPP (Affordable Rental Housing) 2009. The proposal is considered to accord with the relevant policies and is recommended approval provided conditions to ensure the decommissioning of the former dairy bales; ensuring that only the main residence and the dual occupancy dwelling are used for residential purposes; to ensure that a suitable Management Plan is put into place to overcome community concerns relating to behaviour and safety; the restriction of further clearance of vegetation; and the removal of the buildings should the use of the site as a group home cease.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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13 [PR-CM] Development Application DA10/0120 for a Three (3) Lot Boundary Alteration at Lot 26 DP 615931 Bartletts Road, Eviron; Lot 1 DP 248515 No. 138 Hawkens Lane, Eviron; Lot 1 DP 774820 Bartletts Road, Tumbulgum

ORIGIN:

Development Assessment

FILE NO: DA10/0120 Pt1

SUMMARY OF REPORT:

The proposed development involves three (3) parcels of land with various zones as follows:

- Lot 1 DP248515 - 1(a) Rural;
- Lot 1 DP774820 - part zoned 1(a) Rural and part 1(b2) Agricultural Protection; and
- Lot 26 DP615931 - part zoned 5(a) Special Uses Garbage Depot and part 1(b2) Agricultural Protection.

The applicant (Tweed Shire Council) is seeking approval for a boundary alteration between the (3) parcels of land which will create no additional lots. The boundary adjustment is to secure land for long term quarry and land fill operations.

The proposal incorporates a SEPP 1 Objection in relation to the 1(a) and 1(b2) portion of the site being less than the minimum lot size (40ha). The proposal is being reported to Council for determination as a result of the variation being greater than 10% of the development standard in accordance with the Department of Planning requirements.

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

RECOMMENDATION:

That Development Application DA10/0120 for a three (3) lot boundary alteration at Lot 26 DP 615931 Bartletts Road, Eviron; Lot 1 DP 248515 No. 138 Hawkens Lane, Eviron; Lot 1 DP 774820 Bartletts Road, Tumbulgum 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 MS09013 Issue 4 prepared by Tweed Shire Council and dated July 2009, except where varied by the conditions of this consent.**
2. **The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.**

[GEN0005]

[GEN0125]

3. A safe and acceptable access for the movement of machinery and livestock between existing Lots 18 and 19 DP 12676, proposed Lot 3 and proposed Lot 2 shall be maintained at all times across proposed Lot 1.

[GENNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

4. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.

[PSC0825]

5. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:

- (a) A Restriction As To User, restricting residential development over proposed Lot 2. Council shall have the authority to revoke, release or modify this restriction.
- (b) Right Of Access shall be created over the portion of proposed Lot 1 being excised from existing Lot 1 DP 774820 and Lot 1 DP 248515. This Right Of Access shall benefit existing Lots 18 and 19 DP 12676 and proposed Lots 2 and 3.

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

6. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

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

[PSC0885]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

- 1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on Proposed Lot 1, to a distance of 45 metres to the property boundary, shall be maintained as an asset protection zone (APZ) 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'.**
- 2. Water, electricity and gas for the existing dwelling on proposed Lot 1 shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'**
- 3. Property access roads for the existing dwelling on proposed Lot 1 shall comply with section 4.1.3(2) of 'Planning for Bush Fire Protection 2006'**
- 4. The existing dwelling on proposed Lot 1 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. Where applicable, this includes sub floor areas, openable windows, doors, vents, weepholes and eaves.**

REPORT:

Applicant: Tweed Shire Council

Owner: Mrs CE Hawken, Tweed Shire Council, Mrs CE Hawken and Mr RH Hawken

Location: Lot 26 DP 615931 Bartletts Road, Eviron; Lot 1 DP 248515 No. 138 Hawkens Road, Eviron; Lot 1 DP 774820 Bartletts Road, Tumbulgum

Zoning: 1(a) Rural; 5(a) Garbage Depot; 1(b2) Agricultural Protection

Cost: Nil

BACKGROUND:

Council is in receipt of a development application for a boundary alteration.

The subject site is legally described as Lot 26 DP 615931, Lot 1 DP 248515 and Lot 1 DP 774820 and is located at Bartletts Road, Eviron. The allotments are irregular in shape and Lot 1 DP 248515 has an overall area of 1.1 ha, Lot 1 DP 774820 has an overall area of 51.83 ha and Lot 26 has an overall area of 46.81 ha. The sites are been being used as follows:

- Lot 1 DP 248515 - Road Parcel;
- Lot 1 DP 774820 - Agricultural purposes (Sugar cane farming); and
- Lot 26 DP 615931 - Garbage Depot.

The proposal is over privately owned land and Tweed Shire Council owned land. The Council owned land zoned 5(a) Garbage Depot is currently the subject of a major project application for Quarry and Landfill. The Hawkens' owned land, being a closed road parcel (Lot 1//248515) zoned 1(a) Rural and a larger parcel (1//774820) zoned 1(a) Rural and 1(b2) Agricultural Protection, is primarily used for farming (sugar cane production).

Existing Parcel	Existing Area (ha)	Proposed Lot	Proposed Area (ha)	Owner
26//615931	46.81	1	53.28	Tweed Shire Council
1//774820	51.83	2	45.68	Mrs Coral Essie Hawken Mr Robert Harry Hawken
1//248515	1.1	3	0.7775	Mrs Coral Essie Hawken

The land required by Council to provide the corridor between Stott's Creek Landfill and the proposed Eviron Road Quarry and Landfill site is 1(a) Rural land. Consequently, the proposal would not affect land zoned 1(b2). The area which is the subject of the subdivision is characterised by erosional landscapes of the Burringbar Landscape consisting of rolling hills, long slopes to moderately broad crests (Morand 1996). The existing vegetation within the proposed subdivision area is a mixture of cleared land and remnant vegetation. Remnant sclerophyll open forest vegetation occurring along the western boundary is impacted by Camphor laurel regeneration, an introduced woody weed, suggesting past land disturbance at the site. The vegetation type is not a threatened ecological community in NSW.

One of the proposed new allotments does not meet the minimum lot size requirements for the zone although it is unlikely to have any impact upon the potential for agricultural use of the remainder of the site.

A SEPP 1 Objection has been lodged in relation to the 1(a) portion of the site being less than the minimum lot size (40ha). As the proposal incorporates a variation greater than 10% of the development standard, the application is being reported to Council for determination. The Director-General's concurrence has been granted for the proposed development.

Improvements on the site include:

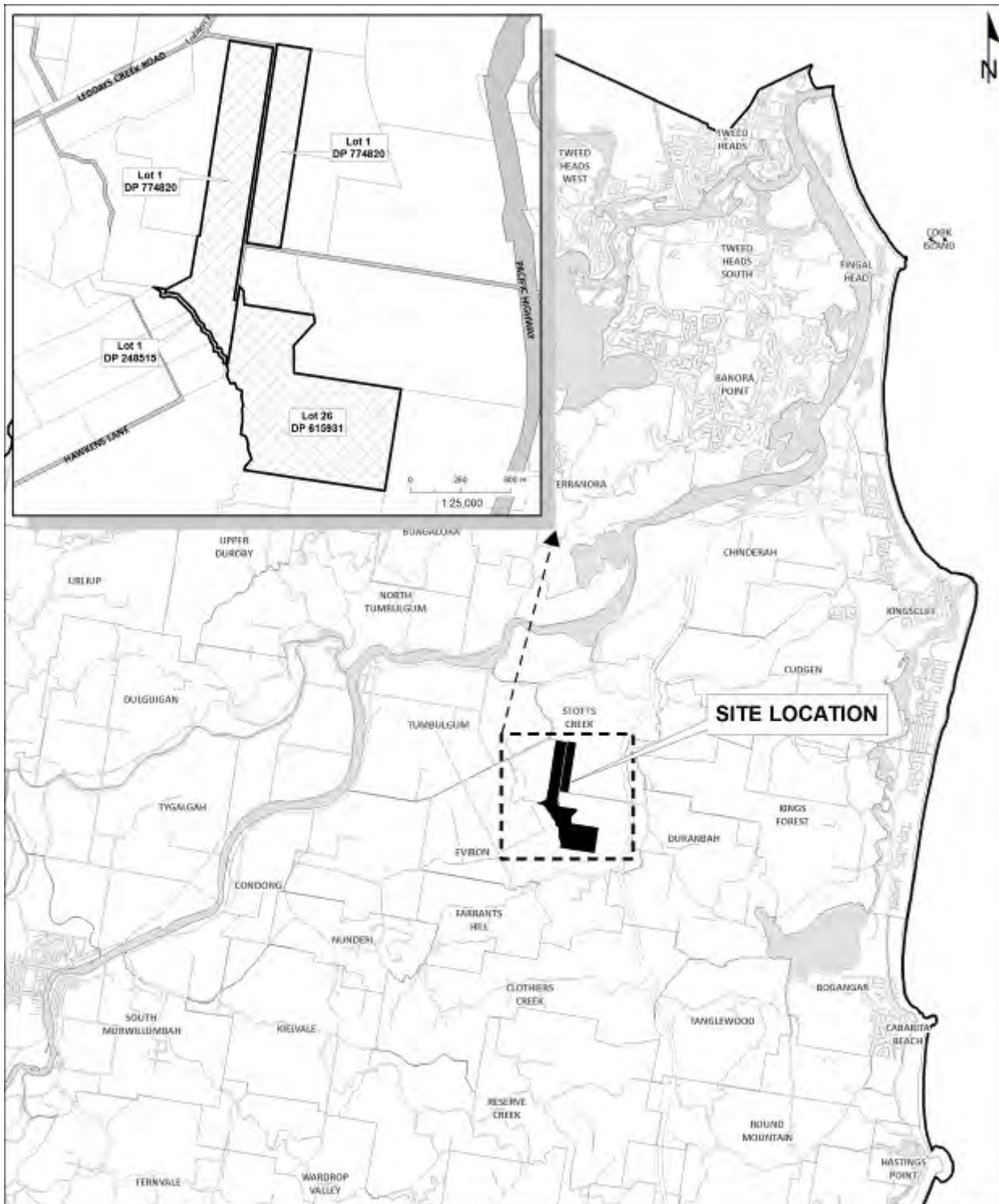
Lot 1 DP 774820

- a single storey dwelling approved under Building Application 1565/96B on 11 December 1996

Lot 26 DP615931

- a single storey dwelling approved under Building Application 0829/85B on 22 October 1985;
- continuing and expansion of existing quarry (Quirk's) under Development Application D95/0148 on 16 December 1999; and
- amendment to Development Consent D95/0148 for continuing and expansion of existing quarry (Quirk's) under Development Application D95/0148.01 on 14 February 2006.

SITE DIAGRAM:



LOCALITY PLAN

Lot 26 DP 615931 - Bartletts Road, Eviron;
 Lot 1 DP 248515 - No.138 Hawkens Lane, Eviron;
 Lot 1 DP 774820 - Bartletts Road, Tumbulgum

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Author: J.Batchelor Planning Reforms Unit

Date Printed: 05 August, 2010

Disclaimer: While every care is taken to ensure the accuracy of the data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including, without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagnostic only. It should not be used for survey or construction purposes and prior to any excavations a "Dig before You Dig" enquiry must be made by calling 1100. The information contained on this document remains valid for 30 days only from the date of supply.



Cadastre: 05 August, 2010
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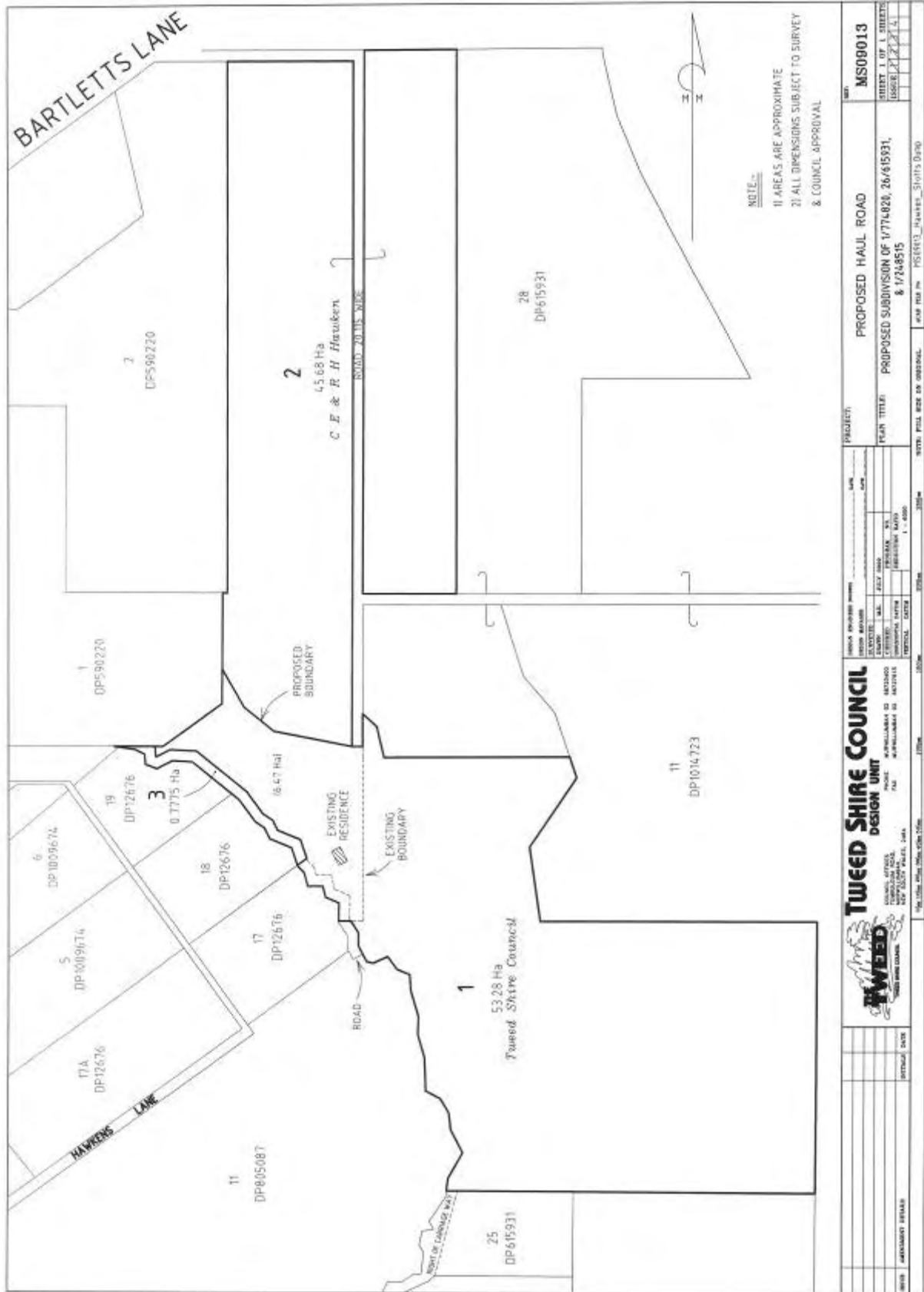
Coordinate System - MGA Zone 56
 Datum - GDA 94

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DEVELOPMENT PLAN:



<p>Tweed Shire Council DESIGN UNIT</p> <p>COUNCIL OFFICES TWEED HEADLANDS RD TWEED HEADLANDS NSW 2486 TEL: (07) 4262 2222 FAX: (07) 4262 2222</p>		<p>PROJECT: PROPOSED HAUL ROAD</p> <p>YEAR: 2010</p> <p>DATE: 17/08/2010</p> <p>SCALE: 1:4000</p>
<p>DP NO: MS09013</p> <p>DATE: 17/08/2010</p> <p>BY: [Signature]</p>	<p>DP NO: MS09013</p> <p>DATE: 17/08/2010</p> <p>BY: [Signature]</p>	<p>DP NO: MS09013</p> <p>DATE: 17/08/2010</p> <p>BY: [Signature]</p>
<p>NOTE: 1) AREAS ARE APPROXIMATE 2) ALL DIMENSIONS SUBJECT TO SURVEY & COUNCIL APPROVAL</p>		

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

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

Tweed Local Environmental Plan 2000

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 proposed development is considered to meet the provisions of Clause 4. Appropriate conditions of consent have been applied in order to maintain an acceptable level of amenity for the area.

Clause 5 - Ecologically Sustainable Development

Clause 5 of the LEP relates to 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.*

Appropriate conditions of consent have been applied, which will ensure that the proposed development will not significantly impact upon the surrounding residences or locality. As such, the proposed development is considered to meet the provisions of Clause 5 of the LEP.

Clause 8 - Consent considerations

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.*

As noted below, the proposed development is considered to meet the primary objective of the zones by way of taking into account agricultural matters and environmental constraints (i.e. no fragmentation of the agricultural land from its current form). The proposal generally complies with Clause 8(a).

Other relevant clauses of the TLEP have been considered elsewhere in this report and it is considered that the proposal generally complies with the aims and objectives of each.

Given that the subject allotments will only have a minor change in configuration and the size of the allotments do not change significantly, the proposed development is not considered to have an unacceptable cumulative impact on the locality or the community as a whole.

Clause 11 - Zone objectives

Clause 11 of the LEP relates to zone objectives. The subject site consists of 1(a) Rural Zoned land, 1(b2) Agricultural Protection Zoned land and 5(a) Special Uses (Garbage Depot) Zoned under the provisions of the LEP.

The objectives of the 1(a) zone are:

Primary objective

- *to enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource utilisation 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 proposed boundary alteration does not incorporate any significant change to the size of the allotments just a reconfiguration which is to increase the size of the Garbage Depot. The agricultural use of the land is protected and the proposal is considered to meet the objectives of the zone. The Department of Planning have also noted that the proposal is consistent with the objectives of the zone.

The objectives of the 1(b2) 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*

The proposed boundary alteration does not affect the 1(b2) zoned land. The agricultural use (sugar cane production) of the land is protected and the proposal is considered to meet the objectives of the zone. The Department of Planning have also noted that the proposal is consistent with the objectives of the zone.

The objectives of the 5(a) zone are:

Primary objective

- *to identify land which is developed or is proposed to be developed, generally by public bodies, for community facilities and services, roads, railways, utilities and similar things*

Secondary objective

- *to provide flexibility in the development of the land, particularly if it is not yet or is no longer required for the relevant special use.*

The proposed boundary alteration is to increase the size of the garbage depot for a more efficient use of the land. The land will be used for a public body to provide community services, therefore the proposal is considered to meet the objectives of the zone. The Department of Planning have also noted that the proposal is consistent with the objectives of the zone.

Clause 14 - Development near zoning boundaries

The proposal is permissible in this zone therefore Clause 14 is not applicable.

Clause 15 - Essential Services

Clause 15 of the TLEP requires the provision of essential services to be available to the site. There are no new dwellings or allotments being created so it is considered that this clause is complied with.

Clause 16 - Height of Building

Not applicable as there are no new dwellings being created.

Clause 17 - Social Impact Assessment

It is not considered that the proposed development will result in an adverse social impact.

Clause 20 - Subdivision in Zones 1(a), 1(b), 7(a), 7(d) and 7(l)

Clause 20 of the TLEP relates to minimum lot size requirements in order to prevent the potential for fragmentation of rural land. Clause 20(2) requires the following minimum lot sizes:

(2) *Consent may only be granted to the subdivision of land:*

- (a) *within Zone 1 (a), 1 (b2), 7 (a), 7 (d) or 7 (l) if the area of each allotment created is at least 40 hectares, or*
- (b) *within Zone 1 (b1) if the area of each allotment created is at least 10 hectares.*

As noted above, the subject site incorporates 1(a) and 1(b2) zoned land which relates to Clause 20. The existing Lot 1 DP 248515 is currently below the 40 hectare minimum.

A SEPP 1 Objection has been submitted and the application was referred to the Department of Planning for the Director-General's concurrence. The Department's comments and the SEPP 1 Objection are detailed later in this report.

Clause 34 - Flooding

The proposal involves a boundary adjustment with no new buildings proposed. It is therefore considered that the proposal will not increase the severity of flooding.

Clause 35 - Acid Sulfate Soils

The subject site contains Class 2 Acid Sulfate Soils and Class 5 Acid Sulfate Soils. The proposal relates to the section of land which is affected by Class 5 A.S.S. Considering the proposal would not impact on groundwater or A.S.S, no further consideration has been given to A.S.S.

Clause 39B - Bushfire Protection

The proposed development was identified as being Integrated Development as the site is located within a Bushfire Prone area. As such the application was sent to the Rural Fire Service (RFS) for comment. RFS replied on 27 July 2010 with a number of conditions relating to Asset Protection Zones and Design and Construction to be included in the consent. As such it is considered that the proposal complies with this clause of the TLEP.

Clause 42 - Heritage

The site has a section which is located within the Aboriginal Cultural Heritage Landscape and as such Clause 42 relates to the proposal. Clause 42 requires consideration of the extent to which a development may affect the heritage significance of heritage items or heritage conservation areas. An Aboriginal Cultural Heritage assessment and European Heritage study was commissioned over Lot 26//615931 and includes the proposed 6.47 to be acquired from the Hawkins lots. The assessment did not identify areas or objects of Indigenous Cultural heritage significance within the project area.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

This clause requires Council to consider 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 proposed subdivision is unlikely to have any impact upon the surrounding agricultural land, given that the proposed allotments will remain the same size as currently existing. The proposal will only reconfigure the boundary.

It is also noted that in granting concurrence for the proposed boundary adjustment, the Department of Planning were satisfied that the proposal is consistent with the objectives of the zone. As such, the application is considered to meet the provisions of Clause 12.

Clause 36: Heritage items, generally

The site has a section which is located within the Aboriginal Cultural Heritage Landscape and as such Clause 36 relates to the proposal. Clause 36 requires consideration of the extent to which a development may affect the heritage significance of heritage items or heritage conservation areas. An Aboriginal Cultural Heritage assessment and European Heritage study was commissioned over Lot 26//615931 and includes the proposed 6.47 to be acquired from the Hawkins lots. The assessment did not identify areas or objects of Indigenous Cultural heritage significance within the project area.

SEPP No. 1 - Development Standards

The proposed development incorporates a SEPP 1 Objection which relates to the proposal not meeting the minimum 40 hectare allotment size requirement, pursuant to Clause 20(2) of the Tweed Local Environmental Plan 2000.

The parcel of land involved with the proposed boundary alteration is located within the 1(a) Rural and 1(b2) Agricultural Protection zone.

The applicant has submitted the following in support of the SEPP 1 objection:

“The objection to the development standard follows the principles established by the Land and Environment Court in relation to a SEPP 1 Objection. The established principles are based on the judgement of Lloyd J, in Winten Property Group Ltd v North Sydney Council (2001) 130LGERA 79 at 89. In this case, it was established that there are five questions to be addressed in SEPP 1 Objections. These are as follows:

- 1. Is the planning control in question a development standard?*
- 2. What is the underlying object or purpose of the standard?*
- 3. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended)?*
- 4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*
- 5. Is the objection well founded?*

These five principles are addressed as follows:

1. Is the planning control in question a development standard?

The nature of the development proposed is for a rural three lot subdivision. The TLEP 2000 does not prohibit such subdivision, but provides for a development standard under Clause 20(2) of the TLEP 2000 in relation to the sizes of lots in the 1(a) zone (minimum 40ha).

As such, the planning control in question is considered to be a development standard.

2. What is the underlying object or purpose of the standard?

Clause 20 (1) Objectives for subdivision in Zones 1 (a), 1 (b), 7 (a), 7 (d) and 7 (l) are as follows:

- *to prevent the potential for fragmentation of ownership of rural land that would:*
 - (i) *adversely affect the continuance or aggregation of sustainable agricultural units, or*
 - (ii) *generate pressure to allow isolated residential development, and provide public amenities and services, in an uncoordinated and unsustainable manner.*
- *to protect the ecological or scenic values of the land.*
- *to protect the area of Tweed's water supply quality.*

Although the proposal will create a corridor of Council owned land that bisects rural properties, mutual beneficial rights of carriageway would be negotiated with the landowner as part of the sale to ensure the adjacent land owner has continued use of the residual land. This use primarily relates to maintaining machinery access between cane lands owned by the same landowner either side of the proposed corridor.

In regards to generating pressure to allow isolated residential development (and subsequent public amenities and service to support this), no new dwelling entitlements would be created as part of the subdivision and a restriction on user is proposed to remove the potential for a future dwelling entitlement on the residual land on Lot 1//774820.

This would remove any potential conflict between residential and adjacent land uses such as quarry and landfill operations. The residual land area for Lot 1//248515 being a closed road parcel does not have a dwelling entitlement and no new dwelling entitlement is sought as part of this application.

In addition, no earthworks are required as the proposal is for securing of land for future infrastructure purposes only. Future works to create a connecting road between the existing Stott's creek Landfill site and the proposed Eviron Road Quarry and Landfill site is the subject of an environmental assessment under Part 3a of the EP&A Act 1979 currently with the Department of Planning.

The proposal for a rural subdivision of three lots is not considered to impact on the Tweed's water supply quality.

3. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended)?

The aims and objectives of the SEPP 1 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.

The objects of the EP&A Act 1979 are reproduced as follows:

(a) to encourage:

- (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 acquisition of land is to create a corridor of Council owned land for infrastructure purposes only. The proposal for subdivision will ultimately achieve a number of economic savings as well as significantly reducing impacts on amenity through reducing heavy vehicle traffic on adjacent road networks, reducing infrastructure costs by utilising existing landfill infrastructure at Stott's Creek Landfill, and reducing number of adjoining landowners potentially impacted by the proposed Eviron Road quarry/landfill proposal thus reducing landuse conflicts in the area. The change of use of the land to facilitate these economic, amenity and environmental benefits is currently the subject of a Part 3a Major Project application to the NSW Department of Planning (Application Number: 08_0067).

4. *Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?*

Compliance with the development standard would seem unreasonable or unnecessary in this instance as the proposal is for proposed future Council infrastructure and would not result in the creation of dwelling entitlements on land under the 40ha threshold.

To ensure that there will be no residential uses adjacent to the proposed quarrying and landfill operations, Council has negotiated a Restriction as to User to be registered over the residue land (Lot 1 DP 7748202). The Restriction as to User will read as follows "No residential development may occur within the land burdened" and further, Council is to have the right to vary, release or modify the Restriction. The background information described above was included in a Council report dated 21st April 2009. The residual Lot 1//248515 does not currently have a dwelling or dwelling entitlement and no dwelling entitlement is being sought as part of this application.

5. Is the objection well founded?

In summary, the area of land to be purchased would significantly improve the operational efficiencies for Council's long term quarry and landfill requirements through a significant reduction in infrastructure costs and reduction in amenity issues should the Eviron Road quarry and landfill proposal be approved. The acquisition of land is to create a corridor of Council owned land for infrastructure purposes only.

Consequently, this SEPP 1 Objection is not expected to create a precedent for similar developments in the Shire."

Conclusion

Given that five principles set by the judgement of Lloyd J, in Winten Property Group Ltd v North Sydney Council (2001) 130LGERA 79 at 89 have been met, strict compliance with the development standard under clause 20(2) is considered unreasonable and unnecessary in this instance. Given that the two allotments will remain above and one will be below the 40ha minimum which is currently the case, it is considered that there will be no issues with the proposal. The proposal was also sent to the Department of Planning who have no issues with the proposed SEPP No. 1 Objection. As such, the SEPP1 Objection warrants support.

SEPP No. 44 - Koala Habitat Protection

The Koala (*Phascolarctos cinereus*) is a threatened fauna species listed under Schedule 2 (vulnerable) of the Threatened Species Conservation Act 1995.

SEPP No. 44 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for Koalas to ensure a permanent free-living population over their present range and reverse the current trend of Koala Population decline by:

- (a) requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat and
- (b) encouraging the identification of areas of core koala habitat and
- (c) encouraging the inclusion of areas of core koala habitat in environmental protection zones.

SEPP No. 44 outlines a number of steps or considerations to be assessed to determine whether or not the Policy applies.

In general, only scattered polygons of Secondary Habitat Class A and Class B habitats occur in the area.

The proposal for subdivision does not involve vegetation clearing. The proposed linking road, the basis for the subdivision and the future land use over the site, will be located within a corridor of cleared land. The impact of the haul route is currently the subject of an Environmental Assessment under Part 3a of the EP&A Act with impacts on koalas considered as part of this proposal.

SEPP (Rural Lands) 2008

The proposal triggers the SEPP Rural Lands policy as Lot 1//248515 is zoned 1(a) Rural and Lot 1//774820 is zoned 1(a) Rural and 1(b2) Agricultural Protection. It is proposed that a portion of Lot 1//248515 and Lot 1//774820 of which is zoned 1(a) Rural form part of Lot 26//615931 to facilitate a corridor of Council Owned Land between Stott's Creek Landfill and the proposed Eviron Road Quarry and Landfill site.

The applicant has provided the following information:

"The principles and considerations within the SEPP are addressed as follows:

Clause 7 - Rural Planning Principles

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

The proposal would maintain two existing land parcels above the 40ha area whilst Lot 1//248515 (a closed road parcel) will be reduced by 0.3ha only. No additional dwelling entitlements are proposed. Most of the land to be purchased is to be excised from Lot 1//774820. The primary landuse over Lot 1//774820 is sugar cane production.

The land to be amalgamated into Lot 26 would not include land zoned 1(b2) and subsequently, there would be no impacts over productive land in the area. Similarly, a mutual beneficial rights of carriageway would be created to allow the adjacent landowners continued use over the residual land (relating primarily to maintaining access between two cane farms either side of the corridor).

- (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,*

As noted, no land zoned 1(b2) Agricultural Protection would be included in the subdivision proposal. Ongoing access between residual lands would be created as part of the acquisition of the corridor of land to be amalgamated into Lot 26.

- (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,*

The proposal would not significantly impact on the rural land uses at the site as cane farming is the primary rural land use on Lot 1//774820 of which would not be impacted by the proposal.

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

Conflict between competing landuses such as rural residential and quarry and landfill activities would be limited by the proposal. For example, the proposal attempts to limit any future landuse conflicts through including the existing dwelling within the land acquisition, and also through the negotiation of a restriction on user for the residual land within Lot 1//774820.

Proposed use for the corridor would primarily involve a linking road between the existing and proposed land operations. This would result in significant economic savings and environmental benefits through utilising existing infrastructure at Stott's Creek Landfill and the use of more appropriate road networks to access the proposed landfill site. The environmental aspects of the road corridor are however being assessed as part of an Environmental Assessment under the Part 3a of the EP&A Act.

- (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,*

The proposal at this stage is for subdivision only to secure a corridor of Council owned land for future quarry and landfill operations. Environmental impacts associated with a proposed haul road to connect Council existing and proposed landfill sites is currently being assessed as part of a Part 3a application to the NSW Department of Planning.

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

The existing dwelling would remain and become part of Lot 26//615931 although the dwelling would not be used for residential purposes. No other dwelling entitlements are proposed. A restriction on user is proposed over the residual land (Lot 1//774820).

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

As noted, the proposal would not provide for rural housing.

- (h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The proposal by its nature is small in scale and is not considered to fragment rural lands or result in interface issues between rural and residential land.

Clause 8 - The Rural Subdivision Principles

- (a) *the minimisation of rural land fragmentation,*

The proposal would not subdivide any farming land zoned as 1(b2). Mutual beneficial rights of carriageway have been negotiated with adjacent land owners of Lot's (1//772048 and Lot 1//248515) to allow the landowner continued use over residual land (primarily in the form of maintaining access between cane land either side of the proposed corridor.

- (b) *the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,*

The proposal would maintain the existing dwelling although it would not be used for residential purposes to avoid conflicts with any future proposed landuse relating to quarry and landfill. Similarly, a draft section 88B instrument has been prepared over the residual Lot 1//774820 to also avoid any conflict with future quarry and landfill proposals.

- (c) *the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,*

The proposal would limit any future potential for rural residential among the affected lots. This is considered appropriate in this instance due to reducing adjacent land use conflicts between rural residential and quarry and landfill operations.

- (d) *the consideration of the natural and physical constraints and opportunities of land,*

The proposal would not affect the existing 1(b2) Agricultural Protection land. There are no earthworks associated with the proposal for subdivision.

- (e) *ensuring that planning for dwelling opportunities takes account of those constraints.*

The proposed development will not create any additional dwellings or dwelling entitlements.

Clause 9 – Rural Subdivision for Agricultural Purposes

The proposal would not be subdividing land for the purposes of primary production to create a lot of a size that is less than the minimum size otherwise permitted for that land.

Clause 10 – Matters to be considered in determining development applications for rural subdivisions or rural dwellings

The matters for consideration outlined below are addressed as follows:

- (1) *This clause applies to land in a rural zone, a rural residential zone or an environment protection zone.*

The subject land is within a rural zone.

- (2) *A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes:*

(a) *subdivision of land proposed to be used for the purposes of a dwelling,*

(b) *erection of a dwelling.*

The subdivision of land is not for the purpose of a dwelling.

- (3) *The following matters are to be taken into account:*

(a) *the existing uses and approved uses of land in the vicinity of the development,*

Existing and approved land uses in and adjacent the subject lots are a mixture of low density grazing, cane farming, and quarry and landfill activities.

- (b) *whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*

The subdivision is not considered to have a significant impact on adjacent land uses. A mutual rights of carriageway would be established with adjacent landowners to ensure continued use of residual lands.

The subdivision is for a corridor to connect the shire's existing and future proposed landfill operation. A road is consistent with existing uses in the area. The construction of this road is subject to an Environmental Assessment as part of a Part 3a application to the NSW Department of Planning.

- (c) *whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*

As noted, the rural subdivision is ultimately for a road proposal which is consistent with existing uses in the area.

- (d) *if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,*

There is no rural residential zoned land adjacent to the proposal.

- (e) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).*

The proposal also includes a draft S88B instrument over Lot 1//774820 to avoid any future conflict associated with a residential development in close proximity to a proposed quarry and landfill."

As seen above, it is considered that the proposal meets the objectives for the SEPP. There will be no reduction in Prime Agricultural land as the boundary adjustment happens between land zoned 1(a) and 5(a). The proposal was forwarded onto the Department of Planning for assessment. They had no issues with the proposed boundary adjustment.

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

Draft Tweed Local Environmental Plan 2010

Under the Draft LEP 2010, the subject site has a similar zoning to the current LEP 2000 in that the 1(a) land is zoned RU2 – Rural Landscape, the 1(b2) land is zoned RU1 - Primary Production and the 5(a) land is zoned SP1 - Special Activities (Waste Management Facilities). The proposed development is considered to be consistent with the objectives of the zone.

Clause 4.1 of the Draft LEP 2010 relates to minimum subdivision lot sizes and refers to the Lot Size Map. This map identifies the same minimum lot sizes as the current LEP. That is, the RU2 land currently zoned 1(a) is identified as Lot Size code AB2, which requires 40ha.

The applicant has lodged a written request that seeks to justify the contravention of the development standard (SEPP1 Objection).

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

Tweed Development Control Plan

A3-Development of Flood Liable Land

Sections of the site are identified as land that could be affected by flooding. The proposal is for a boundary adjustment with no new dwellings or buildings proposed. It is considered that the proposed will not increase the severity of flooding in the locality and as such DCP A3 is considered to not be applicable.

A5-Subdivision Manual

This DCP contains Council's guidelines for the preparation of applications for subdivision and aims to facilitate Council's assessment and consideration of such applications. A number of factors are required to be assessed including environmental constraints, land forming, design specifications, storm water runoff, drainage, waterways and flooding, setbacks and buffers (where appropriate). Where applicable, these matters have been discussed below.

Physical Constraints – The proposal is constrained by the shape of the subject site, the location of the existing roadways, bushfire prone land, the topography of the site and the location of the existing garbage depot. It is considered that the boundary adjustment will create a more economical use of the site as the area of land to be purchased will complete the creation of a corridor of Council-owned land at Eviron, and ownership of the land will significantly improve the operational efficiencies for Council's long term quarry and landfill requirements

Environmental Constraints – this section of the DCP relates to issues such as contamination etc, which are discussed in detail later in this report.

Landforming – The land is partially low lying adjacent to river flats of the Tweed River. The rest of the land can be described as undulating. There are no earthworks proposed as a result of this application and therefore no geotechnical issues have been raised.

Stormwater Runoff, Drainage, Waterways & Flooding – The site generally falls to the north, east and west towards the cane field plans which forms part of Lot 1 DP 774820 and adjoining properties to the east and west. Being a rural environment, the existing drainage arrangement will be maintained.

Lot Layout – As the proposed allotments are both below the minimum lot size for rural land it is considered that there will be no fragmentation of prime agricultural land. The section of land which is currently used for agricultural purposes will not be affected as a result of this application. The lot layout will improve the operational efficiencies of for Council's long term quarry and landfill requirements by:

- Allowing the construction of a haul road between the existing Stott's Creek landfill site and the new Eviron Road quarry/landfill site
- Reducing heavy vehicle traffic on Eviron Road and surrounding road networks by directing all quarry/waste traffic along the haul road constructed through the purchased land
- Reducing infrastructure costs by allowing the use of the weighbridge, transfer station and recycling plant at Stott's Creek Landfill for the Eviron Road quarry/landfill site
- Potentially increasing the resource and footprint area available for quarry activities, and
- Reducing the number of adjoining landowners potentially impacted by the proposed Eviron Road quarry/landfill proposal.

Infrastructure – Council's Development Engineer has assessed the proposed development against the relevant standards pertaining to road ways, reticulated water, reticulated sewer, electricity and telecommunications. Appropriate conditions of consent have been applied with regard to infrastructure requirements.

In light of the above assessment, the proposed boundary alteration to create proposed Lot 1 (53.28ha) Proposed Lot 2 (45.68ha) and Proposed Lot 3 (0.7775ha) is considered to meet the provisions of Section A5 of Council's Consolidated DCP.

A11-Public Notification of Development Proposals

The proposed development did not require public notification.

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

There are no matters prescribed by the Regulations applicable to the proposed subdivision.

(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

Farmland Protection

Council's mapping system indicates that the subject site has several classifications. A section of the 1(a) zoned land at the rear of the site is classified as Regionally Significantly Farmland. As the proposed boundary adjustment will make no change to this area, it is unlikely that there will be any impact to this type of farmland. The proposal was forwarded on to the Department of Industry and Investment for comment. On 25 March 2010 Rik Whitehead provided comments as follows:

“Given:

1. *the amended proposal is pretty much a replication of the lot arrangement that currently exists; and*

2. *the beef cattle producer will acquire the majority of the productive land excepting land surrounding the other house; and*
3. *given this is a local development matter and there is an intent to streamline the DA process particularly. boundary adjustments I&I has no further interests from an agricultural perspective.”*

In light of the above, the proposed development is not considered likely to have any impact upon the existing farmland on and around the subject site.

(c) Suitability of the site for the development

The proposed development is considered to be suitable for the site, subject to appropriate conditions of consent.

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

Notification

As the application is for a minor boundary adjustment it was considered that the application was not required to be notified.

Department of Planning

After reviewing the SEPP1 Objection to Clause 20(2) of the LEP, the Department provided the following comments:

“Following consideration of the application, concurrence has been granted to vary the 40ha minimum lot size development standard contained in clause 20(2) of the Council’s planning instrument to permit the creation of proposed Lot 1 having an area of 53.28ha, the part of the land zoned 1(a) with an area of 6.47ha, proposed Lot 2 having an area of 45.68 with approximately 9.6ha of the land zoned 1(a) and 36.08ha zoned 1(b2), and proposed Lot 3 having an area of 0.775ha.

Concurrence was granted in this instance for the following reasons:

- a) That no net increase in the number of lots or dwelling entitlements;*
- b) The subdivision design will not set up a situation that is likely to result in conflict between the new lots; and*
- c) There is no public benefit in maintaining the standard.”*

The Department of Planning had no conditions to be included. It is therefore considered that the proposal has satisfied the requirements.

Rural Fire Service

The proposed development was identified as being Integrated Development as the site is located within a Bushfire Prone area. As such the application was sent to the Rural Fire Service (RFS) for comment. RFS replied on 27 July 2010 with a number of conditions relating to Asset Protection Zones and Design and Construction to be included in the consent. As such it is considered that the proposal complies with this clause of the TLEP.

(e) Public interest

The proposed development is generally considered to reflect the provisions of all applicable development control plans. Appropriate conditions of consent have been applied in an effort to limit any impact upon the surrounding residences and agricultural landowners.

OPTIONS:

1. Approve the application subject to the recommended conditions of consent.
2. Refuse the application, with reasoning.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be unsatisfied with Council's determination an appeal may be lodged with the NSW Land & Environment Court.

POLICY IMPLICATIONS:

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

CONCLUSION:

The proposed development is consistent with the applicable environmental planning instruments with an acceptable variation to Clause 20 of the Tweed LEP 2000. Having had regard for the proposed development and controls provided for the site it is considered that conditional consent is warranted.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

Nil.

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- 14 [PR-CM] Development Application DA09/0777.01 for an Amendment to Development Consent DA09/0777 for Outdoor Seating in Association with IGA Supermarket at Lot 5 DP 1121923, No. 11-13 Coronation Avenue, Pottsville

ORIGIN:

Development Assessment

FILE NO: DA09/0777 Pt1

SUMMARY OF REPORT:

Development Application DA09/0777 was approved for the provision of four tables and eight chairs adjacent to the IGA supermarket at Pottsville to be utilised as an outdoor eating area. Relocatable barriers were to be positioned around the seating area to separate pedestrians from the seating area. The barriers measure 1.2m in length and are approved to be 900mm high.

The tables, chairs and barriers were to be removed from the footpath at times when the IGA Supermarket is closed. The tables and chairs were to occupy an area of 9.2m², being 9.2m in length and 1.0m in width. The tables and chairs are located immediately adjacent to the frontage of the supermarket.

The proposed amendment seeks to increase the width of the dining area from 1.0m to 1.8m for a length of 8 metres. The applicant has also applied to increase the length of the frontage from 9.2 metres to 13.715m.

It is considered that the proposed outdoor seating arrangement will unreasonably impact upon the accessibility of the adjoining footpath, and it is therefore recommended that the application be refused.

RECOMMENDATION:

That:-

- A. Development Application DA09/0777.01 for an amendment to Development Consent DA09/0777 for outdoor seating in association with IGA supermarket at Lot 5 DP 1121923, No. 11-13 Coronation Avenue, Pottsville be refused for the following reasons: -**

- 1. Pursuant to Section 79C(1)(a)(i) the development proposal has not demonstrated due consideration or compliance with the 3(b) - General Business zone objectives within Clause 11 of the Tweed Local Environmental Plan 2000, as the proposed development does not provide for the welfare and social needs of the community.**

2. Pursuant to Section 79C(1)(a)(i) the development proposal is not consistent with Clause 8 of the Tweed Local Environmental Plan 2000, as the proposed development results in undue cumulative impacts for the Pottsville community.
 3. Pursuant to Section 79C(1)(c) the development site is not considered suitable for the development as proposed for the following reasons:
 - (a) The proposal reduces the pedestrian access width and thereby reduces the level of service; and
 - (b) The proposal further constricts pedestrian space adjacent to the existing pedestrian crossing which requires a high level of pedestrian and disabled access service.
 4. Pursuant to Section 79C(1)(e) the proposed development, is not within the public interest.
- B. Appropriate regulatory action is to be undertaken when required to ensure compliance with relevant legislation for the use of the road reserve associated with the IGA Supermarket to preserve public health and safety.**

REPORT:

Applicant: Mr J Wightman
Owner: Mr J Wightman, Mrs G Wightman, Mr IW Wightman and Tweed Shire Council
Location: Lot 5 DP 1121923 No. 11-13 Coronation Avenue, Pottsville
Zoning: 3(b) General Business
Cost: Nil

BACKGROUND:

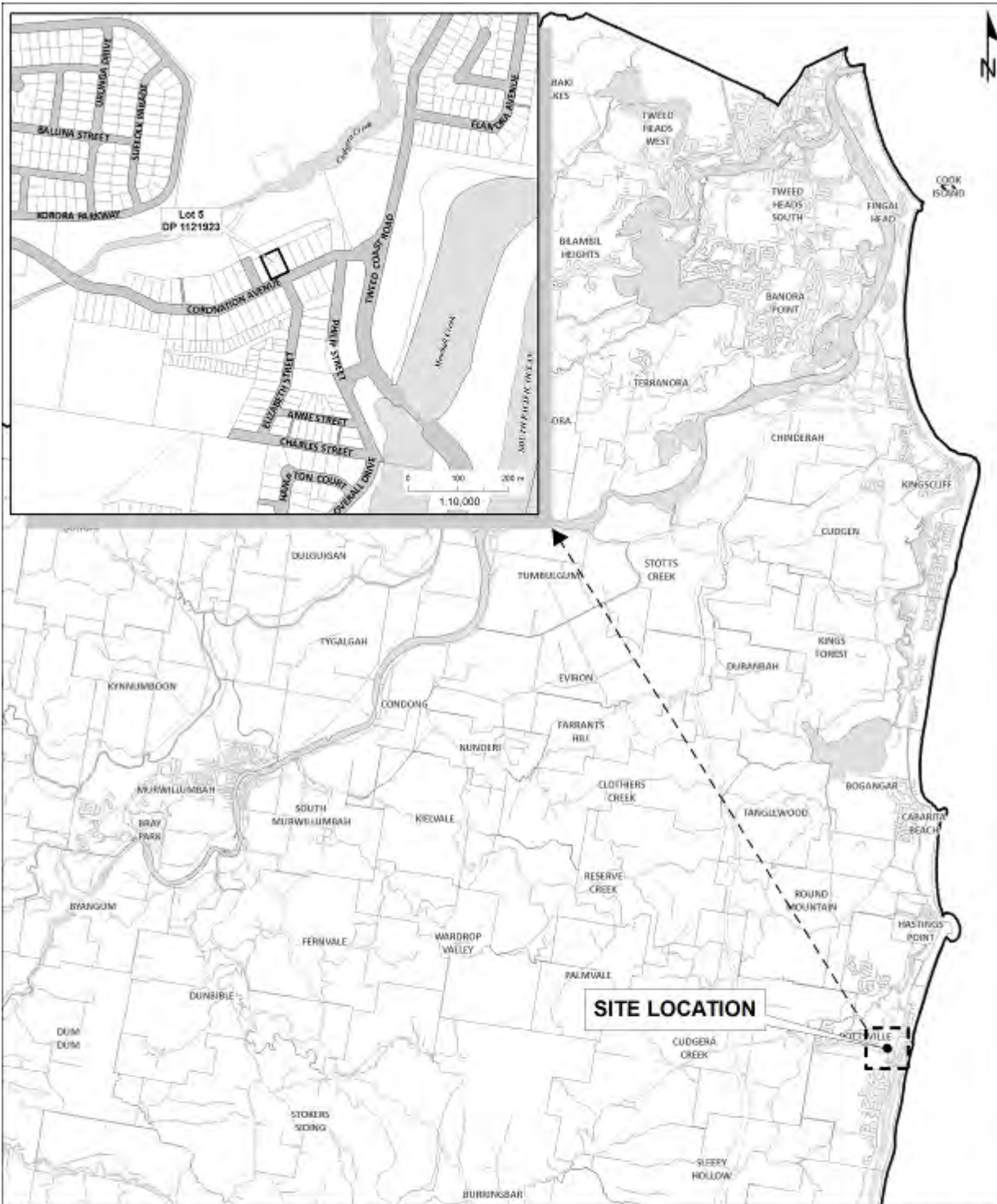
The IGA was approved via DA06/0706 which was for the Demolition of Existing Structures & the Erection of a Shop Building Comprising a Mini Supermarket (IGA) & Three (3) Other Tenancies (Real Estate, Solicitor and Butcher).

The outdoor seating area associated with the IGA was approved via DA09/0777 on 25 January 2010. A letter was sent to the owner on 13 May 2010 to indicating that the condition 10 of the original approval was not being complied with. Condition 10 is as follows:

“footpath dining activities shall be restricted to the approved footpath dining area and carried out in accordance with Council’s adopted Footpath Dining Policy.”

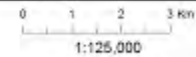
As such the owner had a meeting with the Mayor and other relevant Council staff regarding possible options. This section 96 application was submitted as a result of that meeting.

SITE DIAGRAM:



LOCALITY PLAN

Lot 5 DP 1121923
No.11-13 Coronation Avenue, Pottsville



Filename: z:\esr\planning\med\A4P_B&W SitePlan.mxd

Author: J.Batchelor - Planning Reforms Unit

Date Printed: 05 August, 2010

Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties (expressed or implied, statutory or otherwise), about the accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagnostic only. It should not be used for survey or construction purposes and prior to any excavations a "Call Before You Dig" enquiry must be made by calling 3150. The information contained on this document remains valid for 30 days only from the date of supply.



Cadastral: 05 August, 2010
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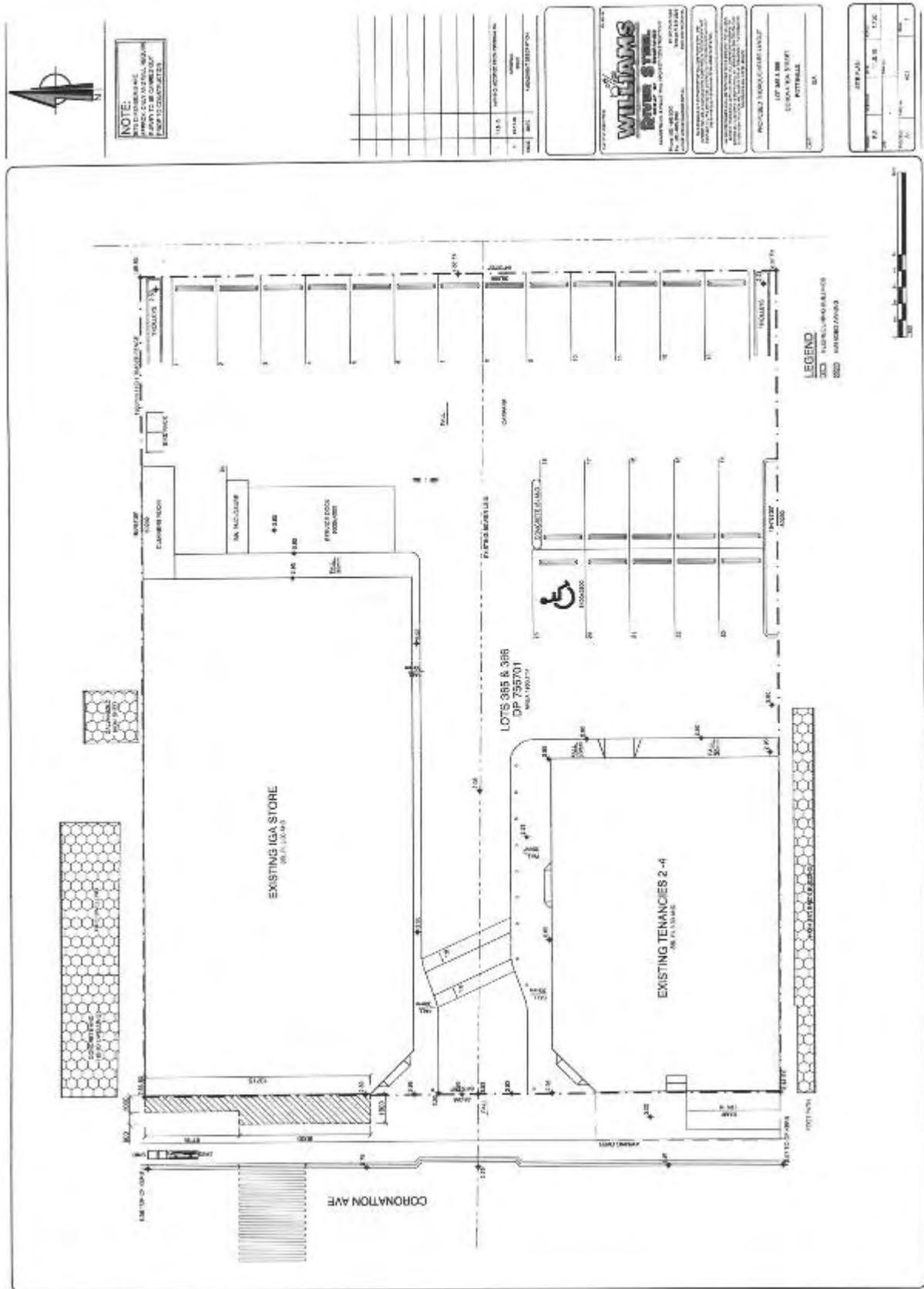
Coordinate System - MGA Zone 56
Datum - GDA 94

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DEVELOPMENT PLAN:



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

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

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

The vision of the Tweed Shire is outlined as:

“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 proposal is non-compliant with the objectives of the zone therefore the proposed development is not compliant with the aims of the Tweed LEP. It is considered that the approved configuration should not be changed as a result of the information provided.

Clause 5 - Ecologically Sustainable Development

The proposed development is considered to be generally compliant with the principles of ecological sustainable development. The proposed development is considered to have minimal impact on the environment and is in keeping with the precautionary principle inter generational equity and the conservation of biological diversity and ecological integrity.

Clause 8 (1) (c)- Cumulative Impact

The proposed development if approved would be considered to create an adverse cumulative impact for residents within Pottsville. There would be no benefit for the pedestrians utilising the footpath along Coronation Avenue as a result of this application. It is considered that the proposed development should be refused as a result of the cumulative impacts.

Clause 11 - Zone Objectives

The subject site is located within the 3(b) - General Business Zone of the Tweed LEP. The primary objectives of the Plan are as follows:

- *to provide business centres in which the community’s shopping, business, welfare and social needs can be met.*
- *to provide business locations within residential areas, and to ensure that the scale and type of development is compatible with the character and amenity of the surrounding residential areas.*

The Secondary objectives of the Plan are as follows:

- *to provide for tourist orientated development.*
- *to encourage upper floor residential or tourist accommodation.*

The proposed development will result in a business centre where the level of access reduces as a result of a reduction of the pedestrian access. It is considered that this reduction leads to a reduction of the welfare and social needs of the community by limiting pedestrian access.

Clause 15 - Essential Services

Existing infrastructure including water, sewer and stormwater services are available to the subject site.

Clause 16 - Height of Building

The proposed addition is single storey and therefore complies with the height limits adopted for Pottsville.

Clause 17 - Social Impact Assessment

This clause is not directly applicable to the proposed development.

Clause 22, 23 and 24 - Development near Designated Roads

Coronation Avenue is a Council Designated Road. The proposal is only for removable tables, chairs and barriers, and there will be no new access arrangements from the Designated Road. As such, the proposal is considered to comply with these clauses relating to development near designated roads.

Clause 34 - Flooding

The proposal involves minor removable structure which will not increase the severity of flooding.

Clause 35 - Acid Sulfate Soils

The proposed placement of the building will be on Class 3 ASS land. The proposal involves only minor building works with no cut or fill proposed. It is considered that the proposal complies with Clause 35.

Clause 38 - Future Road Corridor

Tweed LEP 2000 shows that land to the north of the site is nominated as a potential future road corridor. Such a road could service new developments along Coronation Avenue. However, as this road corridor is not currently on Council's works program, the proposed is only for a minor removable structure and the site already has access from Coronation Avenue it is considered that the future road corridor will not be affected by this.

Clause 39A - Bushfire Protection

The subject site is mapped as bushfire prone land although the proposal will not create any additional fuel source. It is considered that the proposal will not be affected by bushfire.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

There are no clauses of the North Coast Regional Environmental Plan which are applicable to the site.

SEPP No 71 – Coastal Protection

The development proposal is located within the area defined as the coastal zone and SEPP 71 applies however referral to the Department of Planning was not required. Nevertheless an assessment of the proposal against the provisions of the policy was performed with the development deemed consistent with the Clause 2 'Aims' and satisfactory with regard to the Clause 8 'Matters for Consideration'. The proposal complies.

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

The Tweed Local Environmental Plan 2010 was on public exhibition from 27th January 2010 until 30 April 2010. In this Draft LEP the site is within the B2 – Local Centre Zone. Within the B2 zone an Outdoor Eating Area is permitted with consent. It is therefore considered that the proposal complies with the intent of the Draft Tweed LEP 2010.

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

Tweed Development Control Plan

A2-Site Access and Parking Code

The car parking rates specified within Tweed DCP A2 indicate that 4.4 car parking space is to be provided for every 100m² of GFA for a shop. There is no new permanent building work and as such there will be no increase in GFA. The tables and chairs will be removable and as such ancillary to the use on the site. As such complies with Council's numerical requirements for car parking.

A3-Development of Flood Liable Land

The proposal involves minor removable tables and chairs which will not increase the severity of flooding.

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

Clause 92(a) Government Coastal Policy

The subject site is located within the Coastal Zone and as such the provisions of the Coastal Policy apply to the site. The proposed development is consistent with the objectives of the Coastal Policy.

Clause 92(b) Applications for demolition

Not applicable.

Clause 93 Fire Safety Considerations

Not applicable.

Clause 94 Buildings to be upgraded

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 subject site is surrounded by development of a business nature. The proposal is to amend the area of an outdoor dining area which currently consists of four (4) tables and eight (8) chairs to be ancillary to the existing approved IGA shop. The approved outdoor eating area is currently 1.0m wide by 9.2m long and is located along the Coronation side of the IGA. The proposed amendments incorporate a change to the width of the outdoor dining area to be 1.8m wide for a distance of 8m and 1.0m wide for a distance of 5.715m. The chairs, tables and a barrier will not be permanent structures and will be removed each time the IGA is closed. The area will be used for the purpose of eating food or drinking beverages which were bought in the IGA.

The applicant has not provided any information on the number of tables and chairs to be included in the increased area although this was not requested as it is considered that the increase in size is not an appropriate amendment for the locality. There is a pedestrian crossing, an existing Council seat and Council bins which take up part of the footpath. Additionally, the operators of the IGA place unapproved items such as removable signs, planter boxes and 'specials' bins out in front of the store which also significantly reduce pedestrian access along the footpath. It is therefore considered that the proposed development is not in keeping with the context and setting of the Pottsville locality and should therefore be refused.

Access, Transport and Traffic

The proposed amendment to DA09/0777 was forwarded onto Council's Traffic Engineer who supplied the following assessment:

The proposal is very undesirable for the following reasons:

- *Reduction of pedestrian access width reducing pedestrian level of service. This is a medium to high pedestrian traffic area;*
- *Further constriction to the pedestrian space adjacent to the existing pedestrian crossing which requires a high level of pedestrian and disabled access service; and*

- *Close proximity to an existing pedestrian obstruction being a seat located at the kerb.*

The request to extend the dining area is therefore not supported.

It is considered that the abovementioned reasons provide sufficient grounds for refusal. As such the recommendation is for refusal of the application.

Cumulative Impacts

A resident raised concerns regarding the congestion on the path for bicycles and pedestrians. The application was referred to Council's Traffic Engineers who responded that they have objections to the proposal amendment as the service for pedestrians will be reduced considerably. There are a number of additional items which have been placed on the footpath by the operator which do not have approval. Items such as planter boxes, removable advertising signs and "specials bins" are located on the footpath which creates a situation where there is a significantly reduced pedestrian corridor which adds to the negative cumulative impacts.

For the original application (DA09/0777), the traffic engineers had concerns that, if approved, the operators will add an additional seat to the tables which will encroach within the nominated 2 metre pedestrian corridor. This was conditioned so that no extra tables and chairs are added and that the barriers put around the area will not encroach into the pedestrian corridor. The operators have encroached on the pedestrian corridor without approval and as such have submitted this application to legalise this encroachment.

Natural Hazards – Flooding

As identified above, the site and surrounds is constrained by flooding. Notwithstanding, the application is for an outdoor eating area which is ancillary to the shop use and will not increase the flood hazard on site.

(c) Suitability of the site for the development

Surrounding Landuses/Development

The subject site is within the Pottsville Village area which consists of numerous business and commercial activities. Land to the north, south and east of the site is predominately characterised by business uses. Coronation Avenue is located directly to the south. The proposed development is an ancillary to the IGA shop on site and as such is considered to be consistent with the business nature of the locality. However, the proposed amendments to the consent are undesirable for the access reasons shown above.

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

In accordance with Council's Development Control Plan Section A11 – Public Notification of Development Proposals, the proposal was not required to be notified. However, as a result of the assessment process there was a submission received in regards to the proposal. The submission received raised concerns about the outdoor seating area protruding past the approved area and creating obstructions. It is considered that this submission be taken into account and as a result of it and the recommendations outlined above, the proposed amendments should be refused.

(e) Public interest

In assessing public interest, consideration should be given to any government interests and community interests having regard to any policy statements, planning studies, guidelines, management plans, advisory documents, public meetings and enquiries held, public submissions, public health and safety etc.

The proposed amendments to the outdoor eating area are to be ancillary to the shop use which does not demonstrate consistency with the relevant planning instruments and Council requirements. It is considered that the interests of the community are reduced as a result of the proposed amendments to the outdoor eating area.

OPTIONS:

1. Council resolves to refuse the application in accordance with the officer's recommendation.
2. Council provides in-principle support for the proposal and requests appropriate conditions for approval be submitted to the next Council Meeting.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

POLICY IMPLICATIONS:

Should the recommendation of this report be upheld, no direct policy implications will occur, however a precedent will be set for similar applications to be approved.

CONCLUSION:

As detailed in the body of the report, the proposed development warrants refusal as Council Officers consider the applicants justification to increase the area of the outdoor eating area is not well founded in proving that there will be no unreasonable or unnecessary impacts as a result of the proposal.

In addition, the Council's Traffic Engineers have indicated that the proposal would reduce the pedestrian level of service along Coronation Avenue. It is therefore considered that the proposal be refused for the abovementioned reasons.

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.

15 [PR-CM] Visitor Carparking Lot 1 DP 525502, No. 4 Second Avenue, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: PF4980/130

SUMMARY OF REPORT:

Council has received a complaint from residents within a residential strata titled complex (Lot 1 DP 525502, 4 Second Avenue Tweed Heads, SP 35133) regarding alterations to visitor parking arrangements without Council approval. The complainants are seeking to have the parking restored to its approved location.

Council Officers have inspected the site and spoken to both the owners and complainants in this matter. It is the Officers view that a Section 96 application is required to rectify the non compliance of the current parking arrangements with the development and building approvals. It is therefore recommended that Council endorse that an application be submitted or legal action will be initiated.

RECOMMENDATION:

That Council endorses the following actions in respect of Strata Plan 35133, Lot 1 DP 525502, No. 4 Second Avenue, Tweed Heads:

- 1. The owners of strata plan 35133 be advised that a Section 96 amended application is required to be submitted to Council for consideration of an alternate visitor parking arrangement or the visitor space is to be returned to the approved location parallel to unit 2A; and**
- 2. The owners of strata plan 35133 be advised if neither of the above options is undertaken within sixty days of notification Council will consider legal action against the body corporate for non compliance with Development Consent 88/212 and Building Permit 1024/88.**

REPORT:

Council has received submissions from unit owners/residents (units 3A and 2B) within the SP 35133 at No. 4 Second Avenue, Tweed Heads advising that another unit owner/resident (unit 2A) has altered the visitor parking location for one of the units and is now contrary to the approved plan. The complaint also relates to the impact of the relocation on the enjoyment and useability of the site by the residents affected by the relocation.

Background

Development consent (88/212) issued on 3 June 1988 for the erection of five cluster houses. Condition 2 of the consent states-

2. The provision of ten (10) off street car parking spaces in accordance with the submitted plans and Council's code for Off Street Car Parking.

The approved plan includes an attached garage and adjacent open carparking space for visitors for each of the five units.

Building Permit 1024/88 was issued on 23 September 1988 for the units. The approved site plan (dated 30.9.88) adjusted the visitor spaces for four of the units. On 11 April 1989 the visitor parking was further adjusted as follows-

- Unit 1A visitor parking on the south side of the driveway opposite unit 1A.
- Unit 2A visitor parking on the eastern side of unit 2A
- Unit 3A and 2B visitor parking centrally located on the eastern side of the site between units 3A and 2B.
- Unit 1B visitor parking on the eastern side of unit 1B.

Strata plan registered on 21 July 1989.

The strata plan indicates the private courtyard of unit 2A moved forward to align with the front wall of unit 2A. The significance of this is that the majority of the visitor car space is no longer located on common property with no alternate location designated on the strata plan. It is considered that with the layout of the units on the site it does not matter if the car spaces are located within common property or on private areas. The consent requires ten spaces on the site.

ISSUE

The owners of unit 2A have fenced, gated and landscaped the area of the visitor car space so a vehicle can no longer park parallel to the unit. The owner of unit 2A parks their vehicle in the common property across part of the frontage of unit 2A and part of the frontage of unit 3A. The garage for unit 2A does not appear to be used for a vehicle.

This partly blocks access to and from unit 3A and adversely affects vehicle manoeuvring for other unit owners and their visitors.

The body corporate (ie. unit owners) has not been able to resolve their differences regarding this issue.

It would appear that when the strata was signed off by Council the visitor space for unit 2A would have been physically located in the correct location however the strata plan removed the space from the common property and increased the size of the private courtyard.

This has led to a conflict between the approved plan and the registered strata plan.

The solicitor for Unit 2A has contended in a letter dated 24 May 2010 that the strata plan supersedes the approved plan. If this were to be correct relocation of the parking space still needs approval from Council. This approval has not been sought or gained.

The solicitor's letter also states the following-

Accordingly in our view as long as a vehicle parked in your courtyard is wholly within the courtyard area, then it is not a matter under the control of the Owners Corporation.

It is considered that to comply with the consent ten carparking spaces are required on the site. In this instance it does not matter if they are on private land or common property given the configuration of the development. Clearly alterations have occurred to the physical layout of the parking without approval from Council.

On 11 June 2010 a letter received from the strata manager representing the Owners states the following-

The Owners Corporation have recently held their Annual General Meeting and the letter sent by Council with the above reference was discussed.

By majority it was agreed to submit the following response:

The Strata Plan dated 10/05/1989, bearing the certification of the Tweed Shire Council supersedes Council's 1988 plan, and does not include visitor parks. It would therefore be necessary by Special Resolution of the Owners Corporation, to submit a visitor car park plan, showing present parking layouts, wholly within the common area as acknowledged by the Tribunal Adjudicator.

Options for Council

1. Commence legal proceedings to require compliance with the approved plan.
2. Seek legal advice regarding the conflict between the strata plan and the approved plan and the likelihood of success if regarding restoration of the visitor parking space.
3. Advise the owners that a S.96 amended application for 88/212 is required to be submitted to Council for consideration of an alternate visitor parking arrangement or the visitor space is to be returned to the approved location parallel to unit 2A. Given the owners corporation need to consider this issue a timeframe of sixty days to carry out the above actions is considered appropriate.

Comment

It is unlikely that the owners will agree to lodge a S.96 application given owners consent is required for Council to legally consider the application. The issue remains for Council whether or not to pursue legal action to enforce compliance should the matter not be resolved as per option three above. Council should reserve its right to pursue legal action on the basis that the body corporate resolves the issue and that they explore all avenues including independent mediation.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If Council resolved to take legal action costs would be incurred.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Strata plan, photographs in relation to the car parking issues and approved building plan (ECM 19884409)
-

16 [PR-CM] Cobaki Lakes Project Application - Update of Projects

ORIGIN:

Development Assessment

FILE NO: GT1/51

SUMMARY OF REPORT:

Council is in receipt of an Addendum to the Concept Plan Preferred Project Report (PPR) and the PPR for the Project Application for the central lakes and open space area.

The Addendum to the Concept Plan PPR includes major modifications to the Concept Plan design.

The PPR for the Project Application includes detailed information relating to infrastructure and open space which will be dedicated and maintained by Council. The Project Application includes earthworks, structured open space and parklands, revegetation and rehabilitation of environmental protection areas, establishment of freshwater wetland and fauna corridors, revegetation and rehabilitation of salt marsh areas, roads and culverts crossing the central open space, a road and culverts including trunk sewer and water services across the saltmarsh and subdivision.

The Department of Planning has provided Council approximately three weeks to undertake a review and assessment of both reports concurrently. Council officers are concerned that the timeframes are insufficient to review these documents properly, particularly given their long term maintenance and cost implications on Council.

This report seeks Council support to provide comments to the Department of Planning within a more achievable timeframe, which allows officers to undertake meaningful assessment as well as report the issues to Council.

At this stage, these reports are likely to be submitted to either the September or October Council Meetings.

RECOMMENDATION:

That Council endorses that the General Manager writes to the Department of Planning indicating that responses to both the Addendum to the Concept Plan PPR and Project Application PPR relating to the Cobaki Lakes development will be provided after proper assessment has been undertaken and after each matter has been reported to Council.

REPORT:

Applicant: Leda Manorstead Pty Ltd
Owner: Leda Manorstead Pty Ltd
Location: Lot 1 DP570076, Lot 2 DP566529, Lot 1 DP562222, Lot 1 DP570077, Lot 1 DP823679, Lot 46, 54, 55, 199, 200, 201, 202, 205, 206, 209, 228 & 305 DP755740 at Cobaki lakes Estate, Tweed Heads
Zoning: 2(c) Urban Expansion, 2(e) Residential Tourist, 6(b) Recreation, 7(d) Environmental Protection (Scenic Escarpments) and 7(l) Environmental Protection (Habitat).
Cost: N/A

BACKGROUND:

Concept Plan

In February 2009, Council reviewed the Cobaki Lakes Concept Plan and supporting Environmental Assessment and provided detailed submissions to the Department of Planning.

In January 2010, Council reviewed the Preferred Project Report (PPR) for Cobaki Lakes and provided a submission to the Department of Planning.

The Cobaki Lakes Development Code was on exhibition from 13 January 2010 to 26 February 2010.

Council officers reviewed the Cobaki Lakes Development Code and prepared a summary of issues and a Draft submission on the Code. This was presented to the Council at its meeting 16 February 2010 and a submission on the Code was subsequently provided to the Department of Planning.

Council received an addendum to the PPR for the Concept Plan on 23 July 2010 and required Council comment by 13 August 2010 (this timeframe includes an extension from the 6 August 2010).

Project Application

Council received a copy of the Project Application (PA) for Cobaki Lakes on 12 January 2010. The application is lodged pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979* and the Minister of the Planning is the approval authority.

The PA includes an Environmental Assessment (EA) and the EA was been on public exhibition from 13 January 2010 to 26 February 2010. Council provided comments on the EA.

Council received a copy of the PPR for the Project Application on 29 July 2010 and required Council comment by 20 August 2010 (this includes an extension from 11 August 2010).

OPTIONS:

1. That Council supports the recommendation and allows officers additional time to provide meaningful comments on the Cobaki Lakes Addendum to the PPR Concept Plan and the PPR for the Project Application.
2. That Council does not support the recommendation and requires submission of comments to the Department of Planning within an alternative timeframe.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The Department of Planning has provided Council with a copy of an Addendum to the PPR for the Concept Plan for Cobaki Lakes and a copy of the PPR for the Project Application for the central open space system at Cobaki Lakes. The Department has requested Council assessment and comment within short timeframes.

Council officers are unable to undertake a proper assessment of the documents within the timeframe provided. This is of major concern because of the implications the Project Application and Concept Plan will have on Council resources over a long period of time.

The purpose of this report is to seek Council support to provide comments outside the timeframe set by the Department to allow for meaningful assessment and comment as well allow for reporting of each matter to Council.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

Nil.

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17 [PR-CM] Tweed Shire Local Disaster Plan 2010

ORIGIN:

Building and Environmental Health

SUMMARY OF REPORT:

The Tweed Shire DISPLAN has undergone an extensive review since approval in 1998. This report introduces the Tweed Shire DISPLAN 2010 and outlines Council's requirements as defined within the Plan.

Further, following a successful funding application through the Natural Disaster Mitigation Program Council, in partnership with Gold Coast City Council, has developed a Cross Border Sub Plan, a supporting plan to the DISPLAN.

RECOMMENDATION:

That Council:

- 1. Acknowledges the Tweed Shire DISPLAN 2010 and supports the use of Council resources to fulfil its requirements as identified within the Plan.**
- 2. Receives and notes Attachment 2 "Cross Border Sub Plan 2010", a supporting plan to the Tweed Shire DISPLAN 2010.**

REPORT:

Local Emergency Management Committees (LEMCs) are established under the provisions of the NSW State Emergency and Rescue Management Act 1989 and are required to prepare local disaster plans, known as Local DISPLANs. Local councils are responsible for the establishment of and executive support facilities for these committees with the executive officer known as the Local Emergency Management Officer (LEMO). The committees are chaired by a senior representative of council and members are representatives of all local emergency service agencies and participating / supporting government and non-government organisations.

The Tweed Shire DISPLAN 2010 (**Attachment 1**) was approved by the Tweed Shire LEMC on 3 August 2010 following an extensive review of the existing plan and is to be forwarded to the Northern Rivers District Emergency Management Committee in September for endorsement.

The document details the emergency management arrangements for the area designated as the local government area of Tweed Shire to ensure the effective and efficient co-ordinated response to and recovery from an emergency event. It aims to detail arrangements that prevent or mitigate, prepare for, respond to and recover from emergencies within Tweed Shire.

Within the Plan Council has a number of roles and responsibilities as outlined below:

1. Establish and maintain the Local Emergency Operations Centre (LEOC) for the Local Emergency Operations CONTroller (LEOCON).
2. Provide support staff for the LEOC.
3. Provide human resources, plant, equipment, materials and services, as required in dealing with an incident or emergency.
4. Provide facilities for reception and registration of evacuees at the request of the Police and/or Community Services.
5. Provide support to combat agencies and functional area agencies as required including:
 - a. Reconnaissance of the area affected by the emergency,
 - b. Post disaster damage assessment.
6. Provide expertise and support as requested to the emergency services, combat agencies and functional areas identified in this plan.
7. Provide engineering resources required for response and recovery operations including:
 - a. Damage assessment
 - b. Clear and re-establish roads and bridges
 - c. Demolish and shore-up buildings
 - d. Remove debris
 - e. Construct and maintain temporary levees and evacuation routes, when appropriate
 - f. Erection of barricades and fences for public protection.

8. Provide a liaison officer and executive support to the LEOC and LEOCON or Combat Agency Controller.
9. Provide an officer to represent the Northern Coast Area Health Service Public Health unit in relation to Public Health emergency matters.
10. Provide an officer to represent the District Engineering Functional Area Coordinator in relation to engineering emergency matters.
11. Provide Road Condition advisory service/information for dissemination to other Emergency Agencies, Functional Areas, Media and Members of the Public during an incident/emergency.
12. Assist in any other emergency management prevention, preparedness, or recovery operations, including emergency management training, for which the Council's training and equipment is suitable.

These arrangements are co-ordinated through the LEMO with its responsibilities listed below.

1. Ensures executive support facilities are available to the LEMC and LEOCON
2. Acts as Executive Officer to the LEMC and LEOCON
3. Acts as liaison officer of Tweed Shire Council
4. Assists the LEOCON to establish and maintain the LEOC
5. Maintains a directory of contacts within the Tweed Shire Council
6. Maintains a registry of evacuation centres
7. Co-ordinates emergency management public education programs, which are not the responsibility of a combat agency
8. Ensures a comprehensive resource register and media directory is maintained by agencies within the LEMC (Councils, Emergency Service and Functional Areas)
9. Provides executive support at the LEOC when activated
10. Co-ordinates arrangements for a central debrief following operations and prepares a consolidated report on that operation in consultation with the LEOCON
11. Ensures that adequate "back up" arrangements are made to cover any period of absence and that the LEOCON is advised of the absence or intended absence of the LEMO

It is recommended that Council acknowledges the Tweed Shire DISPLAN 2010 and supports the use of Council resources to fulfil its requirements as identified within the Plan.

Further to the review of the DISPLAN Council, in partnership with the Gold Coast City Council, successfully applied for funding under the Natural Disaster Mitigation Program to develop effective cross border disaster management arrangements. One of the outcomes of the funding was to develop an agreed Cross Border Sub Plan. (**Attachment 2**)

Emergency management arrangements exist in both the local government areas of Gold Coast City and Tweed Shire. These arrangements reflect the local level requirements of our respective States however each demonstrate differences in command and control structures, is confounded by differences in language and do not acknowledge the formal and informal cross border arrangements and communication channels between various emergency service agencies and support organisations.

To improve the collective resilience of the two closely joined communities the sub plan was compiled to enhance joint mitigation, preparedness, response and recovery actions by developing effective cross border arrangements.

The sub plan was also approved at the Tweed Shire LEMC on 3 August 2010.

It is recommended that Council receives and notes the plan.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Tweed Shire DISPLAN 2010 (ECM 20228050)
 2. Cross Border Sub Plan 2010 (ECM 20080688)
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18 [PR-CM] On-Site Sewage Management

ORIGIN:

Building & Environmental Health

SUMMARY OF REPORT:

Council has numerous roles and responsibilities one of which includes the issuing of approvals for the installation of on-site sewage management systems, the issuing of licenses to operate on-site sewage management systems and the monitoring of such systems to ensure they operate and are adequately maintained to meet relevant standards to protect public health, the environment and community living.

This report has been prepared to inform Council on the work undertaken by officers within Councils Building and Environmental Health Unit to comply with the requirements in relation to the management of on-site sewage management systems.

RECOMMENDATION:

That the report on On-Site Sewage Management be received and noted.

REPORT:

On-site sewage management systems (OSSMS) are intended to process and dispose of human waste where reticulated sewer systems are not available. On-site sewage management involves the treatment of wastewater followed by the release of this treated material (effluent) into or onto a disposal area, otherwise referred to as a land application area, which could be by way of surface or subsurface absorption or irrigation or in some cases a system whereby a holding well is utilised and later collected by tanker.

OSSMS's include but are not limited to septic tanks, aerated wastewater treatment systems, biological wastewater treatment systems, composting systems, greywater treatment systems and any effluent disposal area associated with these systems. The purpose of these systems is to process and dispose of waste so that it is safe for health and the environment. The inappropriate treatment, use or disposal of this waste can have serious impacts including:

- The spread of disease by bacteria, viruses, parasites and other organisms in the wastewater
- The contamination of groundwater and surface water
- Degradation of soil and vegetation
- Decreased community amenity, caused by odours, noise and insects.

In New South Wales there is legislation and guidelines that stipulate that an on-site sewage management system must be designed, operated and maintained in a manner that will:

- Prevent public health risk;
- Prevent environmental damage (particularly to land, soil, groundwater and surface waters);
- Protects community amenity (e.g. nuisances such as bad odours); and
- work well into the future.

Also contained in the legislation is a requirement for Councils to manage the cumulative impact of sewage pollution in their local government area, which includes approving the installation and operation of on-site systems and the auditing of existing systems.

In 1998 the New South Wales Government made some amendments to the Local Government Act making it an obligation for Councils to better supervise the operation and installation of OSSMS's and ensure that property owners take greater responsibility for maintaining their system. These changes require that once a system has been installed on a property the owner of that property must apply to Council for an approval to operate the system. This requirement for an approval to operate also applies for existing systems where a property with an existing on-site sewage management system is sold to new owner/s or the approval to operate has expired. In these cases the owner must apply to Council for an approval to operate. This approval allows Council to maintain a register of systems throughout the shire together with details of the owners of those systems and the approval ensures that property owners are aware of their responsibility to efficiently operate and maintain their system in accordance with the conditions of approval.

To assist Councils in sufficiently resourcing and complying with these new requirements, recommendations were made by the Department of Local Government that Councils consider the adoption of certain fees and charges and that a strategy be implemented to regulate and manage on-site sewage management systems. As a result of these recommendations a program was commenced in Tweed Shire that included a requirement for the registering of all systems, undertaking an inspection of each system to verify correct operation, requiring the correction of defective systems, and a risk assessment to determine the risk factor for each installation. This program is now guided by Councils On-site Sewage Management Strategy which was adopted by Council On 16 October 2002. The Strategy, which is now currently being reviewed, details Council's approach to the supervision of OSSM's within the Tweed Shire and describes:

- How an approval to operate is made to Council;
- How Council assigns a risk to each system based on their location, type and operation;
- How inspections will be conducted for all systems and the frequency of inspections, varying from once every two years to once every six years depending on the risk assigned; and
- How fees will be charged on a user pays basis and will be required for approval of applications, approval renewals and inspections.

Since the adoption of the Strategy, fees have been introduced for an approval to operate, the transfer of an approval to operate; an annual charge for the management and auditing of OSSMS's has also been levied against all rated properties which have an on-site sewage management system. These fees are reviewed annually and together with other income which is derived in relation to the management of OSSM's, which includes pre-purchase reports and the approval of new systems and installations, currently returns Council approximately \$150,000.00 annually.

Council's records identify that the Tweed Shire has approximately 4900 OSSMS registered, however, many more systems exist which have not been registered and are gradually being picked up during the auditing process. Currently Council employs two full time OSSMS officers; one officer is dedicated full time to the auditing process and the other to as well as auditing, assesses applications for approval, undertakes inspections and issues reports for pre-purchase requests and other processes involved with on-site sewage management.

In relation to the auditing process, information in relation to the number of systems inspected and the percentage of system failures found are included in Councils quarterly reports. Inspections in relation to auditing are done by the use of mapping on a street by street basis and owners are usually notified in writing prior to the start of inspections in their area. In situations where property owners who have not previously applied for approval to operate, or where Council has no such record of an existing approval, they are requested to make application for an approval to operate and pay the appropriate application fee.

Owners of properties have the ability to arrange an inspection time if the owner wishes to be present during the inspection. If a specific time and date is not required the officer will undertake the inspection as soon after notification during the nominated period. Following the inspection an approval to operate is normally issued to the applicant. The approval may require the owner/applicant to undertake repairs or other works to improve the operation of the system within a set timeframe. The approval however only relates to the operation of a system of sewage management on land and the granting of such approval in no way authorises any ancillary activity on the land that may require approval under the Local Government Act 1993 and /or other legislation, and this is specified on the approval. Inspections are also undertaken when Council becomes aware that a system may be malfunctioning or possibly causing public health or environmental problems. Following these inspections improvement notices or other orders may be issued for immediate rectification works or other action to be undertaken in relation to the problem.

Council also offers a pre-purchase inspection service at the request of home purchasers or Solicitor/Conveyancer prior to the sale and settlement or transfer of ownership of a property. To obtain an inspection the relevant application form is completed and applicable fee paid. An inspection of the system is then undertaken and Council provides to the applicant a written report about the state of the system and any other matters relating to the system that may have been identified.

Council has numerous roles and responsibilities and this report has been prepared to inform Council on the work undertaken by officers within Councils Building and Environmental Health Unit to comply with the requirements in relation to the management of on-site sewage management systems.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

19 [PR-CM] Demolition of Fire Damaged Dwelling at Lot 1 DP 123061, No 8 Prince Street Murwillumbah

ORIGIN:

Building and Environmental Health

FILE NO: PF4440/310

SUMMARY OF REPORT:

Earlier this year a dwelling situated at 8 Prince Street Murwillumbah was extensively damaged by fire. An inspection of the site identified that due to the dangerous state of the building and the fact that the building contained asbestos the building required demolition. After a title search of the property an Emergency Order was issued to the owner of the property for the demolition of the dwelling to the prescribed standards. Further correspondence was also issued together with the order to install temporary fencing around the property to secure the site. The site has been fenced and an extension of time was given to the owner of the property to engage a suitable contractor to undertake the demolition. The owner has now been contacted on several occasions and at this point in time the demolition work has not been undertaken. As sufficient time has been given to the owner of the property and due to the fact the site and building present a risk to the adjoining land holders and public Council officers have arranged for the demolition works to be commenced 10 August 2010 and will pursue the costs for such work with the owner of the property.

RECOMMENDATION:

That Council recover the costs of \$27,357.00 GST inclusive from the owner for demolition of fire damaged dwelling of the property, Lot 1 DP 123061, No 8 Prince Street, Murwillumbah.

REPORT:

On 9 April 2010 an inspection was carried out by Council's Building Compliance Officer with reference to a fire damaged dwelling at No.8 Prince Street Murwillumbah. The inspection identified that the dwelling had almost been completely destroyed by fire and that the dwelling contained asbestos and therefore required immediate attention due to the hazardous nature of the site. After carrying out a Title Search an Emergency Order was issued to the known property owner with a direction to engage the services of Asbestos Licensed Contractors to carry out demolition of the said dwelling in accordance with the provisions of the Australian Standards AS2601 and to the relevant requirements of Work Cover NSW, Occupational Health and Safety Regulation 2001. A direction was also issued to install temporary fencing around the property to secure the site and restrict entry to the public. The property owner immediately arranged a licensed contractor to install the requested fencing.

On 10 May 2010 correspondence was received from the property owner requesting an extension of time in order to engage the services of a contractor to carry out the works as he claimed that he had only received the Emergency Order two weeks prior. After Consultation with Council's Manager of Building and Environmental Health the property owner was advised that a four week extension would be granted until 10 June 2010 to carry out the necessary work. Council was unable to contact the property owner until 1 July 2010 where he advised that he was interstate. He also advised that he was having difficulty arranging someone to carry out the required work but he had now found a contractor and he would advise the contractor to contact Council regarding a schedule of works. Council confirmed the advice given in writing on 1 July 2010 and requested a copy of the schedule of works and the name of the contractor carrying out the prescribed work.

On 7 July 2010 the property owner was contacted as no response had been received in relation to the correspondence issued 1 July 2010. He advised that he had contracted Hardie Excavations to carry out the required work and he advised Council to contact the principal of the company directly. A phone call to the contractor on 8 July 2010 revealed that the property owner had contracted the contractor to carry out the work to demolish the dwelling to the ground level. The contractor however had not been made aware that the dwelling contained asbestos and advised that he would need to review his quote.

On 12 July 2010 a further phone call was made to the contractor which revealed that he had been in contact with the property owner to review the original quote as a result of the asbestos. The contractor advised that the property owner had abruptly ended the phone call when advised of the increased cost in the quotation. Council's Compliance officer attempted to contact the property owner on a number of occasions to determine his intentions however calls were not answered. In an effort to determine the owners intentions a letter was then forwarded to the owner advising that as Council had been unable to make further contact that Council would now obtain quotations for the demolition of the said property and was intending to proceed with the demolition and pursue costs against him.

As a consequence and due to the urgency of the matter Council's Building Compliance Officer arranged for quotations to carry out the necessary demolition work. It should also be noted that several Demolition Companies had also contacted Council's Compliance Officer and advised that the property owner has been phoning to arrange for quotations but had not been advised that the building contained asbestos materials.

In regard to the demolition Council has a responsibility to ensure that the neighbouring properties and general public are safe from asbestos related issues. Therefore due to the reluctance of the property owner to comply with Council's direction Council is in a position where it has no option but to engage the services of a Licensed Asbestos Contractor to carry out the necessary work on behalf of the owner to ensure a safe environment and also comply with the Emergency Order. A quote has been accepted and work is due to commence on 10 August 2010.

SITE DIAGRAM:



<p>Filename: z:\as\planning\msd\A4P_B&W_SitePlan.mxd</p> <p>Author: J.Batchelor - Planning Reform Unit</p> <p>Date Printed: 10 August, 2010</p>	<p>GDA</p> <p>Cadastre: 10 August, 2010 © Dept. of Lands & Tweed Shire Council</p> <p>Coordinate System - MGA Zone 55 Datum - GDA 84</p> <p>DO NOT SCALE COPY ONLY - NOT SURFACES</p>	<p>Civic and Cultural Centre 3 Tamburum Road Murwillumbah NSW 2484</p> <p>PO Box 816 Murwillumbah NSW 2484</p> <p>T: (02) 6670 2400 / 1300 292 872 F: (02) 6670 2485 W: www.tweed.nsw.gov.au E: planningreform@tweed.nsw.gov.au</p>	<p>TWEED SHIRE COUNCIL</p>
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PHOTOS:



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The Emergency Order for the demolition of the fire damaged dwelling at the above described property has been issued under Section 121 D of the Environmental Planning and Assessment Act 1979, as amended. This order has been signed by Council's Manager of Building and Environmental Health, who has the delegated authority. Quotations were sought and the lower of the quotes is \$27,357.00 GST inclusive.

Council will be required to reimburse the contractors for the work carried out subject to the contractors providing to Council a visual clearance certificate on completion of the works for the site. Service disconnections will be required to be provided by Council. The property owner is to be invoiced by Council for the work carried out. Clause 121ZJ of the Environmental Planning and Assessment Act 1979 relates to a person failing to comply with an order and the carrying out of the said work by the Consent Authority. Part (4) (b) states inter-alia: *that the person who gave the Order may recover the costs from the owner of a property as a debt.*

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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

ORIGIN:

Director Planning and 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 July 2010 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.	DA09/0106
Description of Development:	Roadside stall
Property Address:	Lot 10 DP 252918 No. 852 Tyalgum Road EUNGELLA
Date Granted:	23/7/2010
Development Standard to be Varied:	Clause 24 – setbacks to designated roads
Zoning:	1(a) Rural
Justification:	A SEPP 1 Objection has been submitted to vary Clause 24 of the TLEP 2000 to enable a roadside stall to be constructed within the 30m setback to Tyalgum Rd, a Council designated road. The extent of the variation is 56% - i.e.: the stall is proposed to be located 17m from Tyalgum Road instead of 30m. The applicant has submitted that compliance of the standard is unreasonable and unnecessary because of physical characteristics of the site (the location of a dam) between the proposed site and the remainder of the farm, which precludes the stall being located 30m back from the road. Location of the stall on the other side of the dam would result in a 70m setback which would compromise the concept of a 'roadside stall'.
Extent:	56%
Authority:	Tweed Shire Council

DA No.	DA09/0685
Description of Development:	Two (2) lot subdivision
Property Address:	Lot 2 DP 772129 Hogans Road, BILAMBIL
Date Granted:	23/7/2010
Development Standard to be Varied:	Clause 20(2)(a) - Minimum lot size 40ha
Zoning:	1(a) Rural
Justification:	Two lot subdivision of a 95ha parcel of land to create a 76.17ha lot and a 19.06ha lot. Council Officers recommended refusal however Councillors approved the application.
Extent:	52%
Authority:	Director General of the Department of Planning

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

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REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

21 [CNR-CM] Environmental Education Program

ORIGIN:

Waste Management

SUMMARY OF REPORT:

Environmental education for Tweed Shire Council is delivered or organised by Council's Environmental Education Officer, a full-time position created within the Community and Natural Resources Division in July 2008. The position has now been in place for two years and delivers environmental education initiatives for the Waste Management Section, Water Unit and Natural Resource Management Section, with the aim to create awareness and increase public understanding of local environmental issues.

In September 2008, the Sustainable Living Centre (Council's environmental education centre) was officially opened and an Environmental Education Program was developed to complement it. The program is primarily delivered to schools within the Tweed Shire.

This report summarises all environmental education programs and activities delivered for Tweed Shire Council over this past two years.

An approximate total of 14,816 participants took part in one of the 207 environmental education activities and events during this time. These activities ranged from school group programs at various council facilities including the Sustainable Living Centre, talks and tours of water and wastewater treatment facilities, at-school visits, community group talks and tours, and public information stalls at events around the Tweed.

The Sustainable Living Centre alone had 1,415 participants take part in planned activities, whilst a further 617 people took part in workshops or meetings at this facility since its opening in September 2009.

RECOMMENDATION:

That Council endorses the Environmental Education Program as set out in the report.

REPORT:

Tweed Shire Council's Environmental Education Program for school groups was developed in 2009 in accordance with the NSW Board of Studies' curriculum outcomes. It meets the requirements of the *NSW Department of Education and Training's Environmental Education Policy for Schools (2006)* and the *Learning for Sustainability NSW Environmental Education Plan 2007-10*.

It has also been developed under Tweed Shire Council's Environmental Education Plan, which meets the educational requirements of the Water Unit's Integrated Water Cycle Management Strategy, the Waste unit's Domestic Solid Waste Management Strategy and the NRM Unit's Local Action Plan for Greenhouse Gas Reduction and various Catchment Management Plans.

The program caters for primary school, high school, tertiary and community groups and is divided into four main themes: waste, water, energy and biodiversity. Within each theme, activities have been developed to target a particular learning stage (audience) and deliver relevant messages across a range of topics. These activities are in the form of talks, tours and self-run programs.

Activities are offered across a range of Council facilities, including the Sustainable Living Centre (SLC), Wastewater Treatment Plants, Bray Park Water Treatment Plant, Banora Point Laboratory, Stotts Creek Resource Recovery Centre, Pottsville Environment Park and various coastal locations. Some programs are also conducted on-site at schools.

The bulk of this education is delivered by Council's Environmental Education Officer, with assistance from other Council staff.

All tours run at the various Waste Water Treatment and Water Treatment Plants, the Banora Point Laboratory and the Clarrie Hall Dam are run by on-site Water Unit staff.

Activity Numbers:

The following figures show the number of activities delivered for the period 1 July 2008 to 30 June 2010, and the total number of participants who took part in these. These numbers are further broken down into each unit area (where an activity targeted only this area of learning) being: waste related, water related, natural resource related or a mixture (activities based around all three topics).

It is important to note that many of the 'water related' and 'natural resource' related activities overlapped – school groups often focused on both topics (eg. catchments) during these activities.

<i>Environmental Education activities: 2008/09 – 2009/10 financial years</i>				
	2008	2009	2010	TOTALS
TOTAL PARTICIPANTS	3533	9537	1864	14,934
TOTAL ACTIVITIES	55	126	31	212
ACTIVITY TOPIC BREAKDOWN:				
	waste related			84
	water related			58
	natural resource related			25
	Mixture (water, waste & NRM)			45

Within these total figures, 687 participants (through 26 activities) visited one of Council's Wastewater Treatment Plants, the Bray Park Water Treatment Plant, Clarrie Hall Dam or Banora Point Lab.

Activity Breakdown:

Following is a brief description of the main environmental education activities run during this time.

Sustainable Living Centre visits

All visits to the SLC included a centre tour, which covered each of the waste, water, biodiversity, energy and transport areas. Since its opening in September 2008, the centre has had a total of 1,415 people visit for an organised tour or activity. A further 617 people visited the SLC for a meeting or council-run workshop.

Waste Management Unit Programs

- **Waste-wise Schools Program** – available as a downloadable DIY kit on Council's website or sent to schools by email or post.

This program is designed to be a cost-effective way for schools to implement a waste management program that reinforces the new domestic multi-bin system.

It involves a visit to the school by Council's Environmental Education Officer to provide advice on how to:

- set up bin stations (garbage, recycling & food waste stations)
- cut down on waste through Litter Free Lunches
- conduct waste audits to monitor progress
- introduce co-mingled recycling services to the school
- conduct waste-wise talks at the school or SLC
- provide garbage, recycling and food waste stickers for bin stations.

At the beginning of each year, all primary schools were given the opportunity to be one of two schools selected for additional assistance with the program. The two schools selected for 2009 were Duranbah Public School and Tyalgum Public School. This additional assistance included:

- a Council-funded recycling service for one year
- supply of any extra bins required to create lunch and play area bin stations
- supply of paint to paint these bins the standard red, yellow or green
- supply of sticker labels for each of the bins

- supply of extra bins needed to create bin stations in office areas, teacher staffrooms and the canteen
- supply of a compost bin
- visit from the North East Waste Forum Greenhouse to aid with education on the topic.

By monitoring the progress of this program through audits, follow-up visits and teacher feedback, the program has proven to be very successful in educating students on which bin to use and how to cut down on waste sent to landfill.

- **Litter Free Lunch Program** – This program is available to download from the Council website or can be posted / emailed to schools. Its aim is to educate students and their parents on how to reduce waste by choosing products with less packaging. The program is also used as a support program or prelude to the *Waste-wise Schools Program*. Groups visiting the SLC through a lunch break are encouraged to bring a litter free lunch for the day – regardless of the topic they are learning at the centre.

The Waste-wise Schools Program and Litter Free Lunch Program were used as an introduction to the Multi-bin System before it came into effect.

- **Waste Audits** – assistance has been provided to schools (both primary and secondary) to conduct waste audits and develop a school waste management plan.
- **Greenhouse visits** – each year Tweed Shire Council as part of the North East Waste Forum (NEWF), receives five Greenhouse visits, which can be allocated to schools or community events. During 2009, four schools and two events received a Greenhouse performance (one extra visit was funded by NEWF to showcase the re-design of the new Greenhouse). The activity involves an entertaining performance by a waste educator / actor who teaches the group how to reduce what is sent to landfill through recycling, composting and waste-wise shopping. Teacher comments provided on this program have been exceptional: "The Greenhouse is able to actively engage students through story, songs and the use of props that helps with their understanding of waste management issues" (statement taken from a teacher evaluation sheet).
- **Multi-bin System** – Community education program for the introduction of the Multi-bin System.
 - Shopping centre displays were conducted every two months for a full year leading up to the introduction of the new bin system – these alternated between Tweed City Shopping Centre, Tweed Centro Shopping Centre, Kingscliff Shopping Centre, Sunnyside at Murwillumbah and Banora Point Shopping Village. Information Stalls on the new bin system were also set up at World Environment Day, the River Festival and Local Government Week. All stalls were advertised in the Tweed Link and local newspapers.
 - Regular media releases and Tweed Link articles featured information to residents about the new system.

- For schools, visits to the SLC incorporated information on the new system, while a number of at-school visits were also conducted to explain to students, teachers and parents how the new system would work. A 'design a sticker competition' attracted over 600 primary student entries and four winners were chosen for stickers to be included in the Multi-bin System resident information pack. A 'runner-up' from each school that entered was also chosen and prizes and talks on the new system were conducted at each school on their full school assembly.
- A resident information pack with six-page brochure on why the new system was being introduced, how the system would work and what to place into each bin and a Q&A sheet was developed and sent out to each resident with their new bins.
- **Clean Up Australia Day** – Assistance is provided each year to registered sites: organisation of skip bins, site suggestions for groups wishing to register, organisation of catering from local clubs for the larger cleanup sites, advertising and media promotion.
- **Compost workshops** – a series of three composting workshops were run during National Compost Week (4-8 May 2009). These were free and open to all ages. Each session was fully booked and a waiting list taken, which had enough people for a fourth workshop in July. Workshops were promoted through the Tweed Link and local newspapers and were a great success with positive feedback provided by participants following the event.

Water Unit Programs

- **Water week Program** – To celebrate National Water Week (18-24 October 2009) a poster competition based around the theme of 'Safe Water' was promoted to all local primary schools. Six primary schools took part in the competition – Tyalgum Primary (whole school), Banora Point Primary (Year 5/6), Cudgen Primary (whole school), Murwillumbah East Primary (whole school), Sathya Sai Primary (lower and middle school) and Centaur Primary. Judging, award presentation and a talk about being waterwise was presented to each school. During the first week, Kori from the Kenya Mentoring Program was also available to attend these presentations to give a talk on what safe water meant to his community.
- **Water facility visits** – In total, 687 people visited one of Council's water facilities for a guided tour. These facilities included the Banora Point WWTP, Kingscliff WWTP, Murwillumbah WWTP, Tweed Lab, Bray Park WTP, Tyalgum WTP and Clarrie Hall Dam. All visits were conducted by on-site staff and bookings handled through Council's Resource Officer or Environmental Education Officer. It is important to note that numbers were lower during this period due to the construction of Bray Park Water Treatment Plant.
- **Waterwatch** – a Waterwatch training day run by the Catchment Management Authority (CMA) was organised in 2009 to introduce the program to the Tweed and encourage school and community groups to join. Ten people attended the session. Council now has a number of junior and senior Waterwatch kits that can be lent to school and community groups to take part in this program. Training is provided by Council's Environmental Education Officer and NRM Community Support Officer to each group that joins the program. To date, two community groups and five school groups are actively taking part in regular water-watch activities. (Additional schools are already members of the Waterwatch program however use their own sampling equipment).

- **Bray Park Water Treatment Plant Visitor Centre** – work began in late 2009 to develop a visitor information centre and educational DVD for the new Bray Park Water Treatment Plant facility, which was officially opened on 22 June this year. The aim of the visitor information centre is to provide an introduction to the Tweed drinking water catchment, process of the treatment plant, history of water treatment in Tweed, distribution of drinking water and sustainable water use. The DVD provides visitors with a 'behind the scenes' view of processes that cannot be seen through a tour of the facility. This will greatly enhance the visitor experience in learning about how the Bray Park Water Treatment Plant functions.
- **Water augmentation & demand management strategy** – On 12 November 2009 a shopping centre display at Tweed City was held to promote participation in the community working group and provide information to residents. Public information sessions took place in 2010, with Water Unit staff and education staff attending sessions at Murwillumbah, Tweed Heads and Pottsville.

Natural Resource Unit Programs

- **Coastal Management Programs** – During 2008/2009, ten grade 10 classes booked into this program with a total of 333 participants. The program involved a talk about coastal management, dune rehabilitation and the sand bypass project. It was delivered on site at a local beach (Kingscliff) and then overlooking the sand pumping jetty at Duranbah.
- **Catchment Activity Model** – a block of CAM activities were run in August 2008 for any school who had not had a visit within the last three years. During this month, the CAM visited 13 schools with a total of 1,341 students taking part. During 2009 this continued for schools who contacted Council about the CAM, however more demonstrations were held at events and incorporated into activities at the SLC. During 2009, approximately 804 people took part in demonstrations with the CAM.
* Not only the topic of 'our catchment' was covered during CAM demonstrations, but also waste management and water saving tips in and around the home.
- **Koala education** – koala status and conservation discussions have been included in all biodiversity talks and SLC tours, as part of the Environmental Education Program.
- **Hastings Point Sign Project** – a 12-panel interpretive sign project was developed for the Hastings Point Headland. Each panel discusses features that visitors would see from the headland, as well as 'safety' and 'caring for the environment' messages. A large welcome sign introduces the area, its unique features and has a map showing where all other panels on the headland are located. The Installation of this project will be incorporated into a redesign planned for the park/camping area.
- **Terranora Broadwater Sign Project** – four cultural heritage signs to highlight places of significance surrounding Terranora Broadwater.
- **Coastal Education Booklet** – a full colour, 34-page Environmental Guide to the Tweed Coast.
- **Acid Sulfate poster & flyer** – an Acid Sulfate Poster and accompanying fact sheet to be used as an educational tool whilst Floodplain staff meet with stakeholders/farmers.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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22 [CNR-CM] Proposed Biodiversity Grants

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

On 27 January 2009 Council unanimously approved the implementation of a Biodiversity Grant Program to assist private landowners, community groups and researchers to undertake projects that contribute to maintaining and improving biodiversity values within Tweed Shire.

To date 67 applications have been submitted for the Biodiversity Grant Program, 63 private properties, two community groups - Caldera Art Inc. and Tweed Valley Wildlife Carers Inc. and two research projects.

Site visits have been made to 49 private properties, 47 of which meet the Grant's criteria and 44 have been approved.

The purpose of this report is to seek Council's approval to fund the remaining three private landowners and two university research projects, as listed below, in accordance with the provisions of the Biodiversity Grant Program.

RECOMMENDATION:

That Council approves the expenditure under its Biodiversity Grant Program to assist the private landowners to undertake the projects listed in the table contained within the report.

REPORT:

On 27 January 2009 Council approved the implementation of a Biodiversity Grant Program to assist private landowners, community groups and researchers to undertake projects that contribute to maintaining and improving biodiversity values within Tweed Shire. This initiative represents an important component of Council's Biodiversity Program.

The Biodiversity Grant Program supports projects that contribute to the following ecological priorities within Tweed Shire:

- Rehabilitation of degraded habitats
- Restoration of previously cleared areas
- Threatened species recovery
- Management of threatening processes
- Monitoring and research

Applications under the program can be made throughout the year and are assessed using the following criteria:

- Ecological benefits (eg. ecological status, multiple ecological priorities, contribution to State and regional biodiversity targets etc);
- Value for money (including in kind contributions, external funding);
- Technical capability and applicant track record;
- Site security (preference will be given secure sites eg. conservation covenants, Environmental Protection zones etc);
- Ongoing maintenance requirements;
- Spread of projects across ecological priorities and the Shire (including projects funded from other sources).

To date 67 applications have been submitted for the Biodiversity Grant Program, 63 private properties, two community groups - Caldera Art Inc. and Tweed Valley Wildlife Carers Inc. and two research projects.

Site visits have been made to 49 private properties, 47 of which meet the Grant's criteria and 44 have been approved. The purpose of this report is to seek Council's approval to fund the three private landowners visited since the July Council meeting under the Biodiversity Grant Program to assist them as per the table below.

The proposed grants involve the provision of services by professional bushland regenerators to assist landholders to more effectively manage environmental weeds protect native vegetation and improve wildlife habitat.

Council's approval is also sought for two research projects under the Biodiversity Grant Program to assist them as per the following table:

Surname	Address	Total cost est. (\$)	Assessment
Sloman	Limpinwood	3,400	Strong landholder commitment. Significant connectivity - one boundary with National Park, aspect and drainage from National Park to opposite boundary, a riparian corridor. One boundary with other Council Biodiversity grant recipient.
Jessop/Aardvark Jungle P/L	Couchy Creek	680	Removal of small stand of Coral trees on creek banks (creek reserve that bounds the 2 properties) upstream of Nature Reserve.
Bretherton	Kynnumboon	3,400	Strong landholder commitment to maintain works in mod. biodiversity value flora and fauna area with connection to veg. corridor. Weed severity is high, but area has real potential for biodiversity enhancement.
Research			
Parkyn	Southern Cross University	5,000	Support for mark-recapture and patch-occupancy studies, which will be a component of a doctoral research program investigating population, distribution and ecology of the Critically Endangered Mitchell's Rainforest Snail. This study will include new exploration at Stotts Island and surrounds in the Tweed Shire.
Greenless	The University of Sydney	25,000 (5000/yr over 5 years)	A component of seed funding for an ARC Linkage grant for a post-doctoral research study on the ecology of cane toads, their affect on native fauna, particularly threatened species and control measures

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding for this project is to be sourced from the existing Biodiversity Program budget.

POLICY IMPLICATIONS:

This program is consistent with the adopted Tweed Vegetation Management Strategy 2004 and the Council resolution of 27 January 2009 which established the Biodiversity Grant Program.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

23 [CNR-CM] EQ2010-072 Tweed Shire Solar Community Program

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

At its meeting on Tuesday 20 April 2010 Council endorsed the proposal to partner with a solar installer as a way of facilitating the installation of solar power by Tweed property owners.

A tender for the Tweed Shire Solar Community Program was advertised on 27 April 2010 and 14 tenders were received in the tender box on 3 June 2010.

The tender assessment panel consisted of Manager Building and Health Services, Contract Engineer and Sustainability Program Leader.

Each tender was assessed against the weighted criteria of company capability (30%), product specifications (30%), system prices (20%) and community donation (20%).

Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation Report included in **CONFIDENTIAL ATTACHMENT A**.

It is recommended that Council accepts the tender of Aussie Solar to deliver the Tweed Shire Solar Community Program.

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

RECOMMENDATION:

That:

- 1. The tender from Aussie Solar be awarded to deliver EQ2010-072 Tweed Shire Solar Community Program.**

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

REPORT:

Council Tender EQ2010-072 invited responses for the delivery of the Tweed Shire Solar Community Program, being the installation of 200 solar photovoltaic systems to paying customers within the Tweed Shire, or twelve months of installations whichever comes first. The tender also sought a community donation proposal from applicants being a free solar photovoltaic system for a community facility for every twenty systems sold under the program.

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

Criteria	Weighting
Capability and Experience – Applicants with superior capability, experience and longevity will be preferred.	30%
System Specifications – Systems quoted with superior efficiency and warranties will be preferred.	30%
System Price – Value for money for individual product packages.	20%
Community Donation Proposal	20%
Local Content - Where the results of the evaluation are equal, then Council will award the tender to a local supplier	-

Tenders Received

A total of fourteen (14) responses were received for tender EQ2010-072

Tenderer

- A&K Lievesley
- All Safe - Tweed
- Carbon Management Solutions t.a. Aussie Solar
- Charged Electrical Services
- Ecovation
- Greener Energy
- Infinity Solar
- Ingenero
- Modern Solar
- Nickel Energy
- Rainbow Power Company
- Solar Choice
- Solar Wise
- Sunbeam Solar Systems

Tender Evaluation

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

The following table shows the preferred Tenderer against each of the Selection criteria.

Criteria	Rank 1	Rank 2	Rank 3	
Capability	Aussie Solar	Rainbow Power	Sunbeam Solar	E
Specifications	Sunbeam Solar	Aussie Solar	Rainbow Power	E
System Price	Aussie Solar	Ecovation	Rainbow Power	S S
Community Donation	Ecovation	Aussie Solar	Rainbow Power	S S

Based on an overall assessment of capability, product specifications, system price and community donation, it is recommended that Tenderer Aussie Solar be nominated for delivery of the Tweed Shire Solar Community Program.

Details of Aussie Solar's relative competitiveness are shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A.**

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Confidential Attachment - Tender Evaluation Report (ECM 20217714)

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**24 [CNR-CM] Northern Rivers Catchment Management Authority (NRCMA)
Current Best Management Practices (BMP) Soil Health Coastal Floodplains:
Part A (Tweed) Contract No. NR-IS 10-11-T4**

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

The Northern Rivers Catchment Management Authority (NRCMA) has offered Council a \$25,000 contract to undertake Floodplain Management works on the Tweed Floodplain. 'This project will facilitate through on-ground works and extension outcomes, the active management of Acid Sulfate Soils, flood-gated drains and floodplains'.

RECOMMENDATION:

That Council:

- 1. Accepts the Northern Rivers Catchment Management Authority's Current Best Management Practices Soil Health Coastal Floodplains: Part A (Tweed) Contract No. NR-IS 10-11-T4 for \$25,000.**
- 2. Votes the expenditure of \$25,000 for floodplain projects.**

REPORT:

The NRCMA has been funding Floodplain projects and Council has been successful in securing a number of grants. The next round of funding is offering Council a \$25,000 contract to continue this work. The Project Outcomes are:

- Reduction of ASS products from the Tweed Floodplain
- Adoption of farmers implementing ASS Best Management Practices
- Increased awareness and understanding by farmers and community of ASS/NRM sustainable management practises on the floodplain

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Tweed Shire Council Financial Contribution as per contract.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

1. NRCMA contract (ECM 19690621)
-

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS

25 [EO-CM] Classification of Land as Operational, 121 Kennedy Drive Tweed Heads

ORIGIN:

Design

SUMMARY OF REPORT:

Recently Council completed a joint purchase with Roads and Traffic Authority of Lot 1 in DP 10436, 121 Kennedy Drive Tweed Heads. It is now necessary to classify the parcel of land as operational pursuant to the provisions of the Local Government Act, 1993.

A notice was published in the Tweed Link on 15 June 2010 allowing a period of 28 days for any member of the public to provide a written submission to the proposed classification of this land as operational. No submissions were received.

RECOMMENDATION:

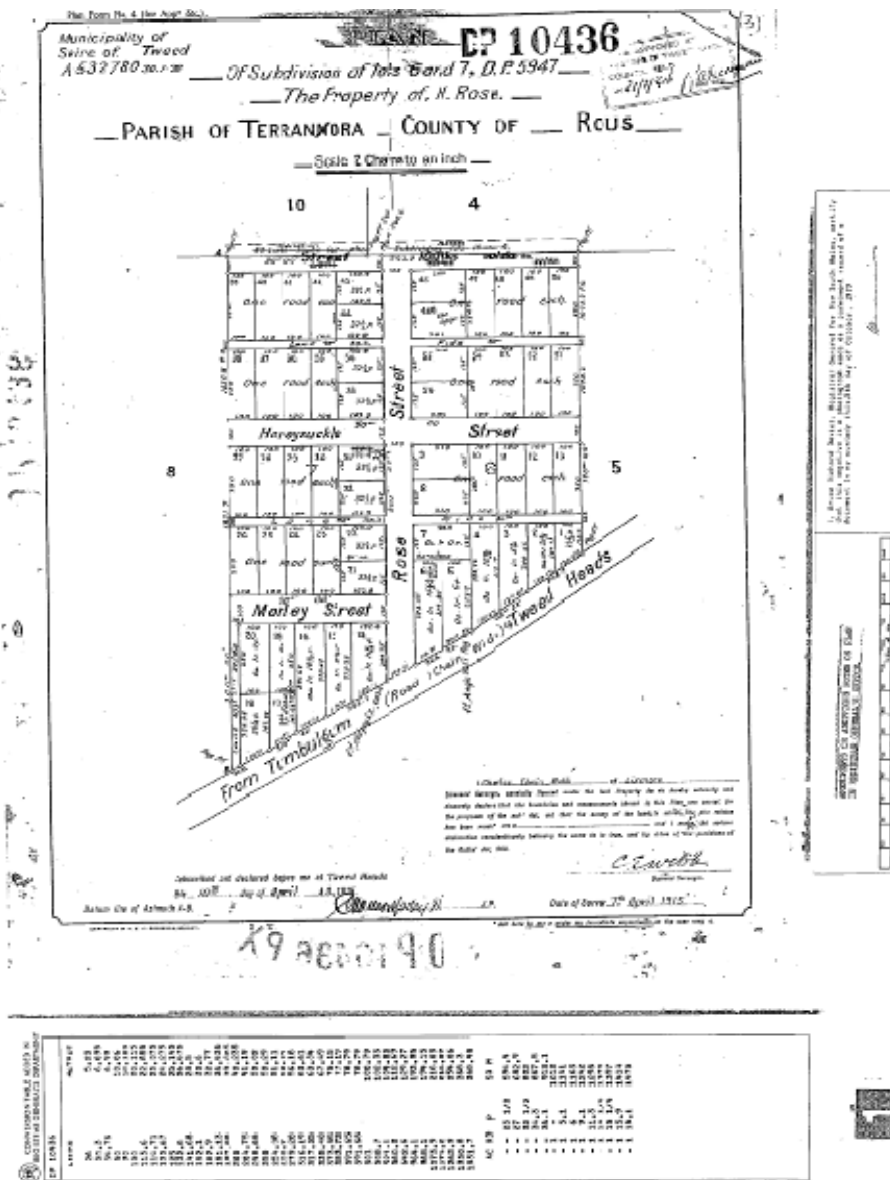
That Lot 1 in DP 10436 be classified as “Operational” pursuant to Section 31 of the Local Government Act, 1993.

REPORT:

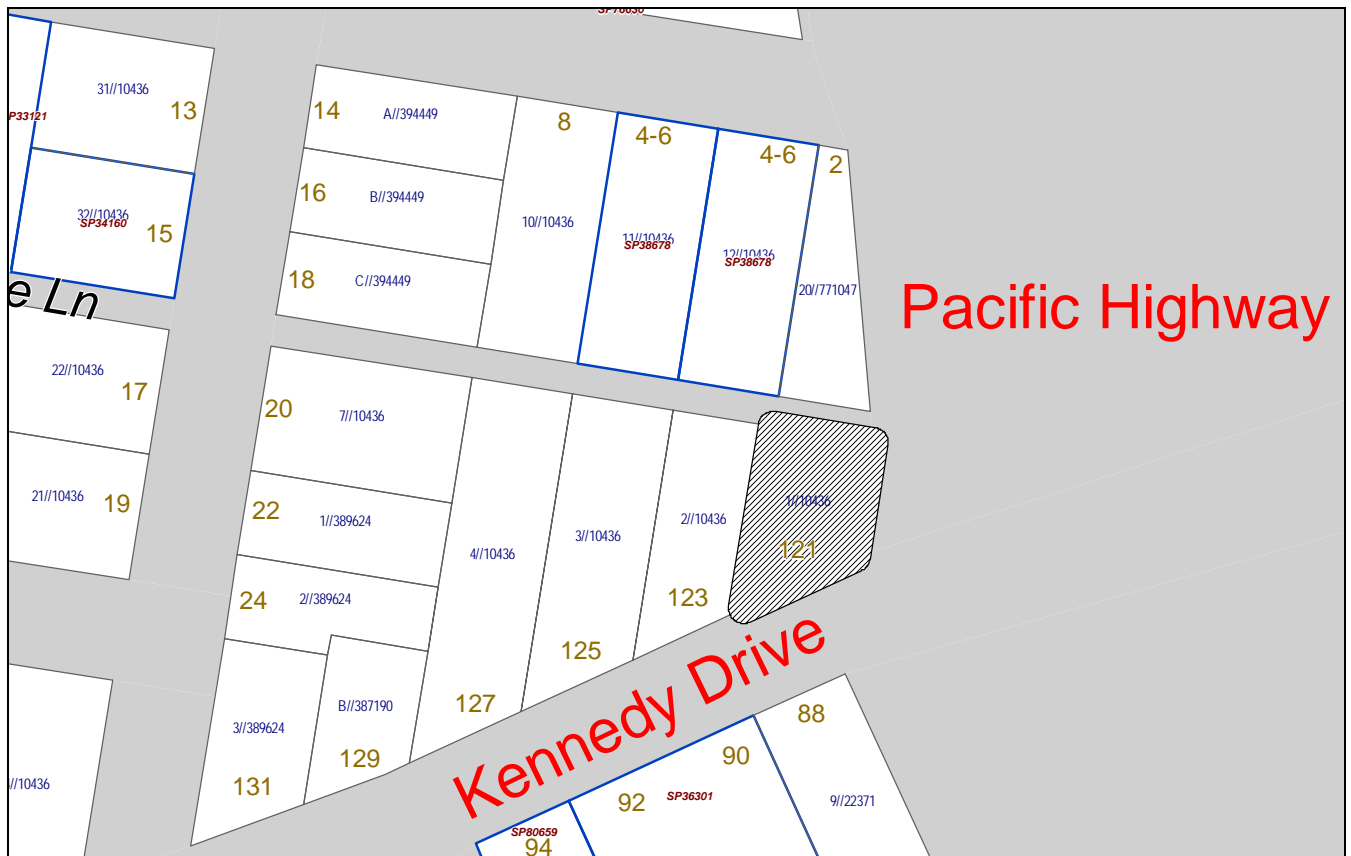
Recently Council completed a joint purchase with Roads and Traffic Authority of Lot 1 in DP 10436, 121 Kennedy Drive Tweed Heads. It is now necessary to classify the parcel of land as operational pursuant to the provisions of the Local Government Act, 1993

A notice was published in the Tweed Link on 15 June 2010 allowing a period of 28 days for any member of the public to provide a written submission to the proposed classification of this land as operational. No submissions were received.

Copy of DP 10436 shown below:



Plan showing location of Lot 1 DP 10436:



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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

Nil.

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26 [EO-CM] Naming of Public Road Pottsville

ORIGIN:

Design

FILE NO: GS5/1 Pt6

SUMMARY OF REPORT:

Council at its meeting of 16 February 2010, resolved to publicise its intention to formally name the road that runs from Seabreeze Boulevard to Macadamia Drive, Pottsville as Tom Merchant Drive. A period of one month was allowed for objections to the proposal.

Several submissions were received suggesting that the road be named after the development name at the northern end of the road being Koala Beach Estate, Pottsville.

Whilst many of the suggestions appear valid it would not be appropriate to name a road after a commercial development. Council's Policy on Naming of Public Roads states that names which are characterised as "commercial or company" should be avoided.

Another suggestion is that the name "Tom Merchant Drive" is not in keeping with other road names within the Koala Beach Estate at Pottsville and should be named in line with this theme. This road however is a link road between two estates – Koala Beach Estate and Seabreeze Estate, both located within the suburb of Pottsville.

The suggested name of Tom Merchant Drive, as noted in the report of 16 February 2010, refers to a local pioneer and identity of the immediate area. This name complies with Council's Policy on Street Naming as a preferred source for road naming.

RECOMMENDATION:

That:

- 1. Council adopts the name Tom Merchant Drive for the road that runs from Seabreeze Boulevard to Macadamia Drive Pottsville; and**
- 2. The naming of the public roads to be gazetted under the provisions of the Roads (General) Regulation, 2008 and the Roads Act, 1993 as amended.**

REPORT:

Council at its meeting of 16 February 2010, resolved to publicise its intention to formally name the road that runs from Seabreeze Boulevard to Macadamia Drive, Pottsville as Tom Merchant Drive. A period of one month was allowed for objections to the proposal.

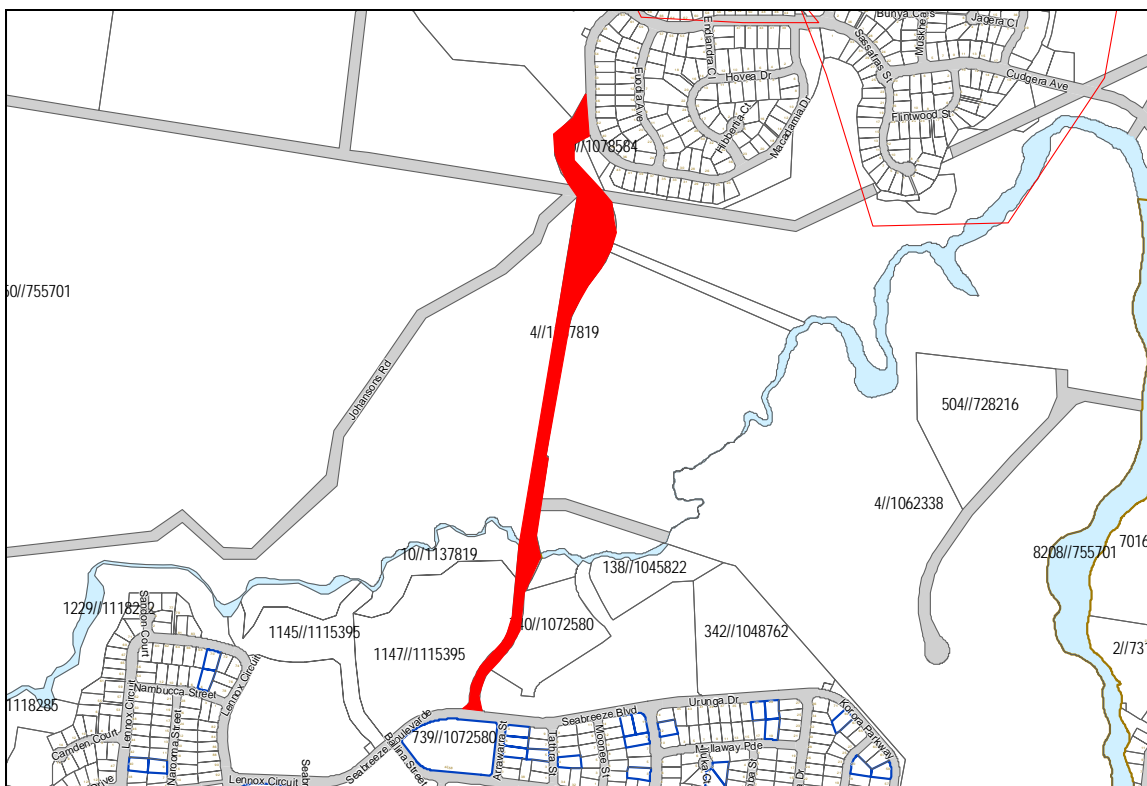
Several submissions were received requesting that the road be named after the development name at the northern end of the road being Koala Beach Estate.

Whilst many of the suggestions appear valid it would not be appropriate to name a road after a commercial development. Council's Policy on Naming of public roads states that names which are characterised as "commercial or company" should be avoided.

Another suggestion is that the name "Tom Merchant Drive" is not in keeping with other road names within the Koala Beach Estate at Pottsville and should be named in line with this theme. This road however is a link road between two estates – Koala Beach Estate and Seabreeze Estate, both located within the suburb of Pottsville.

The suggested name of Tom Merchant Drive, as noted in the report of 16 February 2010, refers to a local pioneer and identity of the immediate area. This name complies with Council's Policy on Street Naming as a preferred source for road naming.

Plan of the road proposed to be named Tom Merchant Drive:



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Confidential Attachments from Adele Casson, Paul Batson and Lail Osun (ECM 19737772).
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27 [EO-CM] Naming of Public Bridge, Cudgera Creek, Pottsville

ORIGIN:

Design

FILE NO: GS5/1 Pt6

SUMMARY OF REPORT:

At its meeting of 16 February 2010 Council resolved to publicise its intention to name the bridge over Cudgera Creek on the new link road between Seabreeze Boulevard and Macadamia Drive Pottsville as Russ King Bridge and allowed one month for written objections to the proposal.

Previously Council had advertised seeking submissions for any relevant names for the road running off Macadamia Drive heading south and connecting with Seabreeze Boulevard at Pottsville. At this time Council received a submission for the name of Tom Merchant Drive along with a suggestion to name the bridge along that road Russ King Bridge. The two names it was suggested would maintain some of the history of the area as these two gentlemen were local pioneers who not only worked together in the immediate area but also settled there and helped develop the community into what it has become today.

This name was given high consideration as it fell fully within the parameters of Councils Road Naming Policy in that it related to a local pioneer of the immediate area.

The name of Russ King Bridge was then advertised and the community were provided with the opportunity to comment on this name. One submission was received from a resident of the area in the form of a petition. This submission did not object to the proposed name "Russ King Bridge" rather it proposed that Council consider several other names for the bridge.

The names submitted for further consideration were:

Monotreme Bridge
Platypus Bridge
Blossom Bat Bridge
Bandicoot Bridge
Curlew Bridge
The Curlew Crossing
Flying Fox Bridge
Osprey Bridge
Swamp Rat Bridge
Lutreoulus Bridge
Beau Bridge

The submission requested that the name be consistent with the flora and fauna which is unique to the Koala Beach Estate and would be a “vivid reminder” of the original purpose of the estate. However that this bridge is located on the road which is a link between two estates – Koala Beach Estate and Seabreeze Estate, both located within the suburb of Pottsville. Whilst consideration is given to the names of flora and fauna of a local area it is considered that preservation of the local history of the immediate area would be more relevant in this instance.

It is recommended that Council adopts the name of Russ King Bridge for the bridge over the Cudgera Creek on the new link road between Seabreeze Boulevard and Macadamia Drive at Pottsville due to its historical relevance to the area and compliance with the preferred sources of road names noted in Councils Policy on Road Naming.

RECOMMENDATION:

That:

- 1. Council adopts the name of " *Russ King Bridge* ", for the bridge over Cudgera Creek on the new link road between Seabreeze Boulevard and Macadamia Drive at Pottsville; and**
- 2. The naming of the public bridge be gazetted under the provisions of the Roads (General) Regulation, 2008 and the Roads Act, 1993 as amended.**

REPORT:

At its meeting of 16 February 2010 Council resolved to publicise its intention to name the bridge over Cudgera Creek on the new link road between Seabreeze Boulevard and Macadamia Drive Pottsville as Russ King Bridge and allowed one month for written objections to the proposal.

Previously Council had advertised seeking submissions for any relevant names for the road running off Macadamia Drive heading south and connecting with Seabreeze Boulevard at Pottsville. At this time Council received a submission for the name of Tom Merchant Drive along with a suggestion to name the bridge along that road Russ King Bridge. The two names it was suggested would maintain some of the history of the area as these two gentlemen were local pioneers who not only worked together in the immediate area but also settled there and helped develop the community into what it has become today.

Both names were given high consideration as they fell fully within the parameters of Councils Road Naming Policy in that they related to local pioneers of the immediate area.

The name of Russ King Bridge was then advertised and the community were provided with the opportunity to comment on this name. One submission was received from a resident of the area in the form of a petition. This submission did not object to the proposed name "Russ King Bridge" rather it proposed that Council consider several other names for the bridge.

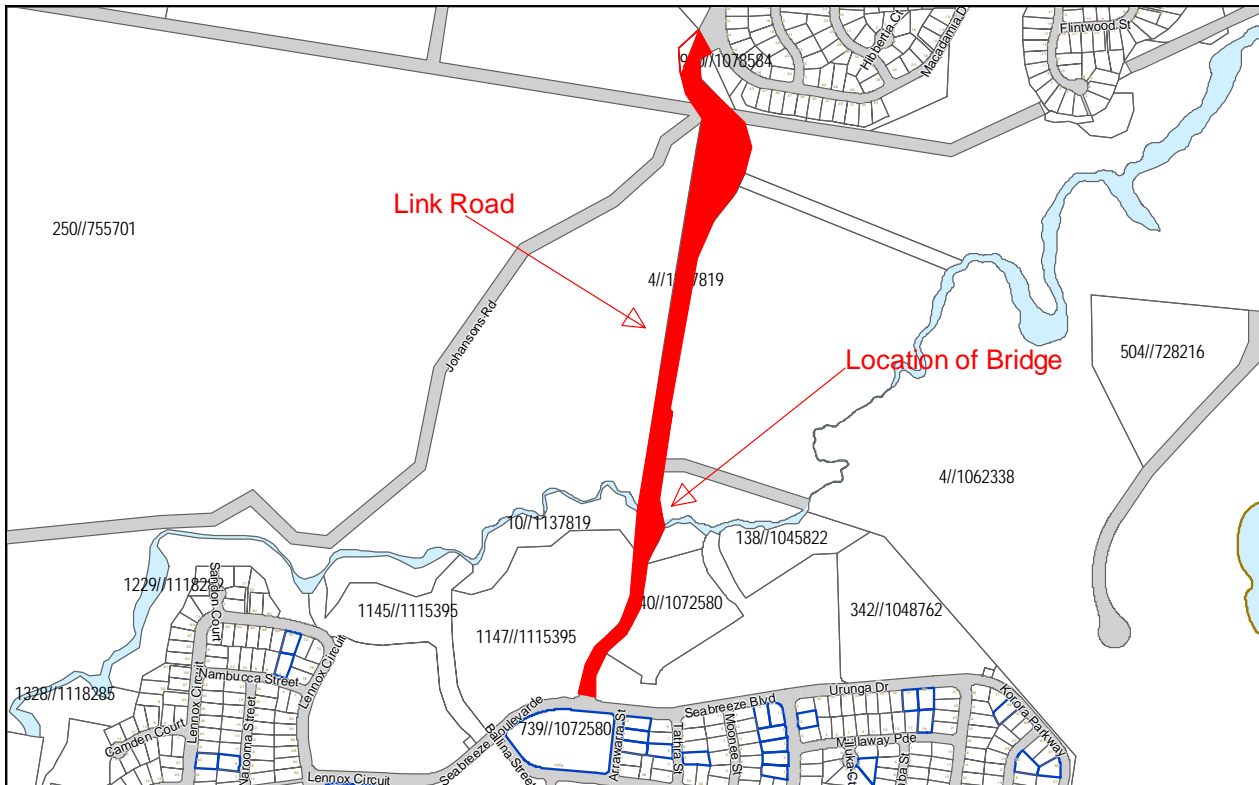
The names submitted for further consideration were:

- Monotreme Bridge
- Platypus Bridge
- Blossom Bat Bridge
- Bandicoot Bridge
- Curlew Bridge
- The Curlew Crossing
- Flying Fox Bridge
- Osprey Bridge
- Swamp Rat Bridge
- Lutreoulus Bridge
- Beau Bridge

The submission requested that the name be consistent with the flora and fauna which is unique to the Koala Beach Estate and would be a "vivid reminder" of the original purpose of the estate. However that this bridge is located on the road which is a link between two estates – Koala Beach Estate and Seabreeze Estate, both located within the suburb of Pottsville. Whilst consideration is given to the names of flora and fauna of a local area it is considered that preservation of the local history of the immediate area would be more relevant in this instance.

It is recommended that Council adopts the name of Russ King Bridge for the bridge over the Cudgera Creek on the new link road between Seabreeze Boulevard and Macadamia Drive at Pottsville due to its historical relevance to the area and compliance with the preferred sources of road names noted in Councils Policy on Road Naming.

Plan of the area and location of the bridge:



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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Petition (ECM 14528630).

28 [EO-CM] Naming of Public Road - Doon Doon

ORIGIN:

Design

FILE NO: GS5/1 Pt6

SUMMARY OF REPORT:

Council at its meeting of 15 June 2010 resolved to publicise its intention to name the road that runs off Lone Pine Road approximately 1km north from the intersection of Commissioners Creek Road at Doon Doon as “**Jacana Lane**” and allowed one month for objections to the proposal.

No objections were received.

It is recommended that the name “**Jacana Lane**” be adopted for the naming purposes of the road.

RECOMMENDATION:

That:

- 1. Council adopts the name Jacana Lane for naming purposes of the road that runs off Lone Pine Road approximately 1km north from the intersection of Commissioners Creek Road at Doon Doon; and**
- 2. The naming of the public roads be gazetted under the provisions of the Roads (General) Regulation, 2000 and the Roads Act, 1993.**

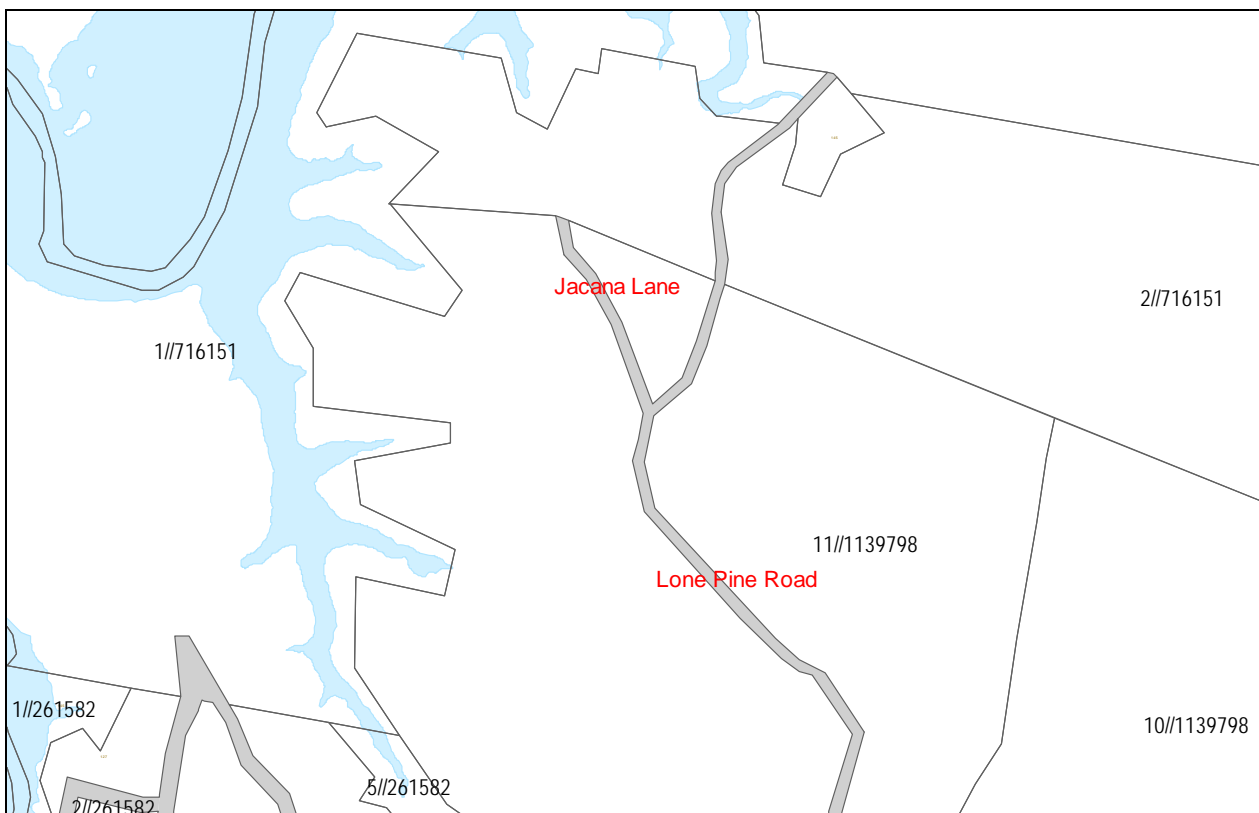
REPORT:

Council at its meeting of 15 June 2010 resolved to publicise its intention to name the road that runs off Lone Pine Road approximately 1km north from the intersection of Commissioners Creek Road at Doon Doon as “**Jacana Lane**” and allowed one month for objections to the proposal.

No objections were received.

It is recommended that the name “**Jacana Lane**” be adopted for the naming purposes of the road.

The location plan is shown below for ease of reference:



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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

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29 [EO-CM] Tweed Regional Aquatic Centre - Crown Land Tenure

ORIGIN:

Design

SUMMARY OF REPORT:

On 23 May 2006 Council resolved to seek direct concurrence of the Minister of Lands of a land exchange between Crown Reserve 62723 for Public Baths and Crown Reserve 1011448 for Future Public Requirements and Lot 1 DP 863851, owned by Council.

The report received by Council, was written during the preparation of design plans for the upgrading of the Murwillumbah Memorial Swimming Complex and the construction of the multi-level car park in the Civic Centre Precinct in Murwillumbah.

At that stage in time, Council was intending to secure tenure for the infrastructure to be constructed partially on the Crown Land reserved for Public Baths and Future Public Requirements by seeking a land exchange with the Crown.

In 2007 a valuation was obtained to determine the value of the land that would be encroached upon, 1,483 m², and was assessed to be \$410,000.

This sum had not been factored into the budget for the project.

It was always known that the water slide is on Council land and so Council proposed a land exchange with the Crown, so the swimming facilities would be within Crown Land reserved for Public Baths, and the car park would be within Council owned land.

The response from the Crown was negative, a copy of the letter from the Minister is attached to this report.

Since Council's 2006 overtures to the Minister for Lands for a land exchange, the Land and Property Management Authority have initiated discussions with Council whereby mutually beneficial land exchanges can occur where land that may not be currently utilised can be exchanged for use by the other party.

In light of these recent discussions it is an opportune time to revisit the land exchange proposal with the Minister for Lands.

RECOMMENDATION:

That:

- 1. Council seeks the direct concurrence of the Minister for Lands to a land exchange between Council and the Crown of an area of 1483.2 m² of Crown Reserve 62723 for Public Baths and Crown reserve 1011448 for Future Public Requirements and Council Land Lot 1 in DP 863851 to reconcile the uses of the land parcels to more appropriate purposes; and**
- 2. Council requests the assistance and support of Mr Geoff Provest MP, Member for Tweed and Mr Thomas George MP Member for Lismore.**

REPORT:

On 23 May 2006 Council resolved to seek direct concurrence of the Minister of Lands of a land exchange between Crown Reserve 62723 for Public Baths and Crown Reserve 1011448 for Future Public Requirements and Lot 1 DP 863851, owned by Council.

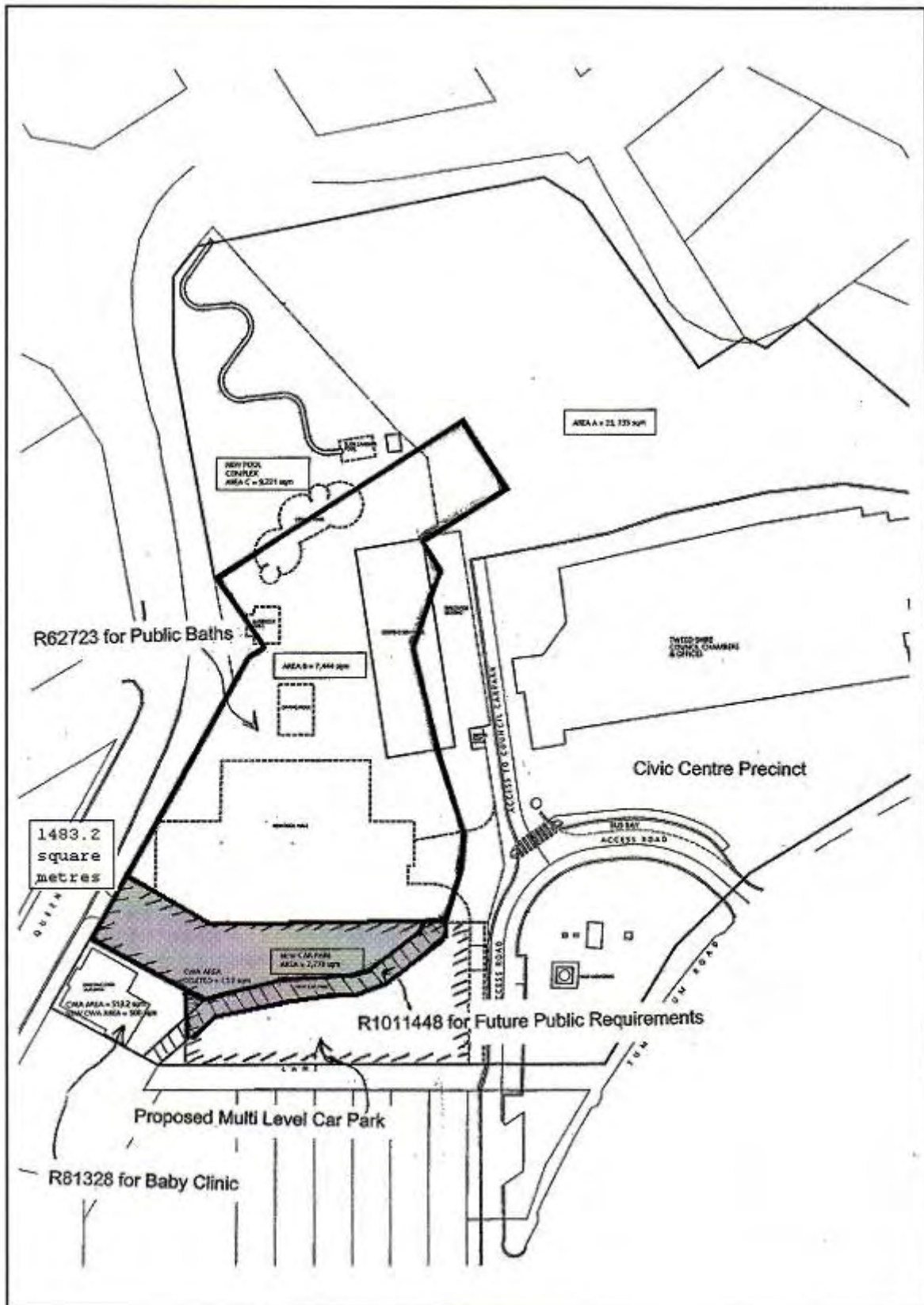
The report received by Council, was written during the preparation of design plans for the upgrading of the Murwillumbah Memorial Swimming Complex and the construction of the multi-level car park in the Civic Centre Precinct in Murwillumbah.

Council was intending to secure tenure for the infrastructure to be constructed partially on the Crown Land reserved for Public Baths and Future Public Requirements by seeking a land exchange with the Crown.

It was always known that the water slide and part of the grandstand encroach onto Council land and so Council proposed a land exchange with the Crown. Where the swimming facilities would be within Crown Land reserved for Public Baths, and that the car park would be within Council owned land.

The response from the Crown was negative and suggested that Council acquire the land or seek a lease of the land, a copy of the letter from the Minister is attached to this report.

In 2007 a valuation was obtained to determine the value of the land that would be encroached upon, 1,483 m², and was assessed to be \$410,000. The plan below shows the area that was valued:



This valuation amount had not been factored into the budget for the project.

In April 2007 a lease was sought from the Department of Lands (as it was known at that time) and in April 2009 a draft lease was submitted to Council.

The terms of the lease are as follows:

Commencement Date: 1 May 2007

Term: 25 years with an option for a further 25 years;

Rental:	Year 1:	\$1,000
	Year 2:	\$2,500
	Year 3:	\$4,000
	Year 4 onwards:	Market Rental reduced by the percentage of use by pool patrons

From 1 May 2010, noted in the draft lease as the commencement date of the second period, is when the current market rent is to be determined and commence. No advice from the Department has been received as to their determination of market rent, nor how the percentage of use by pool patrons is to be determined.

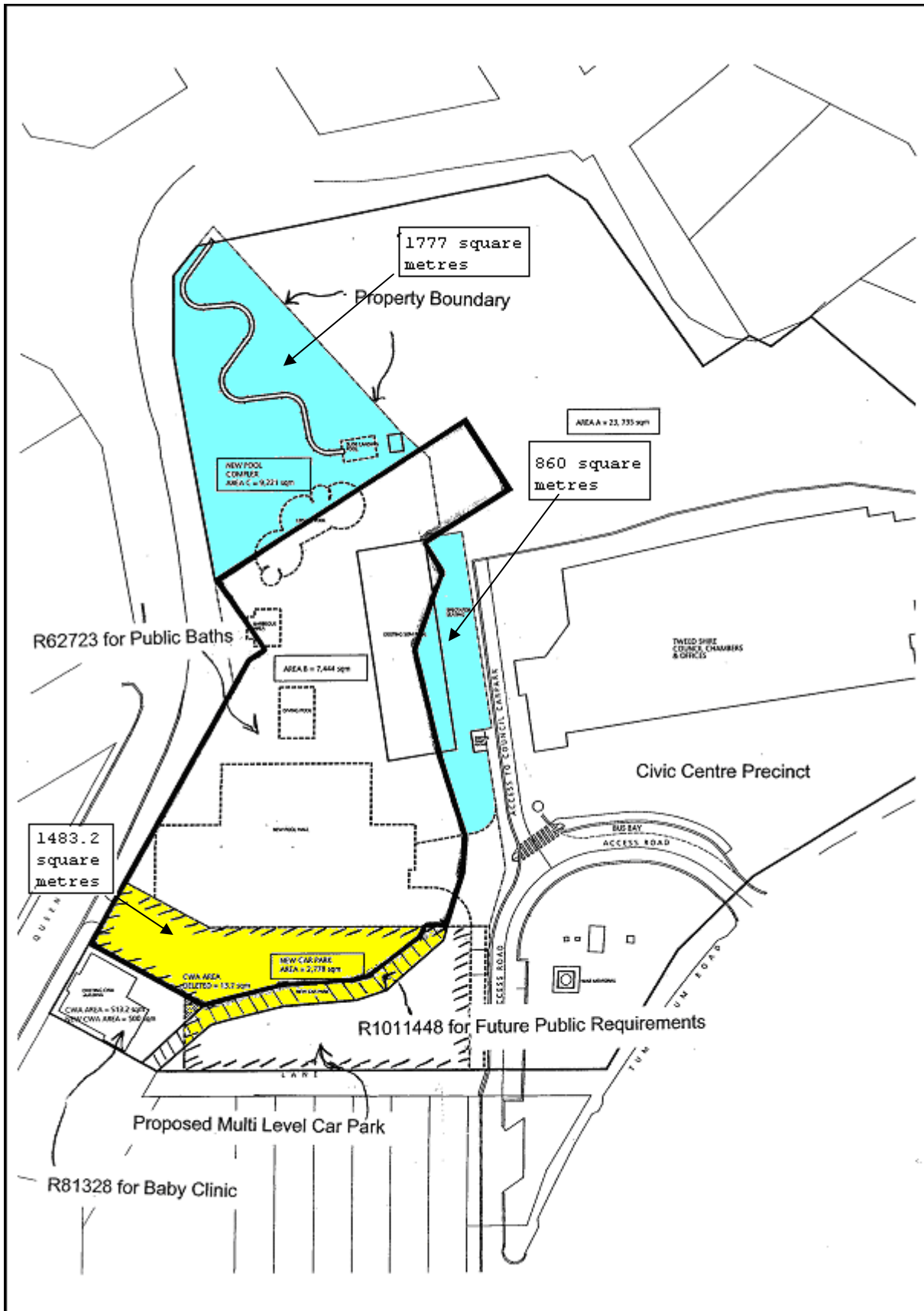
A survey of the area to be leased is required as the leased area is part of two Crown Reserves. The survey work has commenced and is ongoing and a plan for lease purposes will need to be registered prior to completion of execution of lease documentation.

However, there is a concern that as it has taken some time for the lease to be issued to Council, that there is no defined market rental established that Council will be liable for a perpetually increasing rental that has not yet been budgeted.

Since Council's 2006 overtures to the Minister for Lands for a land exchange, the Land and Property Management Authority have initiated discussions with Council whereby mutually beneficial land exchanges can occur where land that may not be currently utilised can be exchanged for use by the other party.

In light of these recent discussions it is an opportune time to revisit the land exchange proposal prior to finalisation of the lease.

The plan below shows the areas sought to be exchanged, showing the slide and grandstand on Council land and the area of car park within Crown Land:



It is to be noted that the area to become Crown Land has a greater area, however, both segments contain infrastructure relevant to the reservation for Public Baths.

The land sought to be transferred to Council contains the car park, this area includes most of the land reserved for Future Public Requirements, hatched in the above plan and is a filled in creek bed.

It is recommended that Council reiterate its proposal to the Minister for Lands for a land exchange between Council and the Crown to reconcile the uses of the land parcels to more appropriate purposes.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Letter dated 7 August 2006 from the Hon Tony Kelly, Minister for Lands (ECM 1441980).
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30 [EO-CM] EC2010-096 Old Fingal Boat Harbour Park Upgrade

ORIGIN:

Contracts

FILE NO: EC2010-096

SUMMARY OF REPORT:

This report outlines the tender for EC2010-096 Old Fingal Boat Harbour Park Upgrade. The proposed work includes upgrade of play equipment, asphalt car parking, barbeque facilities and picnic shelters.

This report provides a recommendation on the preferred tenderer. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation, Pricing Report included in **CONFIDENTIAL ATTACHMENT A**. A summary of the Selection Criteria is also included in the body of this report. It is recommended that Council accepts the tender of Relsos Pty Ltd for EC2010-096 Old Fingal Boat Harbour Park Upgrade.

ATTACHMENT A is **CONFIDENTIAL** in accordance with Section 10A(2)(c) or 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

RECOMMENDATION:

That:

- 1. The tender from Relsos Pty Ltd be accepted to the value of \$323,625.00 exclusive of GST.**
- 2. The General Manager be given delegated authority to approve variations up to 20% above the initial contract price. (20% up to a maximum of \$150,000, inclusive of GST). Any variations be reported to Council on a quarterly basis.**

3. **ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

REPORT:

Background

As part of Council's vision to reinvigorate some of its older infrastructure Tweed Shire Council is upgrading the park at Old Fingal Boat Harbour, Fingal Head. The works will include a new toilet block (this item by T.S.C.), picnic shelters and BBQ's. New concrete pathways will link the park together with seating and a new play ground, plus a sealed car park, additional tree planting and garden beds.

The Scope of Works under this contract shall include but not be limited to the following:

- Coordination of work on elements of the entire project,
- Ensure the safety of the general public during the works,
- Traffic management of roads and property access,
- Confirm locations of all existing services utilising Dial Before You Dig information,
- Removal and disposal of existing structures which interfere with the work under the contract,
- Construction and installation of all new works as per the Tender Schedule and Specification,
- Prepare 'As Constructed Drawings' of proposed works and new services installed.

Tenders Received

A total of 12 responses were received for tender EC2010-096.

Tenderer	ABN
Boyds Bay Landscape & Environment	84 109 913 082
Comfrey Constructions	25 011 012 972
DIG IT	64 010 813 957
Greenwood Landscape Management	61 850 361 870
Hopedale Services	38 075 278 992
Landscape Solutions	11 113 561 372
MJ & SL Seery Excavations	54 093 353 318
Olimar Pty Ltd	51 107 721 004
Relsof Pty Ltd	11 095 886 918
Scape Shapes	32 073 042 458
Tweed Coast Demolition & Excavations	53 133 427 205
Wollam Constructions	94 009 676 064

Selection Criteria

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

Item	Criterion	Weighting %
	Tender Price (Total Normalised Score)	40
	Time Performance / Program Detail	20
	Quality Assurance	10
	Contract Experience	20
	OHS and Risk Management	10
	Total	100

Tender Evaluation

The tender evaluation was conducted by Council's Tender Assessment Panel, consisting of Landscape Architect, Contracts Engineer and Civil Engineering Designer. A copy of the Tender Evaluation Report is included in **ATTACHMENT A** which is **CONFIDENTIAL** in accordance with Section 10A(2)(c) or 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

Based on the assessment by the assessment panel, it is recommended that Tenderer Relsof Pty Ltd be nominated for EC2010-096 Old Fingal Boat Harbour Park Upgrade.

Details of Relsof Pty Ltd relative competitiveness are shown in the Evaluation Report **CONFIDENTIAL ATTACHMENT A** which was endorsed by the Tender Evaluation Panel.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

Funding is provided within the 2010/2011 Budget for EC2010-096 Old Fingal Boat Harbour Park Upgrade.

POLICY IMPLICATIONS:

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

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. **CONFIDENTIAL ATTACHMENT A** - EC2010-096 Old Fingal Boat Harbour Park Upgrade (ECM 20217721).
 2. **CONFIDENTIAL ATTACHMENT B** - Tender Evaluation Spreadsheet (ECM 20217673).
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31 [EO-CM] Tumbulgum Foreshore Master Plan

ORIGIN:

Design

SUMMARY OF REPORT:

Community Consultation regarding five (5) revisions proposed by the Tumbulgum Community Association to the approved Master Plan for Riverside Drive in Tumbulgum was carried out in June 2010. The five revisions are:

Revision 1 - Kerb and gutter moved approximately 2 metres east and footpath placed adjacent to property boundaries from 136 to 166 Riverside Drive to create 9 additional parking spaces on west of Riverside Drive.

Revision 2 - Angled parking (in lieu of parallel) provided opposite 108 to 118 Riverside Drive to create an additional 8 car parking spaces.

Revision 3 - Speed humps placed opposite 26, 56, 78, 110 and 166 Riverside Drive to address speeding problems along Riverside Drive.

Revision 4 - Footpath from the wharf moved and pedestrian crossing point provided on southern side of Hotel.

Revision 5 - Additional parking area provided in Government Road.

The results of the consultation indicated that revisions 1, 2 and 3 were not supported by the majority of the community. Revision 4 was evenly supported/not supported by the Tumbulgum community while Revision 5 had broad support.

Taking consideration of the results of the consultation and mindful of the comments provided by the community during the consultation period, Council Officers have recommended revisions to the approved Master Plan, which maintain the existing river side reserve, whilst acting to discourage speeding through the village.

RECOMMENDATION:

That Council:

- 1. Endorses the following revisions to the Approved Master Plan for Riverside Drive in Tumbulgum:**
 - a. Provide thresholds (road surface coloured banding with 50 painted on road) on Riverside Drive prior to (south of) Government Road and at Tumbulgum Bridge.**
 - b. On the east side of Riverside Drive move the kerb to the edge of the road lane and provide no kerbside parking from number 140 (north) to Government Road.**

- c. **Install Revision 5 – Parking area in Government Road.**
 - d. **Reduce lane widths along Riverside Drive to 3.0 metres and parallel parking space widths to 2.1. Widen shoulders to 1.0 metres to provide a bike lane on both sides of Riverside Drive.**
 - e. **Install Revision 4 - Concrete footpath from wharf moved and pedestrian crossing point provided on southern side of Hotel, and**
- 2. **Places the revised Master Plan on public display in Tumbulgum and on Council's internet site.**
 - 3. **Submits an application to the Roads & Traffic Authority of NSW to determine if Riverside Drive is considered suitable for a 40km/h High Pedestrian Activity Zone.**

REPORT:

Introduction

In July 2004 Tweed Shire Council's Design Unit produced the Tumbulgum Foreshore Concept Master Plan, to provide a starting point for discussions with the Tumbulgum Community Association (TCA) about proposed works for Tumbulgum and in particular Riverside Drive and the river foreshore. The plan was based on a submission to Council by TCA and works proposed in Tumbulgum by various units of Council.

The original concept Master Plan included:

- Bollards/fence along Riverside Drive to delineate parking areas and exclude vehicles from the foreshore reserve.
- Kerb and gutter, footpath and resurfacing areas of Riverside Drive.
- River bank stabilisation.
- Creating beaches to enhance recreational opportunities.

The master planning process was reported to Council in March 2005, when it was resolved to place the Concept Master Plan on public display and seek community comments. The results of the consultation were reported to and adopted by Council on 3 August 2005 after which the Design Unit of Council worked on and produced detailed design drawings for the road and foreshore works. (Refer Attachment 1 - Approved Master Plan).

Due to funding restrictions the works were split into two stages with Stage 1 being from Fawcett Street to Tumbulgum Bridge. Works on Stage 1 commenced in October 2006 and were completed in January 2007.

More recently in August 2009 representatives of the Tumbulgum Community Association met with the then Mayor, Councillor van Lieshout, and Council Officers to discuss the timing of Stage 2 (Government Road to Fawcett Street) of the works and possible revisions to the approved Master Plan. The Association representatives were informed that:

- This project is now listed for 2011/12 in the five-year rolling program.
- Drawings showing possible revisions would be prepared for them to discuss at their monthly meeting.
- Prior to any revisions being adopted for construction, views of the wider community would be sought.

Revised drawings were prepared and given to the Tumbulgum Community Association in August 2009. According to correspondence received by Council (dated 1 March 2010) the revised drawings were endorsed by the Tumbulgum Community Association. A further meeting was held with Mayor, Councillor Polglase, in April 2010, where further revisions were requested. Based on the Drawings endorsed by the TCA and the meeting in April 2010, alternative Master Plan drawings were prepared (refer Attachment 2), which included the following revisions to the Approved Master Plan:

Revision 1 - Kerb and gutter moved approximately 2 metres east and footpath placed adjacent to property boundaries from 136 to 166 Riverside Drive to create 9 additional parking spaces on west of Riverside Drive.

Revision 2 - Angled parking (in lieu of parallel) provided opposite 108 to 118 Riverside Drive to create an additional 8 car parking spaces.

Revision 3 - Speed humps placed opposite 26, 56, 78, 110 and 166 Riverside Drive to address speeding problems along Riverside Drive.

Revision 4 - Footpath from the wharf moved and pedestrian crossing point provided on southern side of Hotel.

Revision 5 - Additional parking area provided in Government Road.

The entire Tumbulgum Community and the wider community, were given the opportunity to comment on the revisions proposed by TCA and the results of that consultation are presented in this report.

Results of Community Consultation

The Approved and Alternative Master Plans were publicly advertised in the Tweed Link on 8 June 2010, with displays at Council's Murwillumbah and Tweed Civic Centres, and the Birdwing Café in Tumbulgum. The display was also posted on Council's web page. Displays ran between 8 June 2010 and 25 June 2010 and included a take away information sheet and feed back form, which included a section for providing comment.

The community responses received by the closing date were as follows:-

• Feedback forms received	90
• Feedback forms and written submission	5
• Written submissions received via Council's records or email without Feedback Forms	5
TOTAL	100

Of the 100 responses, 84 of the respondents live in or own property in Tumbulgum or North Tumbulgum, 13 were from residents of Tweed Shire who live outside of Tumbulgum or North Tumbulgum and three do not reside in Tweed Shire. Although there were 100 responses, not all addressed each of the revisions, thus the total number of responses does not equal 100 for each proposed revision.

Revision 1 - Kerb and gutter moved approximately 2 metres east and footpath placed adjacent to property boundaries from 136 to 166 Riverside Drive to create 9 additional parking spaces on west of Riverside Drive.

96 responses were recorded. Of those 80 were from residents of Tumbulgum, 13 were from residents of TSC and 3 from outside the Shire.

Overall 37% of responses favoured Revision 1 with 63% against. For Tumbulgum residents this was 43% in favour and 57% against.

Revision 2 - Angled parking (in lieu of parallel) provided opposite 108 to 118 Riverside Drive to create an additional 8 spaces.

94 responses were recorded. Of those 78 were from residents of Tumbulgum, 13 were from residents of TSC and 3 from outside the Shire.

Overall 28% of responses favoured Revision 2 with 72% against. For Tumbulgum residents the results were 32% in favour and 68% against.

Revision 3 - Speed humps placed opposite 26, 56, 78, 110 and 166 Riverside Drive to address speeding problems along Riverside Drive.

97 responses were recorded. Of those 81 were from residents of Tumbulgum, 13 were from residents of TSC and 3 from outside the Shire.

Overall 13% of responses favoured Revision 3 with 87% against. For Tumbulgum residents the results were 16% in favour and 84% against.

Revision 4 - Footpath from wharf moved and pedestrian crossing point provided on southern side of Hotel.

92 responses were recorded. Of those 76 were from residents of Tumbulgum, 13 were from residents of TSC and 3 from outside the Shire.

Overall 42% of responses favoured Revision 4 with 58% against. For Tumbulgum residents the result was closer with 49% in favour and 51% against.

Revision 5 - Additional parking area provided in Government Road.

95 responses were recorded. Of those 79 were from residents of Tumbulgum, 13 were from residents of TSC and 3 from outside the Shire.

Overall 74% of responses favoured Revision 5 with 26% against. For Tumbulgum residents the results were 73% in favour and 27% against.

Discussion of Results

Revision 1 and 2 were suggested by Tumbulgum Community Association, in order to address a perceived lack of parking in Riverside Drive. As can be seen from the results, the majority of respondents did not favour these revisions, the main reasons being the loss of river side Reserve (green space) that would result from Revisions 1 and 2 and a general feeling that parking problems were only experienced on one day per week, being Sunday. Furthermore, from the comments and responses received, the community believed that the perceived lack of parking would be better addressed by implementing Revision 5 – additional parking in Government Road, which provides additional parking without encroaching on the riverside reserve.

Revision 3 was suggested as a measure to combat speeding vehicles along Riverside Drive and enhance pedestrian safety. Generally, Tweed Shire Council does not favour the installation of speed humps due to the increased traffic noise they generate. The consultation results reinforce this view with only 13% favouring speed hump installation and with many comments about noise and car damage contained within the responses. The issue of speeding in Tumbulgum is discussed further in the section Other Issues Raised from Responses - "*Vehicles are speeding along Riverside Drive*" below.

Revision 4 was suggested to provide a more permeable and safe pedestrian route from the Wharf across Riverside Drive to the business district of Tumbulgum. Residents of Tumbulgum were evenly divided on this revision.

Revision 5 attracted most support with approximately 75% of respondents calling for its implementation. As discussed above, Revision 5 provides additional car parking without encroaching on the river side reserve. A secondary benefit was noted that this additional parking would be in the vicinity of the entry to the Community Hall and existing toilet facilities.

Other Issues Raised from Responses

The following were the most common issues raised by the Consultation process:

Issue - Vehicles are speeding along Riverside Drive

The 85th percentile speed is the speed at which 85% of traffic travel at or below and is routinely measured throughout Tweed Shire. The most recent speed data taken in Riverside Drive demonstrates that the 85th percentile speeds were:

- 53 kph in front of 162 in December 2008.
- 55 kph in front of 88 in July 2006.

At Council's meeting held 16 August 2007 the following recommendation presented by the Traffic Committee was endorsed:-

"That...Traffic calming devices for Riverside Drive not be installed as the 85th percentile speed is 55kph."

The 85th percentile speed measurements indicate that more than 15 per cent of vehicles entering and travelling along Riverside Drive are exceeding the posted speed limit, so any revisions to the Master Plan should take this into account.

Revision 3 – Speed Humps - was suggested by TCA as a means to address this issue. The results of the Consultation demonstrate that respondents overwhelmingly reject the installation of speed humps. However, of respondents that were against speed humps, 23 suggested, chicanes at Government Road and Tumbulgum Bridge, banding of the road (similar to Coronation Road, Pottsville, Marine Parade, Kingscliff and Proudfoots Lane, Murwillumbah), speed cameras and/or lowering the speed limit from 50 to 40kph. (It should be noted that Council does not have authority to install speed cameras.)

Regarding 40kph speed zones, it is believed that Riverside Drive does not meet current RTA NSW warrants for the installation of a 40kph speed zone as the current pedestrian activity is primarily confined to weekends. Nevertheless, it is recommended that Council Officers prepare an application to the RTA NSW for a 40km/h High Pedestrian Activity Zone to determine if Riverside Drive is considered suitable. The RTA can provide up to \$10,000 for a detailed study to be carried out.

Issue – Cars with Trailers are taking up too many parking spaces in the Village Centre

Response

Currently there is only one dedicated car and trailer parking area in Tumbulgum, to the north east of the boat ramp in Riverside Drive. This area can cater for only a maximum of four (4) car and trailers parking parallel along Riverside Drive. Ten (10) respondents commented that when these spaces are filled that cars and trailers are parking in the Village Centre and reducing the number of car spaces available. This is a particular problem in the widened area of Riverside Drive opposite the Tumbulgum Tavern, where a car and trailer can consume 4 to 6 parking spaces. This matter was discussed at the Local Traffic Committee meeting on 20 May 2010. The item was reported to Council at its meeting of Tuesday 15 June 2010 and the resolution is reproduced as follows:

"That: Signage and linemarking supporting 45° front to kerb parking be installed on Riverside Drive, Tumbulgum on the widened parking bay opposite the Hotel complying with relevant guidelines."

These works are scheduled to be completed early in the 2010/2011 financial year. As well, the Approved Master Plan provides 45° front to kerb parking in this area and there is already an area signposted in the business district to prohibit vehicles longer than 6 metres from parking.

Three respondents suggested that the Growers Market to the north of Tumbulgum be converted to car and trailer parking however, it is considered that this area is too far from the boat ramp and other facilities and would not be used.

It is therefore considered that the Traffic Committee and Council resolution as well as the Approved Master Plan adequately deals with this issue.

Recommended Revisions to Approved Master Plan

In order to implement the findings of the consultation period the following measures are recommended and shown on Attachment 3 - Proposed Alternate Plan Stage 2:

- Provide thresholds (road surface coloured banding with 50 painted on road) on Riverside Drive prior to (south of) Government Road and near to the Tumbulgum Bridge.

Reason – To delineate that vehicles are entering into a lower speed limit area and reinforce that a 50kph speed limit applies.

- Move the kerb to the edge of the road lane and provide no kerbside parking on the east side of Riverside Drive from number 140 (north) to Government Road. (Loss of 6 Car parking spaces.).

Reason - This maintains the current green space on both sides of Riverside Drive, as well as, maintaining the existing narrow road appearance, to assist in lowering vehicle speeds. On the Approved Master Plan this would appear to equate to the loss of 10 car parking spaces, but 4 of these have already been lost due to driveways that have or will be installed since the detailed design drawings were produced in 2006.

- Install Revision 5 as proposed – Parking area in Government Road.

Reason - This addresses the lack of parking and would result in a net increase of 23 parking spaces despite those lost by implementing the measure noted above. It also formalises car parking for the Tumbulgum Community Hall and will provide a disabled car space adjacent to the newly constructed access ramp (refer Attachment 4).

- Reduce lane widths along Riverside Drive to 3.0 metres (Council's standard lane width is 3.5 metres) and parallel parking space widths to 2.1 (from original 2.6 metres). Widen shoulders to 1.0 metres to provide a bike lane on both sides of Riverside Drive.

Reason – Means that the encroachment of the road surface into the river side reserve is minimised and generally the existing reserve width is maintained. The narrow lanes will assist with speed reduction and shoulders provide a bicycle path along Riverside Drive.

- Install Revision 4 as proposed - Footpath from the wharf moved and pedestrian crossing point provided on southern side of Hotel.

Reason - This will provide a road narrowing to assist with speed reduction and a safer pedestrian crossing area and provide a pedestrian link from the wharf to the business district.

Timeframe

The following timeframe for the implementation of the Master Plan has been provided to the Tumbulgum community:

- Close of Public Exhibition 25 June 2010
- Comments assessed and report prepared for Council Meeting 17 August 2010
- Drawings revised and exhibited in Tumbulgum. Development application prepared and lodged to modify existing development consent in accordance with Council resolution December 2010
- Revised development consent issued March 2011
- Construction commences July/August 2011

Currently there is no impediment to meeting this timeframe.

Conclusion

Community Consultation regarding revisions proposed by the Tumbulgum Community Association to the approved Master Plan for Riverside Drive in Tumbulgum was carried out in June 2010. The results on the consultation indicated that proposed revisions 1, 2 and 3 were not supported by the majority of the community. Revision 4 was evenly supported/not supported by the Tumbulgum community while revision 5 had broad support.

Based on the results of the consultation and mindful of the comments provided by the community during the consultation period, it is recommended that revisions to the approved Master Plan, which maintain the existing river side reserve, whilst acting to discourage speeding through the village, be implemented.

The proposed Revisions (refer Attachment 3) include:

- Provide thresholds (banding with 50 painted on road) on Riverside Drive prior to (south of) Government Road and near to the Tumbulgum Bridge.
- Move the kerb to the edge of the road lane and provide no kerbside parking on the east side of Riverside Drive from number 140 (north) to Government Road.
- Install Revision 5 as proposed – Parking area in Government Road.
- Reduce lane widths along Riverside Drive to 3.0 metres, parallel parking space widths to 2.1 and provide a 1 metre shoulder on both sides of Riverside Drive.
- Install Revision 4 as proposed - Footpath from wharf moved and pedestrian crossing point provided on southern side of Hotel.

It is recommended that the revised plan be adopted by Council and placed on public display in Tumbulgum and on Council's internet site.

It is also recommended that an application be prepared and submitted to the RTA NSW to determine if Riverside Drive is considered suitable for a 40km/h High Pedestrian Activity Zone.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Community consultation prior to funding and implementation of works in 2011/2017.

POLICY IMPLICATIONS:

Parking, traffic management, pedestrian and cycle safety matters addressed.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Approved Master Plan, Alternative Master Plan Drawings and Proposed Alternate Plan and Revisions - Stage 2 (DW 19570582).
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32 [EO-CM] Draft Plan of Management - Community Land (Lot 901 DP1066477 and Lot 173 DP1075495) at SALT, Bells Boulevarde, Kingscliff

ORIGIN:

Recreation Services

SUMMARY OF REPORT:

A draft Plan of Management has been prepared covering 2 parcels of Community Land (Lot 901 DP1066477 and Lot 173 DP1075495) adjacent to Bells Boulevarde, North Point Avenue and Cylinders Drive, Kingscliff.

The land contains the Tweed Coast Cycleway east of the residential land at Salt, and the public amenities and facilities east of Bells Boulevarde and Salt Central Park.

The draft Plan proposes only one change to the existing management arrangements for the area, being:

- Allowance is made for future extensions to the existing surf life saving facility from Lot 173 onto Lot 901.

The draft Plan has been on public display and one submission was received, from the Kingscliff Ratepayers and Progress Association. The submission supported the Plan.

RECOMMENDATION:

That the draft Plan of Management for Lot 901 DP1066477 and Lot 173 DP1075495, Bells Boulevarde, Kingscliff be adopted.

REPORT:

A draft Plan of Management has been prepared covering 2 parcels of Community Land (Lot 901 DP1066477 and Lot 173 DP1075495) adjacent to Bells Boulevard, North Point Avenue and Cylinders Drive, Kingscliff.

The land contains the Tweed Coast Cycleway located east of residential land at Salt (North Point Avenue and Cylinders Drive), and the public amenity facilities and main beach access area east of Salt Central Park (Bells Boulevard).

The Plan of Management proposes no change to existing management arrangements for the area, with one exception:

- Allowance is made for future extensions to the existing surf life saving facility. Such extensions may extend the building from Lot 173 onto Lot 901.

The draft Plan of Management makes no recommendations regarding the size or design of any new surf life saving facility. Such detail is to be subject to normal Development Application assessment procedures.

The draft Plan of Management has been placed on exhibition for 28 days, with a total submission period of 42 days. This is consistent with the Section 36 of the Local Government Act 1993.

One submission only was received, from the Kingscliff Ratepayers and Progress Association. This supported the Plan of Management's recommendation to facilitate an alternative, more practical surf life saving facility. It also emphasised the need to fully consider location and design details at the Development Application stage.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Draft Plan Of Management – Community Land (Lot 901 DP1066477 and Lot 173 DP1075495) at Salt, Bells Boulevard, Kingscliff (ECM 20173990).
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33 [EO-CM] Seaside City - Impact of Section 94 Contributions \$20,000 Cap

ORIGIN:

Director Engineering and Operations

SUMMARY OF REPORT:

Seaside City, between Casuarina Beach and SALT was created as a 207 lot "paper" subdivision in 1927. It has lain dormant, not being able to be built on for over 80 years because at the time of subdivision no subdivision infrastructure (streets, stormwater drainage, water supply, sewerage, parks etc) was provided.

In 2007 the Land and Environment Court approved an application by Richtech Pty Ltd to construct the subdivision works. The Court consent required the applicant to enter a Voluntary Planning Agreement with Council. This agreement has been made between Council and Richtech.

The Planning Agreement acknowledged that non Richtech lots at Seaside City will also benefit from the works and Council has agreed to collect from these other owners, by means of a special Section 94 Plan, the apportioned cost of the subdivision works and pay this back to Richtech.

The Section 94 Contribution for a dwelling house on an existing non Richtech owned lot at Seaside City is \$48,226. This is the amount charged under the special Section 94 plan for Seaside City. Each existing lot has a credit of \$14,618 for the standard shire wide Section 94 plans. Any development application for an increase in density of an existing lot such as subdivision or multi dwelling housing will attract additional contributions under Council's shire wide plans.

The then Minister for Planning, the Hon Kristina Keneally, issued a section 94E Direction on 13 January 2009 directing that unless Council's applied for an exemption, Development Consents issued after 30 April 2009 could not require developer contributions that exceed \$20,000 per dwelling.

Council formally applied for an exemption for Seaside City 27 February 2009. Council was advised that the Seaside City exemption was approved by a Minister's Section 94E Direction dated 10 July 2009.

However on 4 June 2010, the current Minister for Planning, Tony Kelly MLC, issued a further Section 94E Direction, that repealed the 9 July 2009 direction (that exempted Seaside City from the cap) and imposed a hard unindexed cap of \$20,000 per dwelling or residential lot on all consents to be issued after 7 June 2010. The Minister's action has the potential to disable the complex arrangements put in place by the Land & Environment Court, Council and Richtech for financing, delivering and apportionment of the cost of the Seaside City subdivision works.

This report recommends a response to the imposition of the contributions cap at Seaside City.

RECOMMENDATION:

That Council:

- 1. Forwards a submission to the Minister for Planning, seeking a reinstatement of the previous developer contributions cap exemption for Seaside City.**
- 2. Seeks a meeting with the Minister to explain the unique circumstances relating to the 80 year old subdivision at Seaside City and the arrangements made in 2007 in accordance with a Land and Environment Court judgement to enable development of Seaside City to proceed.**
- 3. Asks representatives of Richtech Pty Ltd to assist and be present at the above meeting.**
- 4. Because of the conflicting legal obligations on Council arising from Land and Environment Court Judgement 16 March 2007 for 10217 of 2006, Richtech Pty Limited v Tweed Shire Council and the "Seaside City Planning Agreement" and "Contributions Plan No. 28 Seaside City" with the Minister for Planning Section 94E Direction dated 7 June 2010, except as per 5 below, defers processing or determining any development applications for non Richtech land at Seaside City, until these conflicts are resolved.**
- 5. Processes and determines development applications for non Richtech land at Seaside City, if the applicant enters a voluntary planning agreement that will provide for full payment (amount due in the absence of a contributions cap) of an amount equivalent to all Section 94 contributions payable for the development.**

REPORT:

1. Background

Seaside City at South Kingscliff comprises a 32 hectare urban zoned parcel of land on the Tweed Coast between SALT and Casuarina Beach. It was subdivided in 1927 into 205 titled lots, but no local subdivision infrastructure (roads, drainage, water, sewer etc) was provided. The majority owner Richtech Ltd owns approximately 85% of the lots and the remainder are individually owned by minority landowners. Development of this subdivision was stalled for 80 years because the various owners were unable to finance subdivision works and agree on how to apportion the costs. A breakthrough occurred in 2005 when the majority landowner submitted a Development Application to construct all the necessary subdivision works subject to being reimbursed for the costs that would benefit the minority landowners. Due to the complexity of this application it wound up in the Land & Environment Court. Commissioner Hoffman issued a judgement approving the application 17 March 2007. Part 44 of the judgement advised:

"44 The applicant and the Council have agreed on a draft Seaside City Planning Agreement under s 93 of the Environmental Planning and Assessment Act 1979. It must be entered into as a condition upon any granting of any consent. This relates to the carrying out of infrastructure works proposed and the dedication of land. It incorporates the relevant provisions of the Tweed Shire s 94 Plan No 28 Seaside City adopted by the Council on 23 October 2006. The s 94 Plan sets out the public infrastructure works needed as a result of the development of Seaside City and the developer contributions for works, or land in lieu of contributions, that are required. "

Condition 1.6 of the Court consent required the applicant to enter the planning agreement. Condition 2 detailed the subdivision works that were the subject of the consent.

A planning agreement was made 9 January 2007 between Richtech PL and Tweed Shire Council.

- Clause 4 says that the developer (Richtech PL) will carry out and deliver the works required to make Seaside City a workable subdivision and Clause 5 says the developer will dedicate land for open space.
- Clause 6 acknowledges that lots in other ownership (at Seaside City) will also benefit from the works and Council agrees to collect (by means of a special Section 94 Plan) from the other owners and pay to the developer. Upon granting development consent for land in other ownership, Council will use its best endeavours to apply the Section 94 Plan and impose conditions requiring monetary contributions in respect of the works.

Under these arrangements the development of Seaside City could at last proceed. The developer (Richtech PL) was prepared to finance and build the necessary works as it enabled them to finally develop this land that had remained commercially useless for many years. They were prepared to finance the other landowner's portion of the works because they would get back this portion via the special Section 94 Plan when other landowners developed their individual lots.

The other landowners benefited because the developer would finance and build the subdivision works that would finally enable their lots to be developed, and the Section 94 plan would equitably apportion their share of the costs.

Richtech PL is currently constructing the local infrastructure works required for the subdivision.

2. Contributions Plan No. 28 Seaside City

Contributions Plan 28 - Seaside City was adopted by Council and issued 26 October 2006 as the mechanism whereby Council collects the apportioned cost of local infrastructure from minority landowners, when they develop, and distributes it back to the majority landowner Richtech.

Contributions Plan No. 28 - Seaside City is unusual as the cost of local subdivision infrastructure is usually provided by the subdivider as part of the subdivision works required before release of a subdivision certificate. It is not usually part of the s94 process, as s94 is normally used for more district/network level community infrastructure. Section 94 has been used in this manner for Seaside City because of the unique circumstances of this 1927 paper subdivision.

Erection of a dwelling on a residential lot, not owned by Richtech PL, in the Seaside City area attracts a unique contribution of **\$48,226** per lot for local infrastructure. This is the amount charged under the special Section 94 plan, *Contributions Plan No. 28 - Seaside City*. Each existing lot created in 1927 has a credit of **\$14,618** for the standard shire wide Section 94 plans. Any development application for an increase in density of an existing lot such as subdivision or multi dwelling housing will attract additional contributions under Council's shire wide plans.

Standard Shire Wide Plans applicable to the South Kingscliff locality are:

Plan	Contribution per residence or lot \$
S94-04 Tweed Road Contribution Plan (Sector 7)	6,208
S94-11 Libraries	792
S94-12 Bus Shelters	60
S94-13 Cemeteries	120
S94-15 Community Facilities	581
S94-18 Council Admin	1,760
S94-22 Cycleways	447
S94-26 Regional Open Space	4650
Total	14,618

CP 28 was prepared based on estimates for the cost of land (open space, road reserves etc) and infrastructure required to make Seaside City a viable subdivision development.

The estimated cost of the various elements of infrastructure in 2006 when the plan was prepared was \$21.8M. Once the works are finished and final costs are known, the plan foreshadows that it will be amended to reflect actual costs.

3. Contributions Cap 2009

The then Minister for Planning, the Hon Kristina Keneally, issued a section 94E Direction on 13 January 2009 directing that unless Council's applied for an exemption, Development Consents issued after 30 April 2009 could not require developer contributions that exceed \$20,000 (indexed) per dwelling.

The implications of the 2009 cap were alarming. As Seaside City contributions for non Richtech owners were \$48,226 and exceeded the cap by over \$28,000, the cap would disable the complex arrangements put in place by the Land & Environment Court, Council and Richtech for financing and apportionment of the cost of the Seaside City subdivision works.

Council formally applied for an exemption for Seaside City and other localities on 27 February 2009. Council was advised that the Seaside City exemption was approved by a Minister's Section 94E Direction dated 10 July 2009.

The Minister advised Seaside City had been exempted because ***"the higher rates applying to the Seaside Land are not only facilitating the development of this long standing area but have also arisen from a recent decision of the Land and Environment Court case and reflect the outcome of that matter. Accordingly, it is appropriate for an exemption to be granted to the maximum amount set out in the Direction to development consents requiring monetary contributions for residential development on the Seaside Land."***

4. Contributions Cap 2010

On 4 June 2010, the current Minister for Planning, Tony Kelly MLC, issued a further Section 94E Direction, that repealed the 9 July 2009 direction (that exempted Seaside City from the cap) and imposed a hard unindexed cap of \$20,000 per dwelling or residential lot on all consents to be issued after 7 June 2010. As was the case in 2009, Seaside City contributions for non Richtech owners at \$48,226 exceed the cap by over \$28,000. Unlike the 2009 cap there is no mechanism to obtain approval to exempt special areas from the 2010 cap.

Council has written to the Premier requesting that all of Tweed Shire be exempted from the 2010 cap of \$20,000 (unindexed). The Mayor and General Manager have also met with the Minister for Planning seeking his intervention to remove the cap from Tweed Shire.

5. Implications of 2010 Cap for Seaside City

Council is faced with conflicting obligations.

The Land and Environment Court decision and subsequent Planning Agreement obliges Council to collect the moneys owed by other landowners and repay the money to Richtech. Council is required to use its best endeavours to apply Contributions Plan No. 28 to impose conditions of consent to require this monetary contribution from non Richtech landowners. To do this Council must impose contributions of \$62,844 (being \$48,226).

Imposition of a contribution of \$48,226 per lot is now unlawful under the Ministers S94E Direction of 4 June 2010 as it exceeds \$20,000.

A legal opinion on this matter is a confidential attachment to this report. It raises a number of issues including how Council would apportion a capped \$20,000 contribution between the various competing s94 Plans. It is uncertain what exposure Council may have arising from the conflict between the Planning Agreement and the Ministers S94E Direction to cap contributions.

Representatives of Richtech met with Council officers on 2 August 2010. They were advised that this report was being prepared and they support any actions Council may take to seek the Minister's agreement to reinstate the previous Seaside City contributions cap exemption. Richtech would also like to accompany Council representatives to meet with the Minister in this regard.

6. Options Available to Council

6.1 Representations to Minister for Planning to Reinstate the previous Seaside City Contributions Cap Exemption

Council has already made general submissions to the Premier and Minister for Planning requesting a general exemption to the Contributions cap in Tweed Shire. It would now be appropriate to make a separate submission in relation to the unique circumstances at Seaside City, seeking a reinstatement of the previous contributions cap exemption. This could be accompanied by a request for Council, accompanied by Richtech representatives, to meet with the Minister to reinforce the submission.

6.2 Development Applications from Non Richtech Landowners at Seaside City

There are currently no development applications before Council from non Richtech landowners at Seaside City. However the pending completion of subdivision works by Richtech is likely to encourage applications. It may be that the Minister will reinstate the Seaside City contribution cap exemption before any such applications are received, however if the exemption is not forthcoming then there are a number of options available should such applications be received which include:

Option 1: Council process and determine applications. Impose a \$20,000 per dwelling contribution. Allocate \$20,000 to CP 28 payable to Richtech.

Option 2: Council only process and determine applications if applicant agrees to enter a voluntary planning agreement to pay an amount equivalent to the full S94 obligation (currently \$48,226). If no agreement made, then Council defers processing the application until the issue is resolved.

Option 1 allocates all of the capped \$20,000 to Richtech. Transferring only \$20,000 per lot is substantially less than the amount owed to Richtech and may not be acceptable to them. It could lead to legal action for recovery of the balance.

Option 2 restores the correct contribution and enables the correct repayment to Richtech. It may not be acceptable to non Richtech landowners who could seek to benefit from the opportunity to contribute the lesser payment that the cap facilitates. If the non Richtech landowners refuse to enter the voluntary planning agreement to pay the full amount and Council does not process the application, then the application may be taken for determination to the Land and Environment Court.

7. Conclusion

The Premier advised in her press release of 4 June 2010 that developer contributions would be hard capped at an unindexed \$20,000 per residential lot to **deliver additional land releases, increase housing affordability and kick start housing construction.**

Complex arrangements put in place by the Land & Environment Court, Council and Richtech in 2007 for financing and apportionment of the cost of subdivision works are now, after 80 years delay, delivering the overdue Seaside City subdivision works. This is an arrangement that is delivering the additional land releases the Government says it wants. But, the Government's contributions cap has the potential to disable this process. and deliver the opposite outcome.

It is unlikely that this is the outcome the Government intended for Seaside City. It is understood that the contributions cap policy was initiated by concern about the level of contributions in parts of metropolitan Sydney. It appears that the NSW Government's policy to address that matter has had unintended consequences in other areas such as the Tweed.

It is proposed to ask the Minister for Planning for a reinstatement of the previous developer contributions cap exemption for Seaside City.

It is considered that determining development applications from non Richtech owners as per Option 1 above is inequitable to Richtech, who have financed and delivered the Seaside City works in good faith.

It is considered that Option 2 is equitable for all parties as it maintains the status quo of financial obligations to all. It is vulnerable to Land and Environment challenge, however it is considered to be the most appropriate course of action at this time. It would be hoped that sense will eventually prevail at the NSW Government and that the Minister will issue an exemption from the contributions cap at Seaside City at an early date.

It is therefore proposed to defer processing development applications for non Richtech land at Seaside City until this matter is resolved or other arrangements (such as a voluntary planning agreement) are made to pay an amount equivalent to the full Section 94 contributions (without cap).

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Substantial. See body of report.

POLICY IMPLICATIONS:

As above.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. **Confidential Attachment** - HWL Ebsworth Lawyers letter dated 2/7/10 (ECM 18825468).
 2. Seaside City Planning Agreement (ECM 20215546).
 3. Land and Environment Court of New South Wales Judgement (ECM 20215536).
 4. Minister's Letter dated 10 July 2009 (ECM 20214480).
 5. Planning Circular PS 10-014 dated 4 June 2010 (ECM 17591027).
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REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

34 [TCS-CM] In Kind and Real Donations - April to June 2010

ORIGIN:

Financial Services

SUMMARY OF REPORT:

Details of in kind and real donations for the period April to June 2010 are reproduced in this report for Council's information.

RECOMMENDATION:

That Council notes the total donations of \$63,520.85 for the period April to June 2010.

REPORT:

Council maintains a register of in kind and real donations. Details of these donations for the period April to June 2010 are reproduced as follows:

Financial Assistance			
Amount	Recipient	Donated Item	Date
\$2,250.00	Tweed Shire Senior Citizens Week Committee	Budget Allocation	21/01//2010
\$60.00	Murwillumbah RSL Sub-Branch	Donation in lieu of Anzac Day Wreath	08/04/2010
\$70.00	Tweedlesea Day Club	Donation in lieu of Anzac Day Wreath	08/04/2010
\$500.00	Tweed Heads PCYC	Donation to youth activities	08/04/2010
\$2,600.00	Cudgen Headland SLSC	Budget Allocation	02/06/2010
\$3,100.00	Fingal Rovers SLSC	Budget Allocation	09/06/2010
\$23,942.00	Tweed District Rescue Squad	Budget Allocation	30/06/2010
\$4,543.50	Tweed Kenya Mentoring Program	Additional Budget Allocation	30/06/2010
\$10,500.00	Care Flight - RACQ	Budget Allocation	30/06/2010
\$10,000.00	Wintersun Festival Association Inc	Budget Allocation - Festivals	07/04/2010
\$57,565.50			
Goods and/or Materials			
Amount	Recipient	Donated Item	Date
\$54.00	Bilambil Landcare	6 shrubs	24/03/2010
\$120.00	Banora Point High School	30 Shrubs	02/06/2010
\$120.00	Saint James College	30 Shrubs	25/06/2010
\$294.00			
Provision of Labour and/or Plant and Equipment			
Amount	Recipient	Donated Item	Date
\$3,226.00	Life Education Van Relocation	Provision of Labour & Council Plant	30/06/2010
\$19.00	Anzac Day	Provision of Labour & Council Plant	30/04/2010
\$3,245.00			
Tweed Link Advertising			
Amount	Recipient	Donated Item	Date
\$110.45	Various Community Notices	Advertising	06/04/2010
\$56.45	Various Community Notices	Advertising	13/04/2010
\$95.73	Various Community Notices	Advertising	20/04/2010
\$186.55	Various Community Notices	Advertising	27/04/2010
\$61.36	Various Community Notices	Advertising	04/05/2010
\$100.64	Various Community Notices	Advertising	11/05/2010
\$63.82	Various Community Notices	Advertising	18/05/2010
\$137.45	Various Community Notices	Advertising	25/05/2010
\$117.82	Various Community Notices	Advertising	01/06/2010
\$44.18	Various Community Notices	Advertising	08/06/2010
\$70.20	Various Community Notices	Advertising	15/06/2010
\$97.20	Various Community Notices	Advertising	22/06/2010
\$216.00	Various Community Notices	Advertising	29/06/2010
\$1,357.85			

Room Hire			
Amount	Recipient	Donated Item	Date
\$221.00	Murwillumbah Jazz Club	Room Hire - Murwillumbah Civic Centre	01/06/2010
\$110.50	Tweed Heads Hospital fashion Parade	Room Hire - Tweed Heads Civic Centre	31/05/2010
\$29.00	Twin Towns Friends	Room Hire - South Tweed HACC	14/04/2010
\$29.00	Twin Towns Friends	Room Hire - South Tweed HACC	12/05/2010
\$29.00	Twin Towns Friends	Room Hire - South Tweed HACC	09/06/2010
\$86.00	Twin Towns Friends	Hall Hire - South Tweed Heads Community Hall	13/05/2010
\$86.00	Twin Towns Friends	Hall Hire - South Tweed Heads Community Hall	26/05/2010
\$82.00	Tweed Heads Hospital Ladies Auxiliary	Room Hire - Tweed Heads Meeting Room	05/04/2010
\$70.00	South Sea Islanders Meeting	Room Hire - Tweed Heads Meeting Room	10/04/2010
\$82.00	Tweed Heads Hospital Ladies Auxiliary	Room Hire - Tweed Heads Meeting Room	03/05/2010
\$82.00	South Sea Islanders Meeting	Room Hire - Tweed Heads Meeting Room	08/05/2010
\$82.00	Tweed Heads Hospital Ladies Auxiliary	Room Hire - Tweed Heads Meeting Room	07/06/2010
\$70.00	South Sea Islanders Meeting	Room Hire - Tweed Heads Meeting Room	19/06/2010
\$1,058.50			
\$63,520.85	Total Donations 4th Quarter (April, May, June 2010)		

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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35 [TCS-CM] 2010 Complaint Analysis Report - 1 April to 30 June 2010

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

Council's Complaints Handling Policy is a framework for the effective management of complaints.

A complaint is an expression of dissatisfaction, made in respect to a Council Officers role in the provision of service delivery or lack of service delivery that has allegedly affected an individual, group or body of stakeholders whether justified nor not.

It is not a request for service, (customer work request), or information or an explanation of a policy or procedure, or objections to a development application before Council determination.

A complaint can progress from Council's lack of action following the lodgement of a request for service or a request for information.

The Policy requires a complaint analysis report be reported to Council detailed by type and outcomes/actions on a quarterly basis.

It is advised that for the period 1 April 2010 to 30 June 2010, 17 items were received which comply with the definition of a complaint. A further two complaints were dealt with during this quarter which were outstanding from March.

There are six complaints which have not been completely actioned; however they are in progress of being investigated. Whilst there are two outstanding from the March quarter (refer 1.7 and 1.8).

The complaints principally refer to the:

- failure of Council Officers to comply with Council's Customer Service Charter in not responding to items within fourteen (14) days in accordance with the Correspondence - Response To Policy;
- respondents being dissatisfied with the actions of Council officers in handling their original request for service;
- respondents being dissatisfied that issues have not been dealt with by Council Officers.

RECOMMENDATION:

That Council receives and notes the 2010 Complaints Analysis Report for the period 1 April to 30 June 2010.

REPORT:

The type of complaint has been categorised in accordance with categories used by the Division of Local Government. This methodology will assist in monitoring the effectiveness of Council's handling of complaints and improving service delivery.

Complaint Type	Ref	Details of Complaint	Comments
Customer Service <ul style="list-style-type: none"> • Service Standards 	1.	1. Complainant was concerned that no response to previous correspondence had been received - request for appropriate disability access.	Manager sent a response advising of Council action in the matter.
		2. Two official complaints about Council processes in regard to the Draft LEP and Draft Water Sharing Plan.	The issues are currently under investigation.
		3. Formal complaint regarding the public exhibition process for Draft Tweed LEP.	The issue is currently under investigation.
		4. Complainant dissatisfied that Council officer did not return telephone call as advised.	A response has been sent to the complainant providing information relevant to the matter.
		5. Complaint concerns the process for the 56 lot subdivision – requires a copy of letter and email to be discussed at the next Council Meeting.	Information provided to Councillors, as requested.
		6. Complainant dissatisfied that not all residents received information via a letterbox drop – felling of gum tree.	The issue is currently under investigation.
		7. Complainant was concerned that no response to previous correspondence had been received – draft LEP.	The issue is currently under investigation.
		8. Complainant was concerned that no response to previous correspondence had been received – Basix requirements for water tanks	The issue is currently under investigation.
Enforcement and Regulatory Powers <ul style="list-style-type: none"> • Building/ 	2.	1. Complaint related to Council Officers not providing a response relating to aerial spraying affecting residence.	Manager sent a response advising of Council action in the matter.

<p>Noise</p>	<p>2. Complainant dissatisfied with the manner of a Regulatory Services Officer and the information provided.</p> <p>3. Complainant dissatisfied that the tests conducted on a pump were not conducted to show a true and fair view of the situation.</p>	<p>Meeting held with Council Officers to rectify issues.</p> <p>Complainant has been advised that the tests were conducted in accordance with appropriate standards.</p>
<p>Engineering Services</p> <ul style="list-style-type: none"> • Roads 	<p>3. 1. Complaint about the condition of Simpson Drive and Scenic Drive unacceptable- informed Scenic Drive was a low priority</p> <p>2. Complainant dissatisfied held in one position due to road works on Kyogle Road on 20 May for 40 minutes.</p> <p>3. Complainant was concerned that palm trees were removed on Keith Crompton Drive without consultation with anyone in the area.</p> <p>4. Complainant dissatisfied that works gang only repaired one hole neglecting estimated 50 others in the same street.</p> <p>5. Complainant objecting to a bus stop and the attitude of a Council employee.</p> <p>6. Complainant dissatisfied with drainage in Tamarind Avenue- withholding rates until situation is rectified.</p> <p>7. Complainant sent email 3 times requesting sign to name a village.</p>	<p>Manager has sent response advising of the council's action in the matter.</p> <p>A reply has been sent offering Council's apology as this delay was due to an unplanned incident.</p> <p>Complainant has been advised of Council's action in the matter.</p> <p>Complainant has been advised that the road is proposed to be upgraded in the future.</p> <p>The issue is currently under investigation.</p> <p>The issue is currently under investigation.</p> <p>Complainant has been advised of Council's proposed action in the matter.</p>

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Quarterly analysis report in accordance with Complaints Handling Policy.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

Nil.

36 [TCS-CM] Loan Borrowings - Transfer of Rights

ORIGIN:

Financial Services

SUMMARY OF REPORT:

In September 2008 Council restructured \$49,453,888 worth of loans over varying terms to Dexia Credit Local Asia Pacific (DCLAP).

Council has received correspondence from DCLAP who are proposing to transfer all of its rights and obligations pertaining to its Australian banking portfolio to Dexia Credit Local.

RECOMMENDATION:

That Council:

- 1. Receives and notes the advice from Dexia Credit Local Asia Pacific (DCLAP) on the transfer of all its rights and obligations pertaining to its Australian banking portfolio to Dexia Credit Local.**
- 2. Confirms with Dexia Credit Local Asia Pacific (DCLAP) that Council does not object to the transfer of rights and obligations to Dexia Credit Local with the amended Deed of Assignment.**
- 3. Treats ATTACHMENT 1 as CONFIDENTIAL in accordance with Section 10A(2)(g) of the Local Government Act, 1993 because it contains advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.**

REPORT:

In September 2008 Council restructured \$49,453,888 worth of loans over varying terms to Dexia Credit Local Asia Pacific (DCLAP).

Council has received correspondence from DLCAP who are proposing to transfer all of its rights and obligations pertaining to its Australian banking portfolio to Dexia Credit Local.

Background

DCLAP is a provider of finance to a number of local councils in NSW. DLCAP is a wholly owned subsidiary of Dexia Credit Local, a French licensed bank with a significant role in financing the local government sector in various parts of the world. Dexia Credit Local is in turn a wholly owned member of the Dexia group.

Dexia was materially impacted by the events of the financial crisis triggered in September 2008 and required significant intervention from the Governments of Belgium, France and Luxembourg towards its stabilisation and survival, including injections of equity and ongoing support in respect of debt raising.

Further measures at the behest of shareholders to ensure Dexia's longer term survival include a 'transformation plan' for Dexia that was announced in stages from November 2008 to January 2009. The transformation plan includes a discontinuation of wholesale banking activity in numerous countries, including Australia, and the centralisation of certain legacy portfolios of banking assets.

Proposed Transfer

DCLAP is proposing to transfer all of its rights and obligations pertaining to its Australian banking portfolio to Dexia Credit Local. The proposed transfer will include the transfer of DLCAP's rights and obligations under the Financing Arrangements.

No changes are proposed to the facilities within the NSW councils except for a change in the identity of the provider of the facilities from DCLAP to its direct parent Dexia Credit Local. For avoidance of doubt, the terms and conditions would remain unchanged and the currency of the facilities would remain Australian currency only.

DCLAP and Dexia Credit Local would take steps to ensure the Tweed Shire Council has a clearly defined means of maintaining contact with Dexia before and after the proposed centralisation.

NSW councils have a broad discretionary power to borrow funds, and may borrow at any time for any purpose allowed under the Local Government Act 1993. The Minister for Local Government issues a "Borrowing Order" from time to time, however the current and previous order have both stated:-

A council shall not borrow from any source outside of the Commonwealth of Australia nor in any other currency other than Australian currency.

Council has complied with this order whenever borrowing funds, the issue of this loan transfer is whether the transfer of rights and obligations attached to the loans constitutes:-

1. A borrowing under the provisions of the Minister's borrowing order; and
2. Will Council be exempt from withholding tax under the 2006 French convention of the International Tax Agreements Acts 1953.

Council sought legal advice from Slater & Gordon through Council's loan broker Integrity Finance Group - **Confidential Attachment 1**.

After discussions between Slater & Gordon and Dexia amendments/insertions were made to produce a new Deed of Assignment and a letter of indemnity for any future changes in the taxation position – **refer Confidential attachment**.

Slater & Gordon have recommended Council accept the letter and the Draft Deed of Assignment.

As a result of the legal advice it is recommended that Council confirm that they do not object to the transfer of rights and obligations from DCLAP to Dexia Credit Local.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. **Confidential Attachment** – Memorandum of Advice, Deed of Assignment and a letter of indemnity for any future changes in the taxation position (ECM 20123429).
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37 [TCS-CM] Tweed Shire Council Audit Committee - Independent Member Nominations

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

Council at its meeting of 15 June 2010 resolved to invite applications for two independent members to be appointed to the Audit Committee up to November 2012 and that they are remunerated for their services at the same rate as Council's Conduct Review Panel members.

Nominations for the two independent members were invited, which resulted in three nominations being:

Ross Bell
Warren Buntine
Colin Wight

Ross Bell is the current Chairman of the Audit Committee. Warren Buntine is a current independent member. Both of these persons have been active within the Audit Committee since their previous appointment in 2006.

Colin Wight was a partner in a large accounting practice based in Melbourne, has property interests within the Tweed Shire and while currently resides in Victoria has advised that he regularly visits the Tweed.

The Audit Committee Charter identifies that independent members must have appropriate skills and time to fulfil their role on the Committee with at least one member having significant qualifications, experience and skills in financial matters. It is desirable that the other independent member has public sector corporate management, legal and risk management qualifications and experience. All three nominees have qualifications and experience in auditing, accounting and business practices and meet the criteria for independent membership of the Audit Committee.

The charter also allows for meetings to be attended personally, by telephone or by video conference, so not permanently residing within the shire is not an impediment to committee membership.

Given the qualifications and experience of the three applicants' consideration should be given to appointing two independent members and an alternate member to the Audit Committee and the Audit Committee Charter be amended to cater for this appointment.

RECOMMENDATION:

That Council endorses:

- 1. The appointment of the following as the two independent members to the Audit Committee until November 2012:**
 - i. Ross Bell**
 - ii. Warren Buntine**

- 2. The appointment of the following as an alternate independent member to the Audit Committee until November 2012:**
 - i. Colin Wight**

- 3. The amendment of the Audit Committee Charter Version 1.4 to reflect the appointment of an alternate independent member.**

REPORT:

The Audit Committee Charter has been amended (as shown in italics/strikethrough) to cater for the appointment of an alternate independent member, as follows:

“3. Composition and Tenure

3.1 Members (voting)

The Committee consists of:

- Two independent *and one alternate independent member* - appointed by Council; and

Independent Member Appointment Process

Independent members shall be requested to nominate their services through a public invitation process. ~~The initial evaluation of potential members will be undertaken by the General Manager and Chairman of the Operations Committee, Appointment of the two and one alternate will be made by Council resolution,~~ taking into account the experience of the nominees and their ability to apply appropriate analytical and strategic management skills. ~~The General Manager and Chairman of the Operations Committee will then nominate selected independent members to Council for approval.~~

4.7 Responsibilities of Members

Members of the Committee are expected to:

- *Should a member be unavailable to attend a meeting, that member is to contact an alternate member to request their attendance.*

6.2 Attendance at Meeting and Quorums

Should a member be unavailable to attend a meeting, that member is to contact an alternate member to request their attendance.”



Policy

Audit Committee Charter

Version 1.4

Adopted by Council at its meeting on xxx
Minute No: xxx

Division: Technology and Corporate Services
Section: Corporate Compliance
File Reference:
Historical Reference: V1.0 07/02/2006, V1.1 Adopted
28/11/2006, V1.2 Adopted 13/11/2007;
V1.3 Adopted 21/7/2009 Minute No 153

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Audit Committee Charter

Preamble

This Charter establishes the authority and responsibilities conferred on the Audit Committee by Council and explain the role of the Audit Committee within the Council.

The Audit Committee is an advisory Committee of the Council and does not have executive power or authority to implement actions.

1. Objective

The objective of the Audit Committee (Committee) is to provide independent assurance and assistance to the Tweed Shire Council on control, governance and external accountability responsibilities.

The Audit Committee's objectives are to be implemented by ensuring that:

- A culture of adherence to Council policies and procedures is promoted;
- Business Systems and procedures have been established by the Executive Management Team and are effective;
- Appropriate risks and exposures are effectively managed;
- Statutory compliance is promoted and monitored;
- The audit processes (both internal and external) are effective; and
- The external reporting is objective and credible.

2. Authority

The Council authorises the Audit Committee within the scope of its role and responsibilities to:

- Propose and/or request the General Manager conduct investigations into any matters.
- Obtain any information it needs from any employee or external party subject to protected information legal obligations.
- Discuss any matters with the external auditor or other external parties subject to confidentiality considerations.
- Request the attendance of any employee or Councillor at Committee meetings.
- Obtain external legal or other professional advice considered necessary to meet its responsibilities.

3. Composition and Tenure

The Committee will consist of:

3.1 Members (voting)

The Audit Committee shall consist of at least four members. Changes to the Committee composition and tenure will be by approval of Tweed Shire Council.

The Committee consists of:

- Two independent **and one alternate independent member** - appointed by Council; and
- Two Councillors.

The Chair of the Committee will be an independent member elected by a majority vote of the members of the Audit Committee.

All independent members will be appointed by Council for a term of two years, after which they will be eligible for extension or re-appointment following a formal review of their performance.

3.2 Attendee (non-voting)

General Manager and Internal Auditor shall be available to attend all Audit Committee meetings but are not members of the committee and do not have voting rights.

3.3 Invitees (non-voting) for specific Agenda items

- Representatives of the external auditor.
- Other officers may attend by invitation as requested by the Committee.

Independent Member Skills

Independent members must have appropriate skills and time to fulfil their role on the Committee with at least one member having significant qualifications, experience and skills with financial matters. It is desirable that the other independent member has public sector corporate management, legal and risk management qualifications and experience.

Independent Member Appointment Process

Independent members shall be requested to nominate their services through a public invitation process. ~~The initial evaluation of potential members will be undertaken by the General Manager and Chairman of the Operations Committee.~~ **Appointment of the two and one alternate will be made by Council resolution,** taking into account the experience of the nominees and their ability to apply appropriate analytical and strategic management skills. ~~The General Manager and Chairman of the Operations Committee will then nominate selected independent members to Council for approval.~~

4. Role and Responsibilities

The Audit Committee has no executive powers, except those expressly provided by the Council.

In carrying out its responsibilities, the Audit Committee must at all times recognise that primary responsibility for management of Council rests with the Council and the General Manager as defined by the Local Government Act.

Ethical Practices

Members of the Audit Committee will, at all times in the discharge of their duties and responsibilities, exercise honesty, objectivity and probity and not engage knowingly in acts or activities that have the potential to bring discredit to the Council.

Members must also refrain from entering into any activity that may prejudice their ability to carry out their duties and responsibilities objectively and must at all times act in a proper and prudent manner in the use of information acquired in the course of their duties. Members must not use Council information for any personal gain for themselves or their immediate families or any manner that would be contrary to law or detrimental to the welfare of the Council.

Further, members must not publicly comment on matters relative to activities of the Committee other than as authorised by Council.

The Audit Committee's duties and responsibilities may be revised or expanded by the Council from time to time. The responsibilities of the Committee include, but not necessarily limited to:

4.1 Risk Management

- Review whether management and/or Council's **Enterprise** Risk Management Committee has in place a current and comprehensive risk management framework, and associated procedures for effective identification and management of business and financial risks, including fraud.
- Review whether a sound and effective approach has been followed in developing strategic risk management plans for major projects or undertakings.

4.2 Control Framework

- Review whether management has adequate internal controls in place, including external parties such as contractors and advisors;
- Review whether management has in place relevant policies and procedures, and these are periodically reviewed and updated;
- Progressively review whether appropriate processes are in place to assess whether policies and procedures are complied with;
- Review whether appropriate policies and procedures are in place for the management and exercise of delegations; and

- Review whether management has taken steps to embed a culture which is committed to ethical and lawful behaviour.
- Understand the scope of internal and external auditors' review of internal control over financial reporting, and obtain reports on significant findings and recommendations together with managements responses.

4.3 External Accountability

- Satisfy itself the annual financial reports comply with applicable Australian Accounting Standards and supported by appropriate management sign-off on the statements and the adequacy of internal controls.
- Review the external audit opinion, including whether appropriate action has been taken in response to audit recommendations and adjustments.
- To consider contentious financial reporting matters in conjunction with Council's management and external auditor.
- Review the processes in place designed to ensure financial information included in the annual report is consistent with the signed financial statements.
- Satisfy itself there are appropriate mechanisms in place to review and implement, where appropriate, relevant State Government reports and recommendations; and
- Satisfy itself there is a performance management framework linked to organisational objectives and outcomes and be reviewed for compliance with this external accountability.

4.4 Legislative Compliance

- Determine whether management has appropriately considered legal and compliance risks as part of the risk assessment and management arrangements.
- Review the effectiveness of the system for monitoring compliance with relevant laws, regulations and associated government policies.
- Review the process of communicating the Council's Code of Conduct and other corruption resistance controls to personnel, and for monitoring compliance therewith.
- Obtain regular updates from management and the Council's legal representatives regarding compliance matters.

4.5 Internal Audit

- Act as a forum for communication between the Council, General Manager, senior management, internal audit and external audit.
- Review and approve the Annual Internal Audit Plan. This plan should be risk based and its preparation to the Audit Committee conducted in accordance with AS/NZS4360:2004, with input from the Executive Management Team, External Audit and Internal Audit.
- Review all audit reports and consider significant issues identified in audit reports and action taken on issues raised, including identification and dissemination of better practices.
- Monitor the implementation of internal audit recommendations by management.

- Periodically review the Internal Audit Charter to ensure appropriate organisational structures authority, access and reporting arrangements are in place.
- The database of the Internal Audit Operation Plans is to be presented to every Audit Committee meeting, detailing the status of each audit in the respective plans.

4.6 External Audit

- Act as forum for communication between the Council, General Manager, senior management, internal audit and external audit.
- Provide input and feedback on the financial statement and performance audit coverage proposed by external audit, and provide feedback on the external audit services provided.
- Review all external plans and reports in respect of planned or completed external audits, and monitor the implementation of audit recommendations by management.
- Consider significant issues raised in relevant external audit reports and better practice guides, and ensure appropriate action is taken.

4.7 Responsibilities of Members

Members of the Committee are expected to:

- Understand the relevant legislative and regulatory requirements appropriate to Tweed Shire Council.
- Contribute the time needed to study and understand the papers provided.
- **Should a member be unavailable to attend a meeting, that member is to contact an alternate member to request their attendance.**
- Apply good analytical skills, objectivity and good judgement.
- Express opinions frankly, ask questions that go to the fundamental core of issues, and pursue independent lines of enquiry.
- At all times in the discharge of their duties and responsibilities, exercise honesty, objectivity and probity and not engage knowingly in acts or activities that have the potential to bring discredit to the Council.
- Refrain from entering into any activity that may prejudice their ability to carry out their duties and responsibilities objectively and must at all times act in a proper and prudent manner in the use of information acquired in the course of their duties.
- Not to use Council information for any personal gain for themselves or their immediate families or any manner that would be contrary to law or detrimental to the welfare of Council.
- Not to publicly comment on matters relative to activities of the Committee other than as authorised by Council.

5. Reporting

At the first Committee meeting after 30 June each year, Internal Audit will provide a performance report of:

- The performance of Internal Audit for the financial year as measured against agreed key performance indicators; and
- The approved Internal Audit Plan of work for the previous financial year showing the current status of each audit.

The Committee may, at any time, consider any other matter it deems of sufficient importance to do so. In addition, at any time an Individual Committee member may request a meeting with the Chair of the Committee.

6. Administrative Arrangements

6.1 Meetings

The Committee will meet at least four times per year, with one of these meetings to include review and endorsement of the annual financial reports and external audit opinion.

The need for any additional meetings will be decided by the Chair of the Committee, though other Committee members may make requests to the Chair for additional meetings.

A forward meeting plan, including meeting dates and agenda items, will be agreed by the Committee each year. The forward meeting plan will cover all Committee responsibilities as detailed in this Audit Committee Charter.

Minutes will be taken at these meetings, detailing matters discussed and action agreed.

It is the responsibility of the Chair of the Committee to set the Audit Committee meeting agenda. Meeting agendas will be prepared and provided in advance to members, along with appropriate briefing materials.

Agenda items for consideration at an Audit Committee meeting can be referred to the Chair of the Committee by Council, the General Manager, and other Audit Committee members, and the Internal Auditor or the External Auditor.

6.2 Attendance at Meeting and Quorums

A quorum will consist of the majority of Committee members, including at least one independent member. Meetings can be held in person, by telephone or by video conference.

Should a member be unavailable to attend a meeting, that member is to contact an alternate member to request their attendance.

The Internal Auditor will be invited to attend each meeting unless requested not to do so by the Chair of the Committee. The Committee may also request the Chief Finance Officer or any other employees to participate for certain agenda items, as well as the external auditor.

6.3 Secretariat

Council's Corporate Compliance Officer will provide secretariat support to the Committee.

The Officer will ensure the agenda for each meeting and supporting papers are circulated, at least one week before the meeting, and ensure minutes of the meetings are prepared and maintained. Minutes shall be approved by the Chair and circulated to each member within three weeks of the meeting being held.

6.4 Conflict of Interest

Committee members must declare any conflicts of interest at the start of each meeting or before discussion of a relevant agenda item or topic. Details of any conflicts of interest should be appropriately minuted.

Where members or invitees at Committee meetings are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from Committee deliberations on the issue where the conflict of interest may exist. The final arbiter of such a decision is the Chair of the Committee.

6.5 Induction

New members will receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.

6.6 Assessment Arrangements

The Chair of the Committee will initiate a review of the performance of the Committee at least once every two years. The review will be conducted on a self-assessment basis (unless otherwise determined by the Chair), with appropriate input from management and any other relevant stakeholders, as determined by the Chair.

6.7 Review of Audit Committee Charter

At least once every two years the Audit Committee will review this Audit Committee Charter.

The Audit Committee will recommend any changes of this Audit Committee Charter to Council for adoption.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Meeting attendance fees are payable and an appropriate budget allowance has been allocated.

POLICY IMPLICATIONS:

The Audit Committee Charter is updated to reflect the appointment of an alternate independent member.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

Nil.

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38 [TCS-CM] Joint Standing Committee on Electoral Matters - Report on 2008 Local Government Elections

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

The NSW Government Joint Standing Committee on Electoral Matters (JSCEM) tabled in Parliament on 1 June 2010 a Report on the 2008 Local Government elections.

Their report covers recommendations, principally administrative and policy matters involving the New South Wales Electoral Commission (NSWEC). In regard to Council, the Committee is recommending (item 11) that the Local Government Act 1993 is amended in time for the 2012 Local Government elections, to allow the election to occur with universal postal voting for those councils who opt to use that method of election.

The Commission will make arrangements with General Managers following the 2011 State election to outline the approach that it will be taking for the 2012 Local Government elections.

RECOMMENDATION:

That Council receives and notes the recommendations contained in the Joint Standing Committee Report on the 2008 Local Government elections.

REPORT:

The NSW Government Joint Standing Committee on Electoral Matters tabled in Parliament on 1 June 2010 a Report on the 2008 local government elections.

Their report covers recommendations, principally administrative and policy matters involving the New South Wales Electoral Commission. In regard to Council, the Commission will provide an early estimate of the cost for the 2012 Local Government elections.

List of recommendations

RECOMMENDATION 1: 11

The Committee recommends that:

(a) each House of Parliament amend the resolution establishing the Joint Standing Committee on Electoral Matters to include a *standing reference* to inquire into and report upon:

- i. the conduct and administration of local government elections, and
- ii. any matter connected with the following laws as they pertain to local government elections -

- the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*;

- the *Parliamentary Electorates and Elections Act 1912*; and

- the *Election Funding and Disclosures Act 1981*.

(b) the Committee is to report upon the outcome of any such inquiry as soon as practicable after 12 months from the date on which the local government elections are held.

(c) each House consider passing a resolution to clarify that the Joint Standing Committee on Electoral Matters may inquire into and report upon any matter relating to local government elections as referred to it by either House of the Parliament or a Minister.

RECOMMENDATION 2: 11

The Committee recommends that:

(a) the *Local Government Act 1993* be amended to require the Electoral Commissioner to provide a report to the appropriate Minister on each set of local government elections, within nine months of the election, and for the report to include details of the following:

- i. the role of the NSWEC;
- ii. electoral services provided to:
 - electors
 - councils
 - candidates, groups and political parties
- iii. recruitment and training of election staff, and the management of polling places;
- iv. counting and the provision of the election results;

Joint Standing Committee on Electoral Matters

List of recommendations

- v. funding arrangements and the costs associated with the local government elections;
- vi. benchmarking of the conduct and administration of the local government elections; and
- vii. any relevant legislative amendments affecting the conduct and administration of the local government elections.

(b) consistent with Recommendation 2a, an amendment be made to the *Parliamentary Electorates and Elections Act 1912* to require the Electoral Commissioner to provide a report to the Premier in respect of each state general election, within nine months of the election.

(c) the relevant statutes be amended to provide that the reports by the Electoral Commissioner in respect of each state general election and local government election be tabled in Parliament within 14 days of receipt by the Minister.

RECOMMENDATION 3:22

The Committee recommends that the Joint Standing Committee on Electoral Matters externally review the operation of the full cost recovery model for the 2012 local government general elections and, in light of the findings of that review, consider the necessity for engaging consultants to conduct any subsequent external reviews of the model.

RECOMMENDATION 4:27

The Committee recommends that the NSW Electoral Commissioner ensure that detailed information about the budgeted and actual costs for the 2012 local government elections be provided to all council General Managers. Such detailed information should provide explanations as to what each line item covers, and how it has been calculated and allocated.

RECOMMENDATION 5:45

The Committee recommends that a higher proportion of the NSW Government's advertising budget be spent advertising the next local government election in the fortnight preceding polling day.

RECOMMENDATION 6:47

The Committee recommends that:

- (a) the NSW Electoral Commission continue to conduct stakeholder surveys on the conduct of the election;
- (b) detailed information on the survey responses be provided to the Committee as part of the material examined during the proposed review of the 2012 local government elections, in addition to any statistical compilation of survey results;
- (c) in conducting the surveys the Electoral Commission give particular attention to stakeholder views on the following issues, raised with the Committee during the course of this inquiry:
 - the Regional Returning Officer model;
 - resourcing, staffing and location of pre-poll and polling booths;

- transportation of ballot papers;
- arrangements for scrutineering;
- election advertising;
- the Elector Inquiry Centre; and
- the counting of the vote.

RECOMMENDATION 7: 50

The Committee recommends that:

- (a) the NSW Electoral Commission consider formulating a 'Service Charter for local government elections', to be developed in consultation with relevant stakeholders and modelled on the Commonwealth and State Government Service Charters for departments and agencies dealing with the public.
- (b) the proposed Service Charter be aligned to the corporate values of the NSW Electoral Commission around their four key result areas, as they relate to local government general elections.
- (c) the NSW Electoral Commission include in its report on the local government elections information on its performance in providing services for local government elections, benchmarked against the proposed Service Charter.

RECOMMENDATION 8: 54

The Committee recommends that the following aspects of the Regional Returning Officer (RRO) model be given consideration by the NSW Electoral Commission in preparation for the 2012 local government elections:

- (a) the accessibility of RROs to the residents, candidates and staff of those councils not hosting the returning officer, including the possibility of the returning officer making visits to those other councils during the election period.
- (b) the use of a landline or free call contact number for all returning officers.
- (c) ballot paper transportation.
- (d) arrangements for pre-poll voting for those councils not hosting the RRO, including the possibility of employing part time electoral officials to cover those councils not hosting the RRO.

RECOMMENDATION 9: 57

The Committee recommends that:

- (a) councils should continue to be responsible for the maintenance of the non-residential roll for local government general elections;
- (b) the NSWEC and Department of Local Government work to clarify the appropriate authority for providing advice to councils on inclusions and exclusions to the non-resident roll;
- (c) as part of the consultations with General Managers prior to the 2012 local government general elections, the Electoral Commissioner provide information to

Joint Standing Committee on Electoral Matters

List of recommendations

councils on strategies to improve enrolment levels in relation to non-residential electors; and

(d) the NSW Electoral Commission continue to provide support for publication of information relating to the non-residential roll via the NSWEC website.

RECOMMENDATION 10:57

The Committee recommends that the requirement that a candidate's signature on a local government election nomination form be witnessed by a Justice of the Peace be discontinued.

RECOMMENDATION 11:66

The Committee recommends that:

(a) the *Local Government Act 1993* be amended to allow elections with universal postal voting for those councils who opt to use that method of election, in time for the 2012 local government elections.

(b) the Government undertake consultation on the best method for councils to use to decide to opt into a universal postal voting system.

(c) the NSWEC provide advice to the General Manager of local councils interested in universal postal voting as to the costs involved in taking up this option.

RECOMMENDATION 12:69

The Committee recommends that prior to the 2012 local government elections, the NSWEC:

(a) review the methodology used to calculate projected voting figures and allocate ballot papers for polling places.

(b) review the policies and procedures in place to deal with any shortage of ballot paper that may occur on election day.

(c) review the method for determining staffing levels for polling booths on election day, including multi-ward and multi-council polling places.

RECOMMENDATION 13:69

The Committee recommends that the Electoral Commissioner examine multi-council how-to-vote cards for multi-council polling places, with a view to allowing multi-council how-to-vote cards.

RECOMMENDATION 14:74

The Committee recommends that more priority be given to disability access for polling places.

RECOMMENDATION 15:85

The Committee recommends that the Electoral Commissioner:

(a) provide advice to General Managers as part of the consultation process in the lead up to the 2012 local government elections on the option of a local computerised count where required, including detailed information about the costs and resourcing issues.

(b) report on any initiatives undertaken by the NSW Electoral Commission toward improving counting and publication of results in the Commission's next report on the local government elections in 2012.

RECOMMENDATION 16: 88

The Committee recommends that the NSW Electoral Commission investigate the feasibility of abolishing the random sampling method for preference distribution and the alternative fractional methods currently available, and calculate the costs associated with moving to technology that would support an alternative method.

FINDING 1: 91

The Committee finds that changes to the above the line preferential voting system in use for local government elections would require further examination, including wider canvassing of stakeholder opinion, such as that of political parties, candidates and electors.

Recommendation 11 is specific for Council that the Local Government Act 1993 is amended in time for the 2012 Local Government Elections, to allow the election to occur with universal postal voting for those councils who opt to use that method of election.

“RECOMMENDATION 11:

The Committee recommends that:

- (a) the Local Government Act 1993 be amended to allow elections with universal postal voting for those councils who opt to use that method of election, in time for the 2012 local government elections.*
- (b) the Government undertake consultation on the best method for councils to use to decide to opt into a universal postal voting system.*
- (c) the NSWEC provide advice to the General Manager of local councils interest in universal postal voting as to the costs involved in taking up this option.”*

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Election costs in 2008 totalled \$342,177.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

39 [TCS-CM] Release of Investment Policy Guidelines and Investment Policy Version 1.4

ORIGIN:

Financial Services

SUMMARY OF REPORT:

The NSW Division of Local Government recently released updated Investment Policy Guidelines.

Recommendations contained in the Guidelines have been incorporated into Council's review of the Investment Policy, as attached.

As the amended Policy is in accordance with the revised Division of Local Government Guidelines, there is no necessity to publicly exhibit this revised Policy.

RECOMMENDATION:

That:

- 1. The Investment (of Surplus Funds) Policy Version 1.4 as reported be adopted.**
- 2. In accordance with section 161(2) of the Local Government Act 1993 the Policy not be publicly exhibited as the revision is a direct result of updated Guidelines from the NSW Division of Local Government.**

REPORT:

On 25 May 2010 the NSW Division of Local Government released updated Investment Policy Guidelines. The Guidelines were developed to assist councils with the preparation of an investment policy and the prudent and appropriate management of Council's surplus funds.



Circular No. 10-11
Date 25 May 2010
Doc ID. A198213

Contact Chris Duff
02 4428 4133
chris.duff@dlg.nsw.gov.au

RELEASE OF INVESTMENT POLICY GUIDELINES

On 25 May 2009, draft Investment Policy Guidelines were released for consultation. The final Investment Policy Guidelines have now been released after considering feedback from councils.

The Guidelines have been developed to assist councils with the preparation of an investment policy and the prudent and appropriate management of council's surplus funds.

As a result of the feedback received, the main changes to the Investment Policy Guidelines include:

- o clarification on the role of independent financial advisors
- o removal of the term 'investment strategy'
- o guidance to councils following a breach of the council's investment policy
- o a greater emphasis on councils maintaining legal title of their investments.

The Investment Policy Guidelines are available from the 'Publications' page of the Division's website at www.dlg.nsw.gov.au.

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Recommendations contained in the Guidelines have been incorporated into Council's annual review of the Investment Policy, as attached. The changes are shown below in italics:

“6) Delegation of Authority

Authority for implementation of the Investment Policy is delegated by Council to the General Manager in accordance with the Local Government Act 1993.

The General Manager may in turn delegate the day-to-day management of Council's investments to the Responsible Accounting Officer or senior staff, subject to regular reviews.

Officer's delegated authority to manage Council's investments shall be recorded and required to acknowledge they have received a copy of this policy and understand their obligations in this role.

7) Prudent Person Standard

Council's investments will be managed with the care, diligence and skill that a prudent person would exercise. As trustees of public monies, officers are to manage Council's investment portfolio, to safeguard the portfolio in accordance with the spirit of this Investment Policy and not for speculative purposes.

8) Ethics and Conflicts of Interest

Officers shall refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. This policy requires officers to disclose any conflict of interest to the General Manager.

11) Measurement

As Council continues to hold grandfathered investments such as Managed Funds and Bonds the investment returns for the portfolio are to be regularly reviewed by an independent market sources by assessing the market value of the portfolio. The market value is to be assessed at least once a month to coincide with monthly reporting.

12) Investment Strategy

An Investment Strategy will be formulated in conjunction with the investment policy. The Strategy will be reviewed annually and quarterly. The Strategy will outline:

- *Council will seek independent investment advice where necessary when preparing an investment policy. Advisors must have no actual or potential conflict of interest in relation to investment products being recommended.*
- *Advisors are required to provide written confirmation that they do not have any actual or potential conflicts of interest in relation to investment they recommending or reviewing. Manufacturers and distributors of investment products are excluded from acting as investment advisors to Council.*

14) Prohibited Investments

- *Any investment that does not comply with the General Products Check List (Schedule 6)*

15) Legal Title

When Council invests in financial instruments it is important that the financial instrument clearly shows it is held in the name of Council. i.e. Safe custody arrangement for bonds.

16) Reporting

There is a legislative requirement (clause 212 LGGR) for Council to report to Council each month regarding the investment portfolio. The report must detail amounts and types of investments currently held and investment portfolio performance compared to benchmark.

Council is also required to account for investments in the annual financial statements.”



Policy

Investment (of Surplus Funds)

Version 1.4

Adopted by Council at its meeting on xx

Minute No: xx

Division:	Technology and Corporate Services
Section:	Financial Services
File Reference:	N/A
Historical Reference:	Reviewed 7 July 2010; V1.3 Adopted 16 June 2009; V1.2 Adopted 11 March 2008; V1.1 Adopted 13 November 2007; V1.0 Adopted 19 October 2005

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Investment (of Surplus Funds)

1) Policy Objective

To provide a framework to help Council optimise its return on investment of surplus funds in a prudent and measurable manner. Specifically:

- Achieve or exceed budgeted investment revenue while preserving Council's capital.
- Establishment of Risk Management Guidelines based upon credit rating, limited exposure to individual institutions and term to maturity limits.
- Use of an appropriate benchmark for investment performance measurement.
- The use of investment types which comply with Legislative Requirements including the revised Investment Order dated 31 July 2008.

2) Legislative Requirements

- Local Government Act 1993, Section 412 & 625.
- Local Government Act 1993 – Order (of the Minister) pursuant to section 625 of the Local Government Act 1993.
- The Trustee Amendment (Discretionary Investments) Act 1997 - Sections 14A (2), 14C (1) & (2).
- Local Government (General) Regulation 2005 – Clause 212.
- Local Government Code of Accounting Practice and Financial Reporting.
- Australian Accounting Standards.
- Department of Local Government Circulars.
- Refer to Schedule 3 for extracts of legislation.

3) Risk Management Guidelines

Investments obtained are to comply with six key criteria relating to:

- i) Preservation of Capital:** the requirement for preventing losses in an investment portfolio's total value, inclusive of both principal and income.
- ii) Diversification/Credit Risk Guidelines:** limit overall credit exposure of the portfolio.

- iii) **Market Risk:** the risk that the fair value or future cash flows of an investment will fluctuate due to changes in market prices.
- iv) **Counterparty Credit Framework:** limit exposure to individual counterparties/institutions.
- v) **Maturity Framework:** limits based upon maturity of securities.
- vi) **Leveraging Risk:** the magnification of an investor's risk and return that occurs when the investor takes on financial leverage through an investment product.

4) **Diversification/Credit Risk Guidelines**

To control the credit quality on the entire portfolio, the following credit framework limits the percentage of the portfolio exposed to any particular credit rating category (refer to Schedule 2 for rating definitions):

Overall Portfolio Credit Limits			
Long-Term Credit Ratings	Short-Term Credit Ratings	Direct Investments Maximum	Managed Funds Maximum
AAA Category	A-1+	100%	100%
AA Category	A-1	100%	100%
A Category or below	A-2	60%	80%
BBB Category or below	A-3	20%	-
Unrated	Unrated	10%	10%

Note: Percentage limits are based upon Council's average core portfolio balance

5) **Authorised Investments**

Counterparty Credit Framework

Exposure to an individual counterparty/institution will be restricted by their credit rating so that single entity exposure is limited, as detailed in the table below:

Individual Counterparty Limits			
Long-Term Credit Ratings	Short-Term Credit Ratings	Direct Investments Maximum	Managed Funds Maximum
AAA Category	A-1+	25%	50%
AA Category	A-1	20%	45%
A Category or below	A-2	15%	40%
BBB Category or below	A-3	10%	-
Unrated	Unrated	5%	10%

- Investments with counterparties below A Category (Long Term) and below A-1 (Short Term) are to be restricted to **Authorised Deposit Taking Institutions** (ADIs = banks, building societies and credit unions) regulated by, and subject to the prudential standards of, the Australian Prudential Regulation Authority (APRA).
- Investments with the non-rated LGFS and NSW T-Corp will be regarded in terms of the respective investments' "shadow rating" as advised by those institutions.

- The short-term credit rating limit will apply in the case of discrepancies between short and long-term ratings.
- In the event that a credit rating of a security or of the company/body issuing the security falls below the required minimum, as set out in the Minister's Order, Council will make all necessary arrangements to withdraw deposits as soon as practical.
- Percentage limits are based upon Council's average core portfolio balance.
- All investments must be denominated in Australian dollars.

6) Delegation of Authority

Authority for implementation of the Investment Policy is delegated by Council to the General Manager in accordance with the Local Government Act 1993.

The General Manager may in turn delegate the day-to-day management of Council's investments to the Responsible Accounting Officer or senior staff, subject to regular reviews.

Officer's delegated authority to manage Council's investments shall be recorded and required to acknowledge they have received a copy of this policy and understand their obligations in this role.

7) Prudent Person Standard

Council's investments will be managed with the care, diligence and skill that a prudent person would exercise. As trustees of public monies, officers are to manage Council's investment portfolio, to safeguard the portfolio in accordance with the spirit of this Investment Policy and not for speculative purposes.

8) Ethics and Conflicts of Interest

Officers shall refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. This policy requires officers to disclose any conflict of interest to the General Manager.

9) Term to Maturity Framework

The Investment portfolio is to be invested within the following maturity constraints:

Overall Portfolio Term to Maturity Limits	
Portfolio % <1 year	100% max; 40% min
Portfolio % >1 year	60%
Portfolio % >3 years	35%
Portfolio % =5 years	25%

- To provide adequate liquidity all tradeable securities purchased will have, subject to market conditions, the ability to be liquidated within five working days.

- Percentage limits are based upon Council's average core portfolio balance.
- The term to maturity of any of Council's investments may range from "at call" to five (5) years at final legal maturity.

10) Performance Benchmark

The performance benchmark for Tweed Shire Council's investment portfolio is the industry standard UBS 90 day Bank Bill Index.

11) Measurement

As Council continues to hold grandfathered investments such as Managed Funds and Bonds the investment returns for the portfolio are to be regularly reviewed by an independent financial advisor by assessing the market value of the portfolio. The market value is to be assessed at least once a month to coincide with monthly reporting.

12) Investment Strategy

An Investment Strategy will be formulated in conjunction with the investment policy. The Strategy will be reviewed annually and quarterly. The Strategy will outline:

- Council's cash flow expectations for a specified period i.e. one year
- Optimal target allocation of investment types, credit rating exposure, and term to maturity exposure
- Appropriateness of overall investment types for Council's portfolio
- Determine the investment portfolio level for the forthcoming year
- Council will seek independent investment advice where necessary when preparing an investment policy. **Advisors must have no actual or potential conflict of interest in relation to investment products being recommended.**
- **Advisors are required to provide written confirmation that they do not have any actual or potential conflicts of interest in relation to investment they recommending or reviewing.** Manufacturers and distributors of investment products are excluded from acting as investment advisors to Council.
- The Investment Strategy will fully comply with legislative requirements and Council's investment policy.

13) Approved Investments

- Commonwealth/State/Territory Government security eg bonds
- Interest bearing deposits issued by an authorised deposit taking institution (ADI)
- Debentures issued by NSW Local Government
- Land mortgages (<60% of land value)
- Deposits with Local Government Investment Services Pty Limited
- Deposits with NSW Treasury &/or Investments in TCorp's Hour Glass Facility
- Investments grandfathered under the previous Ministerial Investment Order

14) Prohibited Investments

- Derivative based instruments
- Principal only investments or securities that provide potentially nil or negative cash flow;
- Stand alone securities issued that have underlying futures, options, forwards contracts and swaps of any kind
- The use of leveraging (borrowing) for investment
- Subordinated debt instruments
- Any investment that does not comply with the General Products Check List (Schedule 6)

15) Legal Title

When Council invests in financial instruments it is important that the financial instrument clearly shows it is held in the name of Council, i.e. Safe custody arrangement for bonds.

16) Reporting

There is a legislative requirement (clause 212 LGGR) for Council to report to Council each month regarding the investment portfolio. The report must detail amounts and types of investments currently held and investment portfolio performance compared to benchmark.

Council is also required to account for investments in the annual financial statements.

17) Review of Investment Policy

- The policy will be reviewed annually and submitted to Council if any amendments.
- Good corporate governance requires Council to arrange a review of its investments by an independent external entity to verify that:
 - i) new investment types/products comply with Council's investment policy
 - ii) the valuation of investments against set benchmarks are least monthly
 - iii) investments have been placed in accordance with Council's investment policy

Schedules

- Schedule 1 – Investment (Financial) Instrument Descriptions
- Schedule 2 – Standard's & Poor's Ratings Description
- Schedule 3 – Copies of Relevant Legislation
- Schedule 4 – Summary of new Ministerial Investment Order changes
- Schedule 5 – New Ministerial Investment Order dated 18 August 2008
- Schedule 6 – General Products Check List

Schedule 1 - Investment (Financial) Instrument Description

11am call deposits

Cash invested on an overnight basis. Funds can be recalled or re-invested before 11am on the following business day.

Term Deposit

Funds invested with a financial institution at a predetermined rate that applies to the duration of the deposit. The principal is held on deposit for a fixed term with interest payable at maturity. It is not a tradeable security and the investor is penalised when funds are prepaid.

Bank Bill

Bank-accepted bills are bills of exchange drawn by a company or individual (borrower) usually for periods between 30 and 180 days. The bill is accepted by the bank, which in turn accepts the liability for payment at maturity. It is a short-term investment issued at a discount to the face value and is of a very high credit standing, consequently trades at the lowest yields of all commercially issued bills.

Negotiable Certificate of Deposit (NCD)

These are short-term bearer securities issued by banks for up to 180-days. They are sold at a discount to face value and are highly liquid discount securities; representing the bank's debt, therefore trade at similar yields to bank bills. Creditworthiness of the bank will determine where the bank's NCD trades, relative to the BBSW.

Promissory Note (PN) / Commercial Paper (CP)

A negotiable instrument evidencing an unsecured obligation (promise) the issuer has to repay a certain amount of money at a future date, usually for up to six months. CP is a highly liquid discount security that is traded on a yield to maturity basis. To be marketable, a credit rating must be obtained from a ratings agency e.g. Standard & Poor's. Major issuers include industrial corporations, securitised vehicles and finance companies. It has a higher risk of default than a bank and hence trades at a higher yield.

Floating Rate Note (FRN)

The FRN is a longer-term debt security issued for a fixed period of time but has a variable (floating) coupon on a monthly or quarterly basis. The coupon reflects current interest rates, which is determined as a margin over the BBSW rate set. FRN's appeal to investors who are reluctant to commit funds to fixed interest investments for longer periods in times of fluctuating interest rates. Typical issuers are banks, corporates, financial institutions and securitised vehicles.

Residential Mortgage Backed Securities (RMBS)

RMBSs are specific type of securitised asset (investment products that convert an income stream of multiple receivables into a security paying regular coupon payments). RMBSs are backed by a pool of residential mortgages. These securities are structured into different classes with varying security characteristics. The majority of RMBS are "pass-through's" where the cash flows (principal and interest) received from the underlying mortgages that make up the pool are passed directly through to the holders of the RMBS.

Asset Backed Securities (ABS)

Another form of securitised asset backed by assets other than residential mortgages. Such alternative assets include automobile loan receivables, commercial mortgages, equipment lease receivables, and credit card receivables. ABS can be either fixed or floating rate securities.

Fixed Interest Securities (Bonds)

Securities issued by Commonwealth, State or corporate institutions that pay a fixed rate of interest (coupon) and mature at a fixed point in time. The interest (coupon) is paid at regular intervals (semi-annually, but can be paid monthly, quarterly, or annually). These securities are generally issued for a period of greater than one year.

Collateralised Debt Obligations (CDO)

While nearly every CDO structure can be slightly different, a "plain vanilla" structure typically has 75 – 150 underlying entities (a range of global companies diversified by industry sector) with credit ratings ranging from BBB to AAA. The CDO itself is then split into various "tranches" each with different amounts of subordination (i.e. collateral) which results in the higher subordinated tranches receiving higher credit ratings from the rating agencies. When an underlying entity has a credit event a portion of the subordination is eroded. CDOs are highly leveraged instruments which can have large fluctuations in their mark-to-market valuations, and very possibly their credit rating, when an underlying entity has encountered a "credit event", such as bankruptcy. Depending on the particular structure, the security can typically sustain between 6 - 8 credit events before the investor's capital is in jeopardy.

Pooled Managed Funds

• **Sector Specific Funds**

These funds invest in one particular asset sector. Council's Cash Plus and Cash Enhanced Fund are examples of Sector Specific Funds as they predominately invest in a range of short dated cash-type securities with the aim of outperforming the UBS 90 day Bank Bill Index benchmark. They are designed to enhance returns on short-term holdings as an alternative to short-dated bank bill and term deposit portfolios. They provide easy access to holdings and can be redeemed within 24 to 48 hours.

- **Diversified Funds**

These funds invest in a pre-determined range of asset classes including cash, fixed interest, property, and Australian & international shares. The weighting among the various asset classes will differ depending upon the type of diversified fund chosen, e.g. Conservative Funds (TCorp's Medium Term Growth) have a higher weighting in cash and fixed interest than Balanced Funds (TCorp's Long Term Growth) that have higher weightings in growth assets such as property and shares.

Schedule 2 - Standard & Poor's Ratings Description

Credit Ratings

Standard & Poor's (S&P) is a professional organisation that provides analytical services. An S&P rating is an opinion of the general creditworthiness of an obligor with respect to particular debt security or other financial obligation — based on relevant risk factors.

Credit ratings are based, in varying degrees, on the following considerations:

- Likelihood of payment.
- Nature and provisions of the obligation.
- Protection afforded by, and relative position of, the obligation in the event of bankruptcy, reorganisation or other laws affecting creditors' rights.

The issue rating definitions are expressed in terms of default risk.

Short-Term Obligation Ratings are:

A-1

This is the highest short-term category used by S&P. The obligor's capacity to meet its financial commitment on the obligation is strong. Within this category, certain obligations are designated with a plus sign (+). This indicates that the obligor's capacity to meet its financial commitment on these obligations is extremely strong.

A-2

A short-term obligation rated A-2 is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations in higher rating categories. However, the obligor's capacity to meet its financial commitment on the obligation is satisfactory.

A-3

A short-term obligation rated A-3 exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity of the obligor to meet its financial commitment on the obligation.

Long-Term Ratings are:

AAA

An obligation/obligor rated AAA has the highest rating assigned by S&P. The obligor's capacity to meet its financial commitment on the obligation is extremely strong.

AA

An obligation/obligor rated AA differs from the highest rated obligations only in a small degree. The obligor's capacity to meet its financial commitment on the obligations is very strong.

A

An obligation/obligor rated A is somewhat more susceptible to the adverse effects of changes in circumstances and economic conditions than obligations/obligor in higher rated categories. However, the obligor's capacity to meet its financial commitment on the obligation is still strong.

BBB

An obligation/obligor rated BBB exhibits adequate protection parameters. However, adverse economic conditions or changing circumstances are more likely to lead to a weakened capacity to the obligor to meet its financial commitment on the obligation.

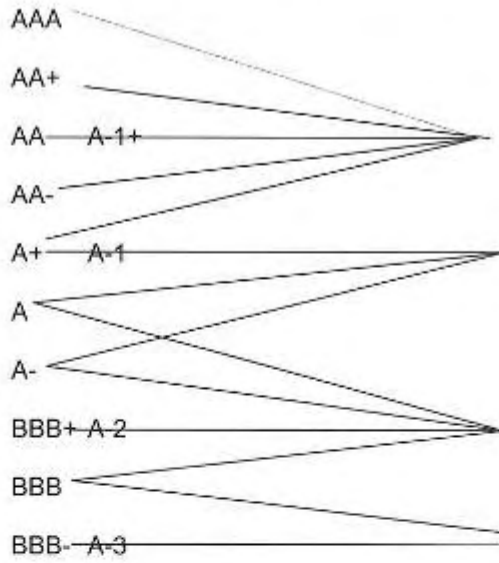
Plus (+) or Minus (-): The ratings from "AA" to "BBB" may be modified by the addition of a plus or minus sign to show relative standing within the major rating categories.

CreditWatch highlights an emerging situation, which may materially affect the profile of a rated corporation and can be designed as positive, developing or negative. Following a full review the rating may either be affirmed or changed in the direction indicated.

A Rating Outlook assesses the potential direction of an issuer's long-term debt rating over the intermediate-to-long term. In determining a Rating Outlook, consideration is given to possible changes in the economic and/or fundamental business conditions. An outlook is not necessarily a precursor of a ratings change or future CreditWatch action. A "Rating Outlook – Positive" indicates that rating may be raised. "Negative" means a rating may be lowered. "Stable" indicates that ratings are not likely to change. "Developing" means ratings may be raised or lowered.

S & P Ratings Correlations

The standard correlation of short-term ratings with long-term ratings is shown below:



Schedule 3 - Excerpts of Legislative Requirements

LOCAL GOVERNMENT ACT 1993 - SECT 412 & 625

Section 412 Accounting Records

- (1) A council must keep such accounting records as are necessary to correctly record and explain its financial transactions and its financial position.
- (2) In particular, a council must keep its accounting records in a manner and form that facilitate:
 - (a) the preparation of financial reports that present fairly its financial position and the results of its operations, and
 - (b) the convenient and proper auditing of those reports.

Section 625 How May Councils Invest?

- (1) A council may invest money that is not, for the time being, required by the council for any other purpose.
- (2) Money may be invested only in a form of investment notified by order of the Minister published in the Gazette.
- (3) An order of the Minister notifying a form of investment for the purposes of this section must not be made without the approval of the Treasurer.
- (4) The acquisition, in accordance with section 358, of a controlling interest in a corporation is not an investment for the purposes of this section.

Investment Guidelines

- Councils must comply with clause 212 of the Local Government (General) Regulation 2005 that provides for reporting on council investments by the responsible accounting officer.
- The Code of Accounting Practice and Financial Reporting require councils to maintain a separate record of money it has invested under section 625 of the Act. The record must specify:
 - (a) the source and the amount of money invested; and
 - (b) particulars of the security or form of investment in which the money is invested; and
 - (c) If appropriate, the rate of interest to be paid, and the amount of money that the council has earned, in respect to the money invested.
- A council or entity acting on its behalf should exercise the care, diligence and skill that a prudent person would exercise in investing council funds. A prudent person is expected to act with considerable duty of care, not as an average person would act, but as a wise, cautious and judicious person would. (Ref: Trustee Amendment (Discretionary Investments) Act 1997 section 14 A (2)).
- A council should develop an investment strategy as part of its overall financial plan. The strategy should, as a minimum consider the desirability of diversifying investments and the nature and risks associated with the investments. (For guidance see: Trustee Amendment (Discretionary Investments) Act 1997 section 14 c (1) "matters to which trustee is to have regard when exercising power of investment").
- A council should at least once in each year, review the performance (individually and as a whole) of council investments and review its investment strategy.
- An investment adviser or investment dealer acting on behalf of a council should be licensed by the Australian Securities and Investment Commission. Ref: www.asic.gov.au
- Where a council invests in banks; building societies and credit unions it should know that these institutions are regulated as authorised deposit taking institutions by the Australian Prudential Regulation Authority (APRA) under the Banking Act 1959 Ref. www.apra.gov.au Note, however, that whilst APRA has power to require financial institutions to observe prudential standards (such as appropriate capitalisation, liquidity and governance) and to intercede if it believes that depositors', policyholders' or members' interests are at risk, it provides no guarantee of the performance of the financial institution.
- Credit ratings are a guide or standard for an investor, which indicate the ability of a debt issuer or debt issue to meet the obligations of repayment of interest and principal. Credit rating agencies such as Moody's and Standard and Poor's make these independent assessments based on a certain set of market and non-market

information. Ratings in no way guarantee the investment or protect an investor against loss. Prescribed ratings should not be misinterpreted by councils as an implicit guarantee of investments or entities that have such ratings. Even given this challenge, ratings provide the best independent information available.

- In the event that a credit rating of a security or the credit rating of the company or body issuing the security falls below the required minimum, as set out in the Minister's Order, a council must make all the necessary arrangements to withdraw the deposit as soon as practicable.
- Note that in choosing a NSW Treasury Corporation hour-glass investment the choice of the facility should be based on the nature of the underlying commitments for which the council is holding funds. For example, funds required in the short term must be invested with a short-term profile rather than with exposure to more volatile asset classes such as property and shares.

The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14a (2), 14c (1) & (2)

14A (2) Duties of trustee in respect of power of investment

A trustee must, in exercising a power of investment:

- (a) if the trustee's profession, business or employment is or includes acting as a trustee or investing money on behalf of other persons, exercise the care, diligence and skill that a prudent person engaged in that profession, business or employment would exercise in managing the affairs of other persons, or
- (b) if the trustee is not engaged in such a profession, business or employment, exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

14C Matters to which trustee is to have regard when exercising power of investment

- (1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a trustee must, so far as they are appropriate to the circumstances of the trust, if any, have regard to the following matters:
 - (a) the purposes of the trust and the needs and circumstances of the beneficiaries,
 - (b) the desirability of diversifying trust investments,
 - (c) the nature of, and the risk associated with, existing trust investments and other trust property,
 - (d) the need to maintain the real value of the capital or income of the trust,
 - (e) the risk of capital or income loss or depreciation,
 - (f) the potential for capital appreciation,
 - (g) the likely income return and the timing of income return,
 - (h) the length of the term of the proposed investment,
 - (i) the probable duration of the trust,

- (j) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment,
 - (k) the aggregate value of the trust estate,
 - (l) the effect of the proposed investment in relation to the tax liability of the trust,
 - (m) the likelihood of inflation affecting the value of the proposed investment or other trust property,
 - (n) the costs (including commissions, fees, charges and duties payable) of making the proposed investment,
 - (o) the results of a review of existing trust investments in accordance with section 14A (4).
- (2) A trustee may, having regard to the size and nature of the trust, do either or both of the following:
- (a) obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice,
 - (b) pay out of trust funds the reasonable costs of obtaining the advice.

Local Government (General) Regulation 2005 - Clause 212

212 Reports on council investments

- (1) The responsible accounting officer of a council:
- (a) must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:
 - i) if only one ordinary meeting of the council is held in a month, at that meeting, or
 - (ii) if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and
 - (b) must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council's investment policies.

- (2) The report must be made up to the last day of the month immediately preceding the meeting.

Note. Section 625 of the Act says how a council may invest its surplus funds.

Schedule 4:

Important changes to the revised Ministerial investment Order (refer Schedule 5) dated 31 July, 2008:

1. Principal and investment income are to be included in the definition of investment instruments. Listed after Item (g) in the new Ministerial Order.
2. Credit ratings are no longer the sole determinant of an investment's suitability. Removal of investments and specific credit ratings listed under items (k) and (l) of the previous Ministerial Order dated 15 July 2005. i.e. Item (k) allowed investment in "any securities which are issued by a body or company with a Moody's Investors Service Inc. credit rating of Aaa As1 Aa2 A1 or A2 or a Standard and Poor's Investors Service Inc. credit rating of AAA AA+ AA AA- A+ A A1+ or A1 or a Fitch Rating credit rating of AAA AA+ AA AA- A+ or A." Item (l) included "any securities which are given a moody's Investors Service Inc credit rating of Aaa Aa1 Aa2 Aa3 A1 A2 or Prime-1 or a Standard and Poor's Investors Service Inc. credit rating of AAA AA+ AA AA- A+ or A.
3. Removal of item (g) in the previous Ministerial Order, which identified purchase of land as a form of investment. This removal does not preclude Council from acquiring land for the purpose of exercising any of its functions under s186(1) of the Local government Act 1993.
4. Amendment of item (a) of the Order to include "any public funds or securities issued or guaranteed by the Commonwealth, any State or Territory of the Commonwealth"
5. Restricting mortgage of land to first mortgages over the land with a Loan to Value ratio of no greater than 60%. Item (c.) of the new Ministerial Order.
6. Item (d) of the new Ministerial Order prohibits investment in subordinated obligations.
7. Investment in managed funds other than the NSW treasury Corporation Hour-glass investment facility or Local Government Financial Service is prohibited.
8. Transitional (grandfathering) arrangements allow Council to retain certain existing, non-complying investments until maturity.

Schedule 5:



Circular No. C08-45
Date 18 August 2009
Doc ID: A153389

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REVISED MINISTERIAL INVESTMENT ORDER

The recent Review of NSW Local Government Investments ("the Cole Report") investigated the impact on councils that invested in structured financial products. The NSW Government adopted all the recommendations from the report.

The Minister for Local Government has now issued a revised Order pursuant to section 625 of the *Local Government Act 1993*. The Minister signed the amended Order on 31 July 2008 and it was gazetted on Friday 15 August 2008. It replaces the Order dated 15 July 2005. The revised Order is attached to this circular.

The changes to the Order include:

- including both principal and investment income in the definition of investment instruments
- removal of investments with specific credit ratings under items (k) and (l) of the previous Order. This decision will be reviewed after 31 December 2009
- removal of item (g) in the previous Order, which identified purchase of land as a form of investment. This removal does not preclude a council from acquiring land for the purpose of exercising any of its functions (s188(1) *Local Government Act 1993*)
- streamlining the wording around investing in public funds and securities issued by or guaranteed by the Commonwealth or Territory (part (a))
- restricting mortgages over land to first mortgages with a Loan to Value ratio of no greater than 60% (part (c))
- excluding subordinated obligations (part (d))
- improving the wording for investments and bills of exchange with authorised deposit-taking institutions (part (e))
- transitional arrangements regarding existing investments (grandfathering provisions).

The Department is preparing guidelines aimed at assisting councils in developing a comprehensive investment policy. The process will incorporate consultation with stakeholders. The guidelines will include issues raised in the Cole Report relating to conflicts of interest, such as product manufacturers and distributors being appointed as investment advisors, and the fiduciary responsibilities of councils and county councils in relation to investment activities.

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When considering selling current investments that fall below the requirements of the revised Ministerial Investment Order (see Circular 06-70), councils should exercise due care and diligence. Councils should not solely rely on advice from the issuer of the investment and should seek independent financial advice. An investment adviser or dealer acting on behalf of a council should be licensed by the Australian Securities and Investment Commission (ASIC) (www.asic.gov.au).



Barry Payne AM
Director General

LOCAL GOVERNMENT ACT 1993 – INVESTMENT ORDER
(Relating to investments by councils)

I, the Hon. Paul Lynch MP, Minister for Local Government, in pursuance of section 625(2) of the *Local Government Act, 1993* and with the approval of the Treasurer, do, by this my Order, notify for the purposes of section 625 of that Act that a council or county council may only invest money (on the basis that all investments must be denominated in Australian Dollars) in the following forms of investment:

- (a) any public funds or securities issued by or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory;
- (b) any debentures or securities issued by a council (within the meaning of the *Local Government Act 1993 (NSW)*);
- (c) mortgage of land in any State or Territory of the Commonwealth (restricted to first mortgages over land with a Loan to Value ratio of no greater than 80%);
- (d) interest bearing deposits with, or any debentures or bonds issued by, an authorised deposit-taking institution (as defined in the *Banking Act 1959 (Cwth)*), but excluding subordinated debt obligations;
- (e) any bill of exchange which has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank which has been designated as an authorised deposit-taking institution by the Australian Prudential Regulation Authority;
- (f) a deposit with the Local Government Financial Services Pty Ltd
- (g) a deposit with the New South Wales Treasury Corporation or investments in an Hour-Glass investment facility of the New South Wales Treasury Corporation.

All investment instruments (excluding short term discount instruments) referred to above include both principal and investment income.

Transitional Arrangements

- (i) Subject to paragraph (ii) nothing in this Order affects any investment made before the date of this Order which was made in compliance with the previous Ministerial Order dated 15 July 2005, and such investments are taken to be in compliance with this Order.
- (ii) Paragraph (i) only applies to those investments made before the date of this Order and does not apply to any restructuring or switching of investments or any re-investment of proceeds received on disposal or maturity of such investments, which for the avoidance of doubt must comply with this Order.

Dated this 1st day of 2008 Hon PAUL LYNCH MP
Minister for Local Government

Schedule 6: General Products Check List

- 1) Have you found out how the funds will be invested, how will they generate returns and how will these be paid to the Council? (Could you describe to others how this product works?)
Yes No
- 2) Are you clear on the conditions associated with this type of investment and the level of risk?
Yes No
- 3) Does the investment meet Council's financial objective and comply with Council's investment policy?
Yes No
- 4) Are Council's product issuers licensed by the Australian Security and investment Commission?
Yes No
- 5) Do you know if/how the investment may be affected by a major shift in the economy and market sentiment?
Yes No
- 6) Could the investment be liquidated in a timely manner without loss or penalty? i.e. can Council quickly get its money back out of this product if it needs to? Are there any fees to get out early?

Note: If you answered "No" to any of the above questions, do your research and consult your financial advisor. If necessary, review your investment decision.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

All current investments comply with the revised Investment (of Surplus Funds) Policy.

POLICY IMPLICATIONS:

Council's Investment (of Surplus Funds) Policy be updated.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

1. Department of Premier and Cabinet, Division of Local Government – Investment Policy Guidelines May 2010 (ECM 18443527).
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**40 [TCS-CM] Corporate Quarterly Report - 1 April to 30 June 2010
Incorporating the 7 Year Infrastructure and Services Plan**

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

The Corporate Quarterly Report for the period 1 April to 30 June 2010 is presented for consideration by Council.

This report details the progress for the period on activities identified to be undertaken during 2009-2010 in the 2009-2012 Management Plan including progress on the 7 Year Infrastructure and Services Plan.

RECOMMENDATION:

That Council receives and notes the Corporate Quarterly Report including progress on the 7 Year Infrastructure and Services Plan for the period 1 April to 30 June 2010.

REPORT:



Tweed Shire Council Corporate Quarterly Report for Apr - June 2010

Social Action Plan	Cost Centre	Measure	Target	July - Sept	Oct - Dec	Jan - Mar	Apr - June	Total	Comments
Communications & Marketing									
Festivals & Events									
Festivals & events held in the Shire									
	C031	number	25	11	10	7	15	43	
Community & Natural Resources									
Manager Community & Cultural Services									
Libraries book borrowings									
	C009	number	700,000	172,109	153,976	180,884	177,142	684,111	
	C012	number	35	6	7	6	0	19	
Youth sector and AOD projects/activities									
	C012	number	900	155	186	167	0	508	
Youth people participating/attending projects or activities									
	C012	number	24	7	2	4	0	13	
Youth Committee meetings facilitated									
	C012	number	100	96	22	22	0	140	Exceeds target
Young people consulted in relation to Council activities									
	C012	number	500	250	215	218	100	783	Exceeds target
Young people using Council facilitated / provided transport									
	C012	number	50	70	27	25	0	122	Exceeds target
Youth development projects volunteers									
	C010	number	30	0	0	10	8	18	
Museum volunteers trained									
	C009	number	44,000	44,678	47,603	47,730	48,406	47,730	Exceeds target
Libraries number of members									
	C012	number	10	5	0	5	0	10	
Seniors projects media releases									
	C009	number	8	8	3	6	10	27	Exceeds target
Libraries projects completed									
	C008	number	25	8	11	9	13	41	Exceeds target
Regional Art Gallery exhibitions									
	C010	number	10	4	3	2	5	14	Exceeds target
Museum projects delivered									
	C010	number	400	350	370	372	375	372	Exceeds target
Total museum members & volunteers									
	C010	number	3120	650	460	345	670	2,125	
Museum visitor attendance									
	C009	number	310,000	91,902	82,058	86,944	80,586	341,490	Exceeds target
Libraries number of library users									
	C007	number	3	2	1	2	5	10	Exceeds target
Community Halls & Centres projects developed									
	C008	number	20	4	1	5	0	10	Project incomplete. Project to be completed in 2010-2011 financial year
Cultural Development, partnerships developed & initiated									
	C008	number	7	6	3	1	0	10	Project incomplete. Project to be completed in 2010-2011 financial year
Cultural Development, Cultural Arts Project development									
	C008	number	50	25	100	20	0	145	Exceeds target
Cultural Development, Cultural Arts Project participants									
	C008	number	150	80	50	25	0	155	Exceeds target
Cultural Development, Cultural Arts Project attendances									

Performance outcomes are reported on a 'Quarterly' basis unless otherwise stated in the performance measure.

Social Action Plan	Cost Centre	Measure	Target	July - Sept	Oct - Dec	Jan - Mar	Apr - June	Total	Comments	
Community & Natural Resources										
Manager Community & Cultural Services										
Cultural Development, Entrepreneurial & Audience Development Strategy	C008	%	50%	25	15	0	0	0	40	Project incomplete. Project to be completed in 2010-2011 financial year
Cultural Development, Stage 1 Auditoria project	C007	%	50%	25	50	10	0	85	Exceeds target	
Youth sector and AOD meetings	C012	number	8	3	6	2	0	11	Exceeds target	
Community Halls & Centres upgrades	C007	number	12	15	4	2	1	22	Exceeds target	
Seniors community groups & service providers serviced	C012	number	20	9	11	29	16	65	Exceeds target	
Community Halls & Centres funding submissions initiated	C007	number	n/a	0	2	3	2	7		
HACC, expected intake excluding ComPacks	C012	number	450	78	90	86	123	377	Exceeds target	
HACC, total case management hours	C012	hours	5200hrs	1,402	1,632	1,496	1,620	6,150	Exceeds target	
ComPacks total cases managed for NSW Health	C012	number	600	221	170	177	193	761	Exceeds target	
Seniors projects events & activities	C012	number	50	7	8	8	6	29		
Seniors projects number of participants	C012	number	4000	1,240	458	1,270	54	3,022		
Regional Art Gallery workshops	C008	number	15	5	3	7	6	21	Exceeds target	
Community Halls & Centres coordination	C007	number	10	37	25	25	25	28	Exceeds target	
Social Plan completed	C012	%	100%	10	10	0	10	30		
Cultural Development, adoption of the 2009-10 Cultural Plan	C008	%	100%	50	20	10	0	80	Project incomplete. Project to be completed in 2010-2011 financial year	
Cultural Development, Tweed Creative Industries Strategy	C008	%	100%	25	25	20	0	70	Project incomplete. Project to be completed in 2010-2011 financial year	
Aged industry organisations involved in planning	C012	number	30	7	7	9	6	29		
Aged industry number of meetings	C012	number	10	15	10	10	23	58		
Disability projects, events & activities	C012	number	20	7	7	7	14	35	Exceeds target	
Disability projects, meetings attended	C012	number	16	6	7	4	28	45	Exceeds target	
Disability projects, volunteers involved	C012	number	10	0	40	8	10	58	Exceeds target	
Disability projects, funding submissions	C012	number	1	0	0	0	0	0		
Disability projects, partnerships initiated	C012	number	4	7	8	6	7	28	Exceeds target	
Disability projects, number of participants	C012	number	20	18	100	32	47	197	Exceeds target	
Cultural Development Research Study	C008	%	100%	90	10	0	0	100	Research study is completed.	
Social planning meetings held	C012	number	4	12	15	9	15	51		
Aboriginal liaison hours coordinating initiatives or activities	C012	hours	560hrs	137	125	120	60	442		
Aboriginal liaison workshops & exhibitions held	C012	number	3	2	2	2	0	6		
Regional Art Gallery visitors	C008	number	50,000	15,401	14,178	14,533	13,863	57,975	Exceeds target	

Performance outcomes are reported on a 'Quarterly' basis unless otherwise stated in the performance measure.

09/08/2010

Social Action Plan		Cost Centre	Measure	Target	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	Total	Comments	
Community & Natural Resources																			
Manager Community & Cultural Services																			
Aboriginal History Book completed		C012	%	100%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	Awaiting advice from the Aboriginal Education Committee.
Aboriginal liaison meetings facilitated		C012	number	12	3	6	6	4	2	15	15	15	15	15	15	15	15	15	Exceeds target
Aboriginal Advisory Committee support		C012	hours	700hrs	156	150	150	150	100	556	556	556	556	556	556	556	556	556	
Youth services network meetings/workshops		C012	number	11	2	3	4	4	0	9	9	9	9	9	9	9	9	9	
Youth services network meetings/workshops attendees		C012	number	165	38	47	33	0	118	118	118	118	118	118	118	118	118	118	
Museum collection acquisitions & de-accessions catalogued		C010	number	5	11	7	11	0	29	29	29	29	29	29	29	29	29	29	Exceeds target
Museum photographic collection digitised		C010	number	50	220	130	80	30	460	460	460	460	460	460	460	460	460	460	Exceeds target
Museum collection objects conserved		C010	number	1	0	0	1	1	2	2	2	2	2	2	2	2	2	2	
Social planning activities planned		C012	number	4	10	11	10	9	40	40	40	40	40	40	40	40	40	40	Exceeds target
NAIDOC week initiatives & activities planned		C012	number	9	5	1	2	0	8	8	8	8	8	8	8	8	8	8	
Engineering & Operations																			
Manager Recreation Services																			
Swimming pool attendance		C022	number	n/a	33,555	62,299	62,725	26,896	185,475	185,475	185,475	185,475	185,475	185,475	185,475	185,475	185,475	185,475	
Parks request for maintenance		C027	number	n/a	35	35	30	25	125	125	125	125	125	125	125	125	125	125	
Local recreation capital works completed on time and within budget		C027	%	100%	11	20	50	100	100	100	100	100	100	100	100	100	100	100	
Economic Action Plan																			
Business & Economic Development																			
Manager Business & Economic Development																			
Visitors to Murwillumbah Visitor Information Centre		A022	number	25,000	6,840	6,024	6,142	0	19,006	19,006	19,006	19,006	19,006	19,006	19,006	19,006	19,006	19,006	Current quarter visitor numbers are provided in a report due end of June.
Non-residential construction certificates		D001	number	n/a	4	2	4	4	14	14	14	14	14	14	14	14	14	14	
Quarterly payments to Tweed Tourism		A021	\$	\$476,644	119,161	119,161	119,161	119,161	476,644	476,644	476,644	476,644	476,644	476,644	476,644	476,644	476,644	476,644	Funding paid quarterly in advance as per contract.
Visitors to Tweed Information Centre		A022	number	22,000	7,007	8,991	7,676	0	23,674	23,674	23,674	23,674	23,674	23,674	23,674	23,674	23,674	23,674	Current quarter visitor numbers are provided in a report due end of June
Audit of Cat1 National Competition Policy businesses (TCHP - Water & Sewer)		A022	number	2	0	0	0	0	2	2	2	2	2	2	2	2	2	2	
Quarterly payments to TEDC		A021	\$	\$438,788	109,697	109,697	109,697	109,697	438,788	438,788	438,788	438,788	438,788	438,788	438,788	438,788	438,788	438,788	Funding paid quarterly in advance as per contract
Environmental Action Plan: Natural Environment																			
Community & Natural Resources																			

Performance outcomes are reported on a 'Quarterly' basis unless otherwise stated in the performance measure.

Environmental Action Plan: Natural Environment																
Cost Centre	Measure	Target	July			Oct			Jan			Apr			Total	Comments
			Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June				
Community & Natural Resources																
Coordinator Natural Resource Management																
E021	number	2	0	2	2	2	1	5								
C016	ha	300ha	100	50	46	120	316								Programs commenced and ongoing.	
E020	%	100%	20	30	10	40	100								Stormwater drainage works (Stage 1) completed	
E013	number	3	1	7	7	6	21								Increased projects due to successful grants.	
C018	%	100%	25	25	25	25	100									
C018	%	100%	50	25	25	0	100								Community launch occurred in Feb 2010.	
E020	%	100%	2	3	2	3	10								Project delayed due to resourcing and budget issues.	
E021	number	20	3	4	2	0	9								Undertaking maintenance on existing projects.	
C016	%	100%	0	5	30	65	100									
C018	%	60%	20	30	5	5	60									
E020	%	100%	10	10	10	50	80								Construction June / July 2010.	
C018	number	4	1	1	1	0	3								Change of energy provider, to be reinstated in new financial year.	
E020	%	100%	40	10	0	0	50								EIS complete, now tied in with other foreshore project approvals.	
E016	number	6	6	0	1	0	7								Projects commenced.	
E016	trap days	16,000	4,000	4,000	4,170	4,170	16,340								Project to continue under Bush Futures program.	
C018	%	100%	100	0	0	0	100								Stage 1 completed.	
C020	%	100%	25	25	25	25	100									

Environmental Action Plan: Built Environment																
Cost Centre	Measure	Target	July			Oct			Jan			Apr			Total	Comments
			Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June				
Community & Natural Resources																
Manager Water																
S003	%	10%													8	2008/2009 year.
S003	kl/year	<200													169	2008/2009 year.
Waste Management Coordinator																
G002	number	100	29	37	24	23	113								Includes related promotions (incl. media), initiatives, and events for Waste, Water, and NRM Units.	

Performance outcomes are reported on a 'Quarterly' basis unless otherwise stated in the performance measure.

09/08/2010

Environmental Action Plan: Built Environment		Cost Centre	Measure	Target	July Sept	Oct Dec	Jan Mar	Apr June	Total	Comments
Community & Natural Resources										
Waste Management Coordinator										
	Average amount of (total) landfill gas captured and sent to power station	G002	m3	450,000m3	346,275	544,591	505,076	530,082	481,506	
	Quarterly domestic waste recycled	G002	%	25%	35	37	47	49	49	
	Average tonnes of green waste reprocessed	G002	tonnes	>1500	2,550	1,398	2,105	2,946	2,250	
	Kilograms of recycling per capita	G002	kg	<140kg	26	26	35	35	122	
Planning and Regulation										
Coordinator of Planning Reforms										
	Strategic land use & locality plans adopted	D002	number	2	0	0	0	1	1	
Manager Building & Environmental Health										
	Number of on-site sewage management systems inspected	C025	number	550	100	220	129	163	612	
	Average processing time for s68 approvals water/sewer	C019	days	n/a	5	5	6	5	5	
	Number of Development Applications received in the period	C019	n/a	n/a	178	180	154	197	709	
	Development Applications determined by Building Unit	C019	number	n/a	195	184	140	168	687	
	Average processing time to issue a Complying Development approval	C019	days	<10days	7	6	7	7	7	
	Complying Development Approvals	C019	number	n/a	27	26	21	27	101	
	Average processing time to issue a Construction Certificate	C019	days	<15days	9	15	26	22	18	
	Construction Certificates Approved	C019	number	n/a	77	86	77	68	308	
	Building Certificates approved	C019	number	n/a	27	40	27	30	124	
	On-site sewage management systems failures as a % of total systems inspected	C025	%	n/a	30	15	15	23	23	
	Average processing time to determine a Development Application (Building Unit)	C019	days	<40days	29	28	28	35	30	
Manager Development Assessment										
	Number of DA's received in the period	D001	number	n/a	81	92	93	90	356	
	DA's approved	D001	number	n/a	89	77	83	85	334	
	Average processing time to process a DA	D001	days	60 days	67	74	82	88	78	
	s149 Certificates issued	D001	number	n/a	1,064	1,004	1,042	1,075	4,185	
	DA's approved as a % of total DA's processed	D001	%	n/a	90	85	91	96	96	
Infrastructure Action Plan										
Community & Natural Resources										

Performance outcomes are reported on a 'Quarterly' basis unless otherwise stated in the performance measure.

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Infrastructure Action Plan

Community & Natural Resources

Cost Centre	Measure	Target	July Sept	Oct Dec	Jan Mar	Apr June	Total	Comments
Manager Water								
S001	Duration of unplanned sewer service interruptions	95%<8hrs					100	2008/2009 year.
S001	Duration of programmed sewer service interruptions	95%<12hrs					100	2008/2009 year.
S005	Average residential sewer bill	\$ \$492(07/08)					503	2008/2009 year.
S005	Moderate sewer public environmental incidents reported	0					3	2008/2009 year.
S003	Quality of effluent meeting DEC(EPA) 90 percentile licence limit	100%					84	2008/2009 year.
S001	Sewage overflows per 100kms	<10					8	2008/2009 year.
S001	Confirmed sewer chokes per 100kms	<40					10	2008/2009 year.
S001	Sewer rising mains breaks per 100kms	<10					0	2008/2009 year.
W007	Average residential water bill	\$ \$312(07/08)					371	2008/2009 year.
S002	Odour complaints per 100 connections	<1					0	2008/2009 year.
S003	Total volume of sewage treated	ML 7500					8,958	2008/2009 year.
W006	Water service connection failures per 1000 connections	<25					7	2008/2009 year.
W004	Water mains failures per 100kms of mains	<10					5	2008/2009 year.
W001	% of time water restrictions apply	<5%					0	2008/2009 year.
W007	Moderate water supply environmental incidents reported	0					0	2008/2009 year.
W006	Frequency of unplanned water interruptions	<50					8	2008/2009 year.
W006	Total volume of treated water supplied	ML 9600					8,639	2008/2009 year.
W004	Unaccounted lost water	<15%					12	2008/2009 year.
W006	Total volume of raw water extracted	ML 10,250					9,564	2008/2009 year.
E002	Planning & Infrastructure Engineer Maintained and repaired floodgates	>30	9	15	12	10	46	
Engineering & Operations								
Manager Works								
E009	Roads resurfaced (all programs)	50kms	41	12	8	0	61	2009/10 AC overlays to be carried forward into 2010/11.
E010	Unsealed roads graded	350kms	14	67	22	48	151	
E009	Roads re-sheeted (all programs)	20kms	19	6	14	8	47	
E009	Total kerb and gutter renewals	350mtrs	25	98	97	18	238	
Planning & Infrastructure Engineer								
E010	New bus shelters constructed	9	0	6	0	0	6	
E014	New footpaths constructed	metres 1000	714	175	137	51	1,077	
E014	New cycleways constructed	metres 800	912	238	0	376	1,526	

Performance outcomes are reported on a 'Quarterly' basis unless otherwise stated in the performance measure.

09/08/2010

Infrastructure Action Plan		Cost Centre	Measure	Target	July Sept	Oct Dec	Jan Mar	Apr June	Total	Comments	
Engineering & Operations											
Planning & Infrastructure Engineer											
	Bus shelter signage renewed	E010	number	200	64	130	0	0	0	194	
	Street light upgrades	E004	number	>10	1	2	7	0	0	10	7 new solar lights installed in quarter 3.
Governance Action Plan											
Technology & Corporate Services											
Chief Information Officer											
	Custom mapping requests response time	A004	day	1day	1	1	1	1	1	1	
	Visitors to Councils web site	A004	number	n/a	42,800	43,300	43,700	43,900	43,900	43,900	
Coordinator Human Resources											
	OHS reported incidents	A007	number	n/a	62	49	49	37	197	Steady decline in the number of incidents.	
Workers compensation claims											
	Average duration rate of lost time injury	A007	number	n/a	17	19	18	13	67	Duration rate is calculated on total of lost time injuries	
	Full time employees	A007	number	n/a	664	664	664	692	692		
	Lost time injury	A007	number	n/a	13	9	12	14	48		
Manager Corporate Governance											
	Integrated planning & reporting project	A029	%	n/a	0	5	6	10	21	Initial draft of the Community Strategic Plan for public consultation nearing completion.	
	Completion of the Internal Audit Plan	A029	%	100%	15	40	60	75	75	Audit Program not completed for year, due to some audits being more complex and taking longer to complete than originally projected.	
Freedom of Information Requests											
	Formal complaints	A029	number	n/a	2	1	1	2	6	FOI Applications determined within specified times.	
Manager Financial Services											
	Annual Unrestricted Current Ratio	A009	number	>1	10	15	5	5	35	2 2.4:1, 2008/2009 year.	
	Implementation of an Asset Management System	A009	%	30%	10	15	5	5	35	Asset Management Plans nearing completion. Asset data in Ascetic.	
	Annual Rates Coverage Ratio	A009	number	n/a					0	0.43:1, 2008/2009 year.	
	Annual Debt Service Ratio	A009	%	<18%					9	8.94, 2008/2009 year.	
Revenue & Customer Services Coordinator											
	Rates outstanding at start of each instalment	A009	%	n/a	73	51	42	34	34		

Performance outcomes are reported on a 'Quarterly' basis unless otherwise stated in the performance measure.

Governance Action Plan

Technology & Corporate Services	Revenue & Customer Services Coordinator	Cost Centre	Measure	Target	July			Apr - June			Total	Comments
					Sept	Oct	Dec	Jan	Mar	Apr		
	Outstanding rates, charges and fees	A009	%	n/a	62	43	36	9	9	9		
	Annual movement in rates & annual charges from previous year	A009	%	n/a						8		2008/2009 year.
	Rate assessments paid in full at first quarter	A009	%	n/a	24					24		
	Pensioner rebate assistances for each quarter	A009	number	n/a	500	450	650	386		1,986		
	Average of all rates detailed in a residential rate notice	A009	\$	n/a	1,855	1,855	1,855	1,855		1,855		

Human Resource Action Plan

Technology & Corporate Services	Coordinator Human Resources	Cost Centre	Measure	Target	July			Apr - June			Total	Comments
					Sept	Oct	Dec	Jan	Mar	Apr		
	Successful outcomes of industrial issues		number	n/a	6	4	5	4	19			
	Terminations resulting from performance management		number	n/a	1	0	1	2	4			
	Actual staff trained against training plan		number	n/a	188	143	235	416	982			
	Time taken to fill an advertised job vacancy		days	n/a	35	54	51	49	51			
	Number of job vacancies readvertised		number	n/a	1	1	1	1	1			
	Industrial relations issues handled		number	n/a	6	4	5	4	19			
	Employees per 1000 population		number	n/a	8	8	8	8	8			Based on a population of 86,833 and 692 employees

Equal Employment Opportunity Action Plan

Technology & Corporate Services	Coordinator Human Resources	Cost Centre	Measure	Target	July			Apr - June			Total	Comments
					Sept	Oct	Dec	Jan	Mar	Apr		
	% of males employed to total equivalent full-time staff		%	n/a	73	74	74	74	74	74		
	EEO complaints substantiated		number	n/a	1	2	5	3	11			
	% of females employed to total equivalent full-time staff		%	n/a	27	26	26	26	26	26		
	EEO complaints received		number	n/a	4	2	6	13	25			Number of reported incidents is steadily increasing

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Tweed Shire Council 7 Year Infrastructure and Services Plan Progress Report for Apr - June 2010

Project Name	Planned Works	Responsible Officer	Funds Source	Allocated Funds	Expenditure	Current Status	Next Action
Business and Economic Development							
Economic Marketing & Promotion	Economic Development Support. Contribution to TEDC Projects.	R Adams	76673 Rev	\$ 76,673	\$ 76,673	Funding to TEDC to undertake economic development projects identified in the Economic Growth Management Strategy adopted by Council.	Four payments to be made in quarterly instalments to TEDC.
Corporate Planning Unit	Corporate and Executive Support.	R Adams	80691 Rev 24817 C/O	\$ 105,508	\$ 84,183	Employment costs for Economic, Corporate Planner and Consultancy Fees for Council 10-Year Business Plan.	Planner provides input and support to executive on projects with significant economic contribution. Business Plan finalised Dec 2008.
Economic Development Support	Council's Internal Economic Development Projects.	R Adams	64327 Rev 159822 C/O	\$ 224,149	\$ 112,954	Undertake various economic development projects as endorsed by the General Manager.	Remainder proposed to be applied; 10k 50/50 Tweed Tourism Marketing Special Grant (\$100k approved / \$25k spent), \$15k Tweed Heads VIC Maintenance, \$30k Wardrop Valley Land Slash, Fence. \$50k Murwillumbah CCTV Review. \$30k Econ Dev Tender.
Visitors Information Centre	Operate Visitor Information Centre Contribution to Tweed Tourism.	R Adams	25,000 Rev	\$ 25,000	\$ 25,000	Funding relates to Tweed Heads and Murwillumbah VIC.	Four payments to be made quarterly to Tweed Tourism.
Economic Marketing & Promotion - Tourism	Tourism industry support. Contribution to Tweed Tourism.	R Adams	120,000 Rev	\$ 120,000	\$ 120,000	Funding to Tweed Tourism to undertake tourism marketing and promotion of Tweed.	Four payments to be made in quarterly instalments. Tweed Tourism Marketing Plan has been approved.
Upgrade Saleyards	Allowance for maintenance of pens, races and other saleyard capital infrastructure.	R Adams	25000 Rev 37631 C/O	\$ 62,641	\$ 56,812	Works underway to upgrade pens and loading areas to steel. Commitment made for \$37,641 to be undertaken between 08/09 and 09/10 PAS05141.	Being undertaken in accordance with Infrastructure and Upgrade Program - Murwillumbah Cattle Sale Yards, ECM 3156314.

Project Name	Planned Works	Responsible Officer	Funds Source	Allocated Funds	Expenditure	Current Status	Next Action
Business and Economic Development							
Internal Auditor		N Baldwin	Rev	\$ 93,118	\$	No action at this stage.	Staffing requirements to be reviewed.
Tourism & Promotion - internal		R Adams	0 rev 14000 transfer to WHRC	\$	\$	Internal transfer account Refer to WHRC redevelopment.	N/A Item to be removed.
WHRC Redevelopment	Redevelopment of the Murwillumbah Visitor Information Centre / World Heritage Rainforest Centre.	R Adams	100000 loans 14000 Rev from A05391858	\$ 114,000	\$	Architects engaged and preparing Concept Plans.	Final Architected Concept Plans Due July 2010. Remainder of funds to be rolled over to match additional capital works funds for project.
Business and Economic Development Total				\$821,089.00	\$475,622.00		
Community and Natural Resources							
Cultural Arts Seed Funding	This project will enable further arts-based community-driven initiatives to be encouraged, following the expiry of the Tweed City of the Arts activities.	G Corbett	1130 C/O	\$ 1,130	\$ 500	Program completed.	Project completed.
Arts Traineeship and Mentorship	This project will initiate accredited traineeships and mentorship in arts and cultural areas, targeted at youth and students. It will operate in partnership with key tertiary institutions to develop and implement an arts-based mentorship package.	G Corbett	3311 C/O	\$ 3,311	\$	Project completed.	Project completed.
Youth Activities Program	Part of a package of youth-oriented projects in the Quality of Life Program, this project will provide \$12,500 to fund youth activities as identified by the Youth Development Officer.	G Corbett	12,500 Rev 4996 C/O	\$ 17,496	\$ 15,803	A continuing program of activities is currently progressing. Projects devised and implemented as previous programs are completed. Activities have been devised and implemented at Banora Point Community Centre. Program is funded by Council until Dec 2010.	Implemented plan to further work with young people in Pottsville, Uki, Chillingham, Tyalgum, Banora Point, Murwillumbah, Cabarita (CDSE Funded) and Tweed Heads to identify and run projects/activities.

Project Name	Planned Works	Responsible Officer	Funds Source	Allocated Funds	Expenditure	Current Status	Next Action
Community and Natural Resources							
Youth Transport	Allied to the Youth Activities Program, this project will provide funding specifically for enabling transport by young people, primarily aged 12-18 in line with Council's draft Youth Needs Analysis.	G Corbett	15,000 Rev 12478	\$ 27,478	\$ 15,813	On-going program is being implemented.	In partnership with Youth Services and agencies, identified and developed responses that support young people's access to services and events. Responded to continuing demands and needs. Position to develop a strategic Plan.
Improved Services for Shire Youth	The employment of a Youth Development Officer arose from needs identified from the Social Plan.	G Corbett	Revenue	\$ 65,995	\$ 59,027	Youth Development Officer position filled.	
Aboriginal Community Development	As outlined in the Social Plan. Coordinate development of community and council related issues.	G Corbett	63995 Rev 47722 C/O	\$ 111,717	\$ 49,119	Aboriginal Liaison Officer vacant.	Review position PD.
Community Centre Murwillumbah	The upgrade of the Community Centre located in Knox Park, Murwillumbah will provide a focus for the numerous community services that are now provided in a number of scattered locations within Murwillumbah.	G Corbett	68156 s94, 91844 Res. Dependant on sales & grants	\$ 160,000	\$ 160,000	Unsuccessful application to the Better Regions Fund. Currently reviewing options.	Seek funds to undertake the project.
Museum - Tweed Heads	It is planned to build a significant new building at Tweed Heads and the refurbishment of the Murwillumbah Museum. The Museum will house and exhibit the extensive collections of the Tweed River Regional Museum.	G Corbett		\$ -	\$ -	DA is completed and ready for lodgement. Additional funding from State & Fed. Govt. Lease conditions in final stage of negotiation with the Dept. of Lands.	DA lodgement dependant on Gazetial of revised zoning. Develop brief and call tenders for Exhibitions design. Further discussions to be held with Native Title Group.
Carpet Replacement & Refurbishment - Murwillumbah Auditorium	Stage 2 will see works in the auditorium to replace carpet on walls, upgrade of stage.	G Corbett	150000 reserves	\$ 150,000	\$ 14,116	Consultants report received on the use of the Tweed and Murwillumbah Auditoria as a performing arts and mixed use space.	EMT approved staged development and maintenance of the Shire's two auditoria. Work is progressing. Carpet replaced.

Project Name	Planned Works	Responsible Officer	Funds Source	Allocated Funds	Expenditure	Current Status	Next Action
Community and Natural Resources							
Community Building Maintenance	This provision will allow major upgrading works to the many community buildings for which Council has a responsibility in lieu of the current repair on a needs basis provided for under current budget constraints.	G Corbett	105000 Rev 41486 C/O 238000 Other programs	\$ 384,486	\$ 297,202	Work completed for Piggabeen Hall and Bray Park Community Centre. Limpinwood Community Hall, Crystal Creek Hall, Fernvale and Reserve Creek Hall nearby completed. Fernvale completed. Grant received for Doon Doon.	Maintenance requirements determined. Work is progressing on the most urgent refurbishments.
Waterways Asset Replacement	Replacement of Waterways Assets.	J Lofthouse	30,000 Rev	\$ 30,000	\$ 30,000	Current projects completed.	
Vegetation Management Strategy	This program is critical to ensuring the best practice management of vegetation, and hence landscape, in the Tweed Valley.	J Lofthouse	278571 Rev / 450714 Grnt / 228680 C/O	\$ 907,965	\$ 272,112	Bush futures, Koala PoM, Biodiversity Grants commenced.	Priority Actions: LEP reforms; continued NRM project inventory; complete Biodiversity DCP; continue education and awareness activities/projects.
Administration Officer	Staff costs.	G Corbett	Revenue	\$ 53,701	\$ 45,414	Administration Officer employed.	Ongoing.
Coastline Management Plan Implementation	Kingscliff Foreshore Protection Works	J Lofthouse	241655 C/O	\$ 241,655	\$ 24,552	Seawall under construction.	Seeking sand source for beach nourishment.
Duranbah Beach Plan of Management	Redesign stormwater including quality improvements and amenity.	J Lofthouse	235672 C/O	\$ 235,672	\$ 54,585	Stormwater reconstructed, sand nourishment finished June 2010.	Monitor sand nourishment works.
Museum Murwillumbah	Refurbishment and additions to Murwillumbah Museum.	G Corbett		\$ -	\$ -	Architect finalised concept for 2 storey extension. Access ramp currently in construction phase.	Complete ramp. Seek funding for the construction of the Museum.
Tweed Coast Estuaries Management Plan.	Implementation of Coast Estuaries Management Plan.	J Lofthouse	138575 Revenue 138569 grant 60686 C/O	\$ 337,830	\$ 68,735	Revetment works on Cudgen Creek, ASS research Ongoing program of projects.	Contribute to Sustainable Agriculture Strategy. Cudgera Creek ecological health investigation.
Amenities hall Kingscliff	Refurbishment of Hall to acceptable standard.	G Corbett	100000 C/O	\$ 100,000	\$ 679	Works on stage one near completion.	Working towards stage 2.
Youth Strategy Implementation	Construction of facility to support youth activities.	G Corbett	500000 grants	\$ 500,000	\$ -	Included in CP15 S94.	Consult with the community regarding utilisation of space in Cabarita/Bogangar.
Regional boating strategy implementation		J Lofthouse	s94	\$ 60,000	\$ -	Section 94 plan yet to be developed.	Determination of nexus to development.

Project Name	Planned Works	Responsible Officer	Funds Source	Allocated Funds	Expenditure	Current Status	Next Action
Community and Natural Resources							
Bushland Maintenance Officer		J Lofthouse	68305 Rev 3432 C/O	\$ 71,737	\$ 71,737	Bushland Officer employed.	Ongoing.
Community and Natural Resources Total				\$3,460,173.00	1,179,394.00		
Engineering and Operations							
Land Purchase Open Space-Requests to purchase 6a/6b zoned land.	Purchase land in 6a/6b zoned land.	P Morgan	100000 C/O	\$ 100,000	\$ -	No current acquisitions in progress or identified.	Continuing to review further land acquisitions as opportunities arise
Park Asset Maintenance	Addressing playground compliance issues in line with Australian Standards.	S Brawley	171050 Rev 22831	\$ 193,881	\$ 85,081	Upgraded play equipment in numerous parks in accordance with priorities identified in condition assessment audit.	Upgrading of further equipment in parks
Parks Asset renewal	Replace ageing/failing assets - Playground Equipment, BBQ & Shelters.	S Brawley	341,750 Rev 5284 C/O	\$ 347,034	\$ 193,192	Works program developed. Awaiting advice of funding applications through Building Communities Program.	Implement improvement plan.
Lot 500 Bushland	Maintenance to Dune Vegetation - Casuarina.	S Brawley	8,200 Rev 14911 C/O	\$ 23,111	\$ 18,739	Regeneration works commenced in line with Lot 500 dune management plans.	Continuation of regeneration works
Regional Sport & Recreational Facilities	Complete Feasibility/Master Plan study - Arkinstail Park. Proceed to further studies dependant on results of Feasibility Study.	S Brawley	866156 C/O	\$ 866,156	\$ -	Master Plan adopted by Council and funding for initial stages voted from CP26.	Design and approvals for formalisation of perimeter purling, consultation and design for upgrade of netball facilities; consultation and design for new tennis facilities.
Coastal Landscape Strategy	Implement Kingscliff Foreshore Landscape Plan; Develop & implement Landscape Plan for Ambrose Brown Park, Pottsville.	S Brawley		\$ 471,655	\$ 471,655	Completed are. Draft Kingscliff Foreshore Masterplan and Wommin Bay Memorial Walkway and viewing platform; Cabarita foreshore footpath; Tweed Coastal furniture design and documentation; Ambrose Brown Park upgrade completed.	Project completed and funds fully utilised.

Project Name	Planned Works	Responsible Officer	Funds Source	Allocated Funds	Expenditure	Current Status	Next Action
Engineering and Operations							
Asset management Levees & Floodgates	The program is initially to provide a computer based asset management plan followed by remediation (catch up) works in following years.	D Rose	85,000 Rev 135442 C/O	\$ 220,442	\$ 90	Data collected - remainder of project on hold awaiting implementation of asset management system. Maintenance inspections are continuing with results held in MEX and repairs being undertaken as required.	Undertake discussions with Manager of Works to implement flood mitigation asset management system, and commence programming of backlog works.
Stormwater drainage rehabilitation	Rehabilitate stormwater drainage throughout the Shire, identified by condition of assets.	I Kite	400,000 Lns	\$ 400,000	\$ 400,000	Program complete.	
Gravel Re-sheeting of Unsealed Roads	Re-sheet unsealed roads with gravel identified by condition assessments.	I Kite	398,000 Lns 73956 C/O	\$ 471,956	\$ 471,956	Program complete.	
Sealed road resurfacing	Reseal sealed roads in accordance with condition assessment.	I Kite	490,300 Lns 542 C/O	\$ 490,842	\$ 463,412	Program complete.	
Sealed road rehabilitation	Rehabilitation of sealed roads in accordance with condition assessment.	I Kite	688,900 Lns 81855 C/O	\$ 770,755	\$ 761,437	Program complete.	
Kerb & gutter rehabilitation	Rehabilitate kerb and gutter in accordance with condition assessment.	I Kite	70,000 Lns 37455 C/O	\$ 107,455	\$ 55,114	209m of kerb and gutter replaced	Program continuing through year.
Footpaths rehabilitation	Rehabilitate footpaths in accordance with condition assessment.	I Kite	266,000 Lns 152991 C/O	\$ 418,991	\$ 357,918	Program complete.	
Sportsgrounds Capital Works (Local)	Represents the difference between the planned Capital Works Program for local sporting facilities (lights, change rooms etc) and funds available through Section 94 Developer Contributions.	S Brawley	300000 loans 387073 C/O	\$ 687,073	\$ 9,621	Capital Works Program endorsed by Sports Advisory Committee. Sportsfield lights installed at Waiter Peate Fields. Waiter Peate fields and Queens Park. Murwillumbah netball courts resurfaced. Arkinstall Park clubhouse fitout.	Liaise with Kingscliff sportsfield stakeholders on design of facilities upgrades for when Kingscliff Soccer Club relocates to Depot Road.

Project Name	Planned Works	Responsible Officer	Funds Source	Allocated Funds	Expenditure	Current Status	Next Action
Engineering and Operations							
Surf Life Patrols	Provision for increase in fees due to the demand for additional areas to be provided with paid lifeguards.	S Brawley	12,000 Rev 10024 C/O	\$ 22,024	\$ 2,080	Casuarina Beach included in patrols contract. Shirewide Beach Audit and action plan adopted. Extended lifeguard services commenced.	Recommendations of plan to be implemented through Beach Safety Liaison Committee.
Surf Life Saving Strategy 2020	With 40km of coastline under its care and control, Council needs to develop ways for identifying where and when beach safety measures should be employed and how the issue of beach and surf safety should be provided to residents and visitors.	S Brawley	10,000 S94	\$ 10,000	\$ 5,028	Commenced revision of beach emergency signage. Audit completed of all beach access points. Support of Surf Lifesaving Clubs through provision of warning signage, emergency phone and reimbursement for fuel costs associated with emergency rescues.	Review revision of signage and beach access points. Implementation of projects identified in the review in accordance with budget allocation.
Botanic gardens	Council has resolved to develop a botanical garden on land it owns at Eviron as part of a strategy for rehabilitation of parts of the land that will be used for landfill and in conjunction with that part of the land that forms the Tweed Valley Cemetery.	S Brawley	100,000 S94	\$ 100,000	\$ 8,624	Draft hydraulic plan for botanic gardens core area completed. Redesign of core area in line with hydraulic design.	LEGS to produce engineering detail and specifications for hydraulic works. DA or Part IV to be prepared and lodged.
Botanical Gardens Visitors Centre		S Brawley	500000 C/O	\$ 500,000	\$ -	To be considered after construction of hydraulic works.	LEGS to produce engineering detail and specifications for hydraulic works. DA or Part IV to be prepared and lodged.
Flood studies coastal creeks 2D	Council has resolved to undertake a joint flood study with Byron Shire Council for all Coastal Creek Floodplains from Kingscliff to Ocean Shores (Cudgen, Cudgera and Mooball Creeks in Tweed Shire plus Marshalls Creek in Byron Shire).	D Rose	37500 Rev 37500 C/O	\$ 75,000	\$ -	Study Completed. Implemented via amended DCP-A3.	
Pottsville North drainage outlet - Eianora		I Kite	900000 C/O	\$ 900,000	\$ 623,447	Construction commenced in March 2010.	Reached practical completion on 9 July 2010.

Project Name	Planned Works	Responsible Officer	Funds Source	Allocated Funds	Expenditure	Current Status	Next Action
Engineering and Operations							
West Kingscliff drain - Gales/Bowling club		I Kite	80000 Rev 750000 C/O	\$ 1,550,000	\$ 17,931	Project design in progress. Negotiations with other stakeholders ongoing. Scheduled for construction commencing in April 2011.	Finalise design and financial arrangements.
Recreation asset management		S Brawley	13947 C/O	\$ 13,947	\$ 13,947	First draft near completion.	Completion of first draft.
Tweed Heads Masterplan/Jack Evans Boatharbour		S Brawley	Loans	\$ 5,000,000	\$ 1,644,525	Civil works in Old Caravan Park near completion. Tendering process commenced.	Complete contractor workshops, receive tenders and appoint construction contractor.
Cabarita Streetscaping		I Kite	Loans	\$ 422,000	\$ 2,458	Design and consultation completed. Tenders invited and offers received. Tenders being assessed.	Select successful tender. Commence construction August 2010.
Engineering and Operations Total				\$14,162,322.00	5,606,255.00		

Project Name	Planned Works	Responsible Officer	Funds Source	Allocated Funds	Expenditure	Current Status	Next Action
Planning and Regulations							
Adaptable Residential Housing DCP	Last adopted in 1991, a major review of the Strategy is required to ensure infrastructure plans and growth is coordinated.	I Lonsdale	39802 C/O	\$ 39,802	\$ 56	Council adopted the Tweed Urban and Employment Lands Release Strategy 2009 at its meeting of 17 March 2009.	Completed.
Environmental Health Compliance Caravan Parks.	This will allow a proactive approach to the issues that arise within caravan parks. These include installations of structures on site. This will assist in reducing possible impacts from major events such as flooding, storms, etc.	R Cameron	69429 Rev 14418 C/O	\$ 83,847	\$ 64,818	Compliance Officer employed. Proposed new structures in parks are being assessed by officer with existing structures audited. Complaints being attended to. Currently inspections being undertaken for renewal of licences to operate.	Continue actions and assist Environmental Health Officers in auditing processes for data entry into Proclaim system. Officer now also assisting in complaint investigation and compliance work.

Project Name	Planned Works	Responsible Officer	Funds Source	Allocated Funds	Expenditure	Current Status	Next Action
Planning and Regulations							
Emergency Management Plan Implementation.	This program will result in the regular review of the Tweed Disaster Plan, the provision of support to the various emergency agencies such as the State Emergency Service and the Rural Fire Services.	R Cameron	39728 Rev 16473 C/O	\$ 56,201	\$ 29,031	Officer reviewed Tweed Disaster Plan which is nearing completion. Developing web page Updating Councils evacuation plans in all Council buildings. Assisting in fire drills. Working on beach signage for emergency location indicators.	Finalise disaster plan continue to develop web page. Work towards completion of other matters.
Building Compliance Officer.	An additional employee is required to carry out inspections and take action in regard to general complaints received by Council from the public in relation to miscellaneous matters such as stormwater issues, retaining walls, use of land and buildings etc.	R Cameron	68865 Rev 8257 C/O	\$ 75,122	\$ 69,209	Compliance Officer employed. Officer attending to all complaints and notice of intention from private certifiers in a timely manner. Procedures for complaint lodgements implemented.	Continue to follow up complaints in a timely manner and review processes.
Health & Building Surveyor.	An additional employee is required to maintain a satisfactory level of service to perform regulatory functions including the assessment of applications for construction certificates, complying development, development applications, sewer applications etc.	R Cameron	87410 Rev 3882 C/O	\$ 91,292	\$ 91,292	Health & Building Surveyor employed. Has undertaken fire safety audits, inspections for places of public entertainment, Building Certificates and general inspections associated with building works. Officer now assigned to South area.	Continue abovementioned duties and carry out assessments for various approvals. Officer now appointed to Southern District carrying out assessment of various applications and general Building Surveyor duties.
Administration Officer.	Staff Costs.	R Cameron	48387 Revenue 20068 C/O	\$ 68,455	\$ 68,258	Administration Officer appointed 25 March 2008.	Officer now providing support to Environmental Health section and maintaining Essential Services register.
Environmental Health Compliance Officer		R Cameron	107705 Revenue 4485 C/O	\$ 112,190	\$ 105,835	Officer employed. Currently auditing On-site sewage management systems.	Continue to audit existing On-site sewage management systems.

Project Name	Planned Works	Responsible Officer	Funds Source	Allocated Funds	Expenditure	Current Status	Next Action
Planning and Regulations							
Urban Design Planner		I Lonsdale		\$ 74,694	\$ 74,694	A new full-time Urban Designer position was created, position filled and commenced employment with the Planning Reforms Unit in January 2009.	The Urban Designer provides input into new planning policy and provides a level of design assistance on major and key development applications, including significant Council infrastructure projects.
SES Operations Centre additions Banora Point		R Cameron	70000 Rev 50000 Grt	\$ 120,000	\$ -	Negotiating with SES for additional \$20,000 i.e. dollar for dollar funding	Funding now obtained and Development application lodged.
Planning and Regulations Total				\$721,603.00	\$503,193.00		
Grand Total				\$19,165,187.00	\$7,764,464.00		

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

41 [TCS-CM] Quarterly Budget Review - 30 June 2010

ORIGIN:

Financial Services

SUMMARY OF REPORT:

This is the fourth quarter statutory budget review for this financial year and summarises the estimated expenditure and income changes to the 2009/10 Budget.

This statutory report is prepared in accordance with the Local Government (General) Regulations 2005, regulation 202 and 203. Council will have a balanced budget as at 30 June 2010 in the General, Water and Sewer Funds.

RECOMMENDATION:

That the:

1. Quarterly Budget Review Statement as at 30 June 2010 is adopted.
2. Expenditure and income, as summarised below and detailed within the report, be voted and adjusted in accordance with the revised total expenditure and income for the year ending 30 June 2010.

Description	Change to Vote	
	Deficit	Surplus
General Fund		
<u>Expenses</u>		
Operating	10,732	0
Interest	0	0
Capital	119,500	0
Loan Repayments	0	0
Transfers to Reserves	0	0
	<u>130,232</u>	<u>0</u>
<u>Income</u>		
Rates, Charges and other		
Operating	0	0
Operating Grants & Conts	0	10,732
Capital Grants & Conts	0	99,500
Loan Funds	0	0
Recoupment's	0	20,000
Transfers from Reserves	0	0
Asset Sales	0	0
	<u>0</u>	<u>130,232</u>
Net Surplus/(Deficit)		<u><u>0</u></u>

REPORT:

Budget Review 30 June 2010 (Quarterly Budget Review)

In accordance with regulation 203(1) of the Local Government (General) Regulation 2005, a Budget Review Statement and revision of the estimates of income and expenditure must be submitted to council within two months of the close of each quarter.

The Regulation requires that the quarterly financial review must include the following:

- A revised estimate for income and expenditure for the year.
- A report as to whether or not such statements indicate that the financial position of the Council is satisfactory and if the position is unsatisfactory, make recommendations for remedial action.

Report By Responsible Accounting Officer

The Quarterly Budget Review Reports are prepared to provide Council and the community with information in relation to Councils financial performance and proposed amendments to its budget and forward estimates. The reports are prepared under accrual accounting principles in accordance with the requirements of the Local Government Act 1993.

The Financial reports included in the Quarterly Budget Review are as follows:

1. Variations
 - a) Variations Proposed
 - b) Introduced During Quarter – By Council Resolution
2. Budget Summary – by fund
 - a) By Type (including Available Working Capital)
 - b) By Division

Variations

There are two variations reports included in the Quarterly Budget Review during this quarter:

- Variations Proposed
- Council Resolutions

The Variations Proposed report details all of the recommended changes to budget that have been put forward by management at this review for Councils consideration.

The Council Resolutions report is provided as information to the Council and the community to explain the adjustments that have been included in the Approved Budget during the quarter.

Income Statement

The Income Statement measures Council's financial performance over the period and shows whether or not Council has earned sufficient revenues to support its activities during that period, and whether or not surpluses have been created to fund additional or replacement assets to service community needs.

The statements show where Council's money comes from (Revenue) and how that revenue is consumed (Expenses) in providing the ordinary activities and services of the Council.

Statement of Funding Result Reconciliation

The Funding Statement provides information about the source of cash and "cash like" funds, and how they have been (or are budgeted to be) applied in the Management Plan.

The "source" of funds includes the surplus or deficit (a negative source) from ordinary activities of Council as expressed in the Income Statement. In other words all of the ordinary activities of Council including collection of rates and other general income and provision of services are netted off and the remainder is available to provide a source of funds for other expenditure such as asset acquisition, loan repayments and transfer to reserve for future expenditure programs.

The programs that have had an effect on revenue are:

Description	\$
General Fund	Net Effect
Kingscliff Beach erosion protection	88,449
Planning legal expenses	(98,449)
Bushfire Protection Mapping	10,000
	<hr/> 0 <hr/>

Full details:

Item	Category	Description	Current Vote	Change to Vote	Details / Comments
1. Proposed Variations					
General					
1	Ex-Operating	Community Building Partnership Program	0	5,000	Combined Neighbourhood Watch
1	In-OG&C	Grant funding	0	(5,000)	Funding for above
2	Ex-Operating	Facilities Around Schools program	0	5,732	School Zone signage
2	In-OG&C	RTA grant funding	0	(5,732)	Funding for above
3	Ex-Capital	Terranora Village Open Space Embellishment	0	74,500	New sportsfield/tennis court and park
3	In-CG&C	Contribution from develop	0	(74,500)	Funding for above
3	Ex-Capital	Walter Peate facilities	0	20,000	Improvements
3	In-Recoup	S94 plan 5	0	(20,000)	Funding for above
4	Ex-Capital	Kingscliff Amenities Hall kitchen	0	50,000	Refurbishment
4	Ex-Capital	Kingscliff Amenities Hall 7 Year Plan	100,000	(25,000)	Funding for above
4	In-CG&C	Department of Sport and Rec. Grant	0	(25,000)	Funding for above
5	Ex-Operating	Kingscliff Beach	0	88,449	Temporary erosion control works
6	Ex-Operating	Planning legal expenses	293,630	(98,449)	Allocation not fully expended
7	Ex-Operating	Bushfire Protection Mapping	0	10,000	Upgrade data
2. Variations Arising from Council Resolutions					
Nil				0	
Summary by Category					
<u>Expenses</u>					
Operating				10,732	
Interest				0	
Capital				119,500	
Loan Repayments				0	
Transfers to Reserves				0	
				130,232	
<u>Income</u>					
Rates, Charges and other Operating				0	
Operating Grants & Conts				(10,732)	
Capital Grants & Conts				(99,500)	
Loan Funds				0	
Recoupment's				(20,000)	
Transfers from Reserves				0	
Asset Sales				0	
				(130,232)	
Net				0	
Summary by Division					
Technology & Corporate Services				0	
Planning & Regulation				(88,449)	
Community & Natural Resources				88,449	
Engineering & Operations				0	
General Manager				0	
				0	

Budget Summary

	General Fund		Water Fund		Sewer Fund		Total
	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Original Budget</u>	<u>Revised Budget</u>	
Income Statement							
Operating Expenses							
Employee Costs	33,256	33,546	2,688	3,007	4,275	5,137	41,690
Borrowing Charges	4,843	4,843	4,881	4,881	835	835	10,559
Materials & Contracts	29,187	41,870	3,038	4,023	8,425	5,178	51,061
Depreciation	14,003	14,003	8,288	8,288	14,258	14,256	36,547
Other Operating Expenses	6,622	6,522	871	1,001	1,201	1,251	8,784
	87,911	100,784	19,766	21,200	28,994	26,657	148,641
Operating Revenue							
Rates & Annual Charges	48,122	48,119	3,153	3,126	16,422	16,236	67,481
User Charges & Fees	11,238	10,786	11,954	11,355	1,719	1,719	23,860
Interest	2,439	2,525	131	131	131	131	2,787
Other Revenues	908	936	190	190	15	15	1,141
Grants & Contributions for operating purposes	14,585	16,405	437	437	645	645	17,487
Grants & Contributions for capital purposes	5,849	7,422	4,877	1,626	3,143	781	9,829
	83,141	86,193	20,742	16,865	22,075	19,527	122,585

Surplus/(Deficit)	(4,770)	(14,591)	976	(4,335)	(6,919)	(7,130)	(26,056)
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Funding Result Reconciliation

Add Back non-funded items:

Depreciation	14,003	14,003	8,288	8,288	14,258	14,256	36,547
Internal Transfers	6,581	6,581	(3,347)	(3,347)	(3,235)	(3,235)	(1)
	15,814	5,993	5,917	606	4,104	3,891	10,490
Transfers from Externally Restricted Cash	3,151	9,258	7,276	5,411	7,316	3,085	17,754
Transfers from Internally Restricted Cash	410	12,819	4,775	7,489	9,607	3,265	23,573
Proceeds from sale of assets	1,811	2,095				0	2,095
Loan Funds Utilised	10,111	16,353	1,080	1,080	8,250	16,825	34,258
Repayments from Deferred Debtors							
	31,297	46,518	19,048	14,586	29,277	27,066	88,170
<i>Funds were applied to:</i>							
Purchase and construction of assets	(20,265)	(35,065)	(14,171)	(12,960)	(20,842)	(4,967)	(52,992)
Repayment of principal on loans	(2,744)	(2,744)			(722)	(722)	(3,466)
Transfers to Externally Restricted Cash	(4,246)	(4,246)	(4,877)	(1,626)	(2,343)	(781)	(6,653)
Transfers to Internally Restricted Cash	(4,042)	(4,463)			(5,370)	(20,596)	(25,059)
Increase/(Junrease) in Available Working Capital	0	0	0	0	0	0	0
Available Working Capital Previous Financial Year	956	956	2,000	2,000	2,000	2,000	4,956
Available Working Capital as at 30 June 2010	956	956	2,000	2,000	2,000	2,000	4,956

Summary by Division

	<u>Original Budget</u>	<u>Revised Budget</u>
Surplus/(Deficit)	(49,621,384)	(49,930,684)
Technology & Corporate Services	7,086,230	6,701,810
Planning & Regulation	8,869,497	9,519,073
Community & Natural Resources		
Engineering & Operations	34,439,5	34,513,692

	General Fund		Water Fund		Sewer Fund		Total
	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Original Budget</u>	<u>Revised Budget</u>	<u>Original Budget</u>	<u>Revised Budget</u>	
	48						
General Manager	(773,891)	(803,891)					
	<u>0</u>	<u>0</u>					

General Fund

The General Fund is expected to remain as a “balanced budget”.

Water Fund

The Water Fund is expected to remain as a “balanced budget”.

Sewer Fund

The Sewer Fund is expected to remain as a “balanced budget”.

Statutory Statement – Local Government (General) Regulations 2005 (Sections 202 & 203) by “Responsible Accounting Officer”

202 Responsible accounting officer to maintain system for budgetary control

The responsible accounting officer of a council must:

- (a) *establish and maintain a system of budgetary control that will enable the council’s actual income and expenditure to be monitored each month and to be compared with the estimate of the council’s income and expenditure, and*
- (b) *if any instance arises where the actual income or expenditure of the council is materially different from its estimated income or expenditure, report the instance to the next meeting of the council.*

203 Budget review statements and revision of estimates

- (1) *Not later than 2 months after the end of each quarter, the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the management plan that the council has adopted for the relevant year, a revised estimate of the income and expenditure for that year.*
- (2) *A budget review statement must include or be accompanied by:*
 - (a) *a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*
 - (b) *if that position is unsatisfactory, recommendations for remedial action.*
- (3) *A budget review statement must also include any information required by the Code to be included in such a statement.*

Statutory Statement

I consider that the financial position of Council is satisfactory “having regard to the original estimate of income and expenditure”.



M A Chorlton
“Responsible Accounting Officer”
Manager Financial Services
Tweed Shire Council

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

As discussed in the report.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).

Nil.

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42 [TCS-CM] Monthly Investment Report for Period Ending 31 July 2010

ORIGIN:

Financial Services

SUMMARY OF REPORT:

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

There is a requirement by Council's investment consultant to allow at least 5 working days following the end of the month to provide the statistics for this report. Due to this time constraint there will be an addendum report provided to Council for consideration at its meeting on 17 August 2010.

RECOMMENDATION:

Refer to addendum report.

REPORT:

As per summary.

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 (from 8.00pm Wednesday the week before the meeting) or visit Council's offices at Tweed Heads or Murwillumbah (from 8.00am Thursday the week before the meeting) or Council's libraries (from 10.00am Thursday the week of the meeting).*

Nil.

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

43 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 22 July 2010

VENUE:

Mt Warning Meeting Room

TIME:

Commencing at 9.30am

PRESENT:

Committee Members: Cr Kevin Skinner on behalf of Cr Barry Longland (Deputy Mayor), Mr Ian Shanahan, Roads and Traffic Authority, Mr Thomas George MP, Member for Lismore, Mr Geoff Provest MP, Member for Tweed.

Informal: Mr John Zawadzki (Chairman), Mr Ray Clark, Mr Paul Brouwer, Mr Rod Bates, Mr Harry Cao (guest from Geoff Provest's office), Ms Judith Finch (Minutes Secretary).

APOLOGIES:

Cr Barry Longland (Deputy Mayor) Snr Constable Sgt Richard Baxter, NSW Police.

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 24 June 2010 be adopted as a true and accurate record of proceedings of that meeting.

SCHEDULE OF OUTSTANDING RESOLUTIONS

[LTC] Schedule of Outstanding Resolutions 22 July 2010

1. [LTC] Eyles Avenue, Murwillumbah

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3999809; Traffic - Committee; School Zones; Parking Zones; Safety; Eyles Avenue; Schools - Murwillumbah Public

SUMMARY OF REPORT:

From Meeting held 27/8/09 (Item B1)

Concern has been raised with cars parking in Eyles Avenue on the school side.

"These vehicles are causing problems for buses accessing the School Bus Zone. Could 'No Parking' at School finishing times be implemented here?"

Council officers will investigate this site and report to the meeting.

COMMITTEE ADVICE:

That:-

1. Council officers discuss with the School representatives the possibility of extending the 'No Parking' zone on the eastern side of Eyles Avenue to the intersection with Prince Street.
2. This item be placed on the Schedule of Outstanding Resolutions.

Current Status: That Item 1 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 24 June 2010 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 27 August 2009).

From Meeting held 22/7/10

Mr George requested that Col Brooks be present at the meeting with the School on behalf of Mr George.

Current Status: That Item 1 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 22 July 2010 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 27 August 2009).

-
2. [LTC] Kennedy Drive, Tweed Heads West

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 3948168; Traffic - Committee; Kennedy Drive, Tweed Heads; Kennedy Drive - Tweed Heads West; Norman Street; Parking - Zones; Traffic - Lights; Traffic - Roundabouts; Boat Ramps

SUMMARY OF REPORT:

From Meeting held 27/8/09 (Item B7)

Concern received in relation to increasing traffic problems along Kennedy Drive.

"In particular the intersection of Norman Street and Kennedy Drive causes local residents a great deal of frustration which is worsened by parking of boats and boat trailers using the boat ramp located on the opposite side of the road.

..... Norman Street is one of the few streets where right hand turns are permitted and this also contributes to traffic problems. He has suggested that either a roundabout or traffic lights are needed to facilitate turning into and out of Norman Street."

The Norman Street/Kennedy Drive intersection has been the subject of community concern for a number of years.

A concept design for a roundabout has been previously completed by Council officers and unfortunately there is insufficient room within the road reserve to install a small roundabout. The installation of traffic signals would not meet the warrants of the Roads and Traffic Authority of NSW guidelines.

Another alternative is to provide a narrow central median on Kennedy Drive which would prevent right turns from both the boat ramp area and Norman Street into Kennedy Drive. This is very undesirable as it would inconvenience many motorists and encourage possibly less safe "U" turns to be made on Kennedy Drive away from the intersection.

Council officers will advise the Committee of the accident history of this intersection.

Council officers advised that of seven accidents from 2005 to 2008, four of them were right rear crashes. The right turns were from Kennedy Drive into Norman Street. Council officers suggested that a right turn lane be further investigated with a view for reducing this type of crash.

COMMITTEE ADVICE:

That:-

1. Council officers further investigate the possibility of a right turn lane on Kennedy Drive into Norman Street.
2. That this item be listed on the Schedule of Outstanding Resolutions.

Current Status: That Item 2 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 22 July 2010 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 27 August 2009).

3. [LTC] Upper Burringbar Road, Burringbar

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 17064318; Burringbar Road; Upper Burringbar Road; Traffic - Committee; Safety; Speed Zones; Directional Signs; Pedestrian Safety

SUMMARY OF REPORT:

From Meeting held 24 June 2010 (Item B7)

Request received for 50km/hr signage on Upper Burringbar Road between the 2 railway crossings.

"Due to the recent upgrading of Upper Burringbar Road between the 2 railway crossings, the residents of this area would like to request 50km/hr road signs as well as bike signs. We already struggle with speeding cars and accidents and with the upgrade these drivers will find it easier to speed even more. Our children ride their push bikes to and from school along this road and we feel that these signs are essential to our families safety."

This item was discussed at the LTC meeting held 15 August 2002 and the item is reproduced as follows:

"R5690; DW685873

Request received for:-

- 1. Re-positioning of the "Drive to Suit Conditions" sign from its present position just past number 143 Upper Burringbar Road to at least another kilometre along the road.*
- 2. The 50kph zone be continued for at least another kilometre.*
- 3. Replacement of the "Drive to Suit Conditions" sign with an 80kph speed zone further up the road.*
- 4. More effective policing of the drivers on Upper Burringbar Road.*

Concerns have been raised for safety, especially for children as drivers begin to speed up before the "Drive to Suite Conditions" sign.

The Committee noted that there is a footpath from Greenvale Court to the School. The RTA Representative noted that the road environment is suitable for de-restriction signage.

The Committee noted that the 50kph speed zone is adequate as it covers from Greenvale Court (rural residential) back to the shopping area.

The Committee noted that the extent of existing 50kph zone was a generous interpretation of the guidelines but to extend it another kilometre into a rural environment is not appropriate.

The Police Representative advised that resources permitting, Police would be tasked to enforce speeds on Upper Burringbar Road.

For Council's information."

Upper Burringbar Road is a rural road with low traffic volumes and limited adjacent development. Council's accident database shows no recorded crashes along the length of road described in the correspondence.

It was suggested that Council officers investigate the matter further with regard to road conditions, traffic volumes, vehicle speeds and the road environment and report back to the Committee.

COMMITTEE ADVICE:

That the Upper Burringbar Road, Burringbar matter be listed on Outstanding Resolutions.

Current Status: That Item 3 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 22 July 2010 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 24 June 2010).

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES

A1 [LTC] Jack Evans Boat Harbour Site - Tweed Heads

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 19178600; Jack Evans Boat Harbour; Jack Evans Boat Harbour - Detailed Design & Construction; Traffic - Committee; Parking Zones; Boundary Street

SUMMARY OF REPORT:

A carpark has recently been constructed at the Jack Evans Boat Harbour site in Tweed Heads. Unfortunately large vehicles such as camper vans and buses regularly park in the carpark using many of the carspaces which is both unsafe and inconvenient for other carpark users. It would appear that the carpark is being used as a caravan park which was a previous use of the site many years ago.

It is recommended that "No Parking - vehicles under 6m excepted" signage be installed throughout the recently completed Jack Evans Boat Harbour carpark off Boundary Street.

Mr Thomas George left the meeting at 10.00am

The Committee suggested that:

1. "No camping or overnight staying" signage be forwarded for consideration to the relevant Council department.
2. The management of the Twin Towns complex be advised of the Committee and Council's decision of the proposed prohibitive signage.
3. Council officers consider the feasibility of creating car spaces for longer vehicles in the vicinity of the existing car park off Bay Street near the Tourist Information Centre.

RECOMMENDATION TO COMMITTEE:

That "No Parking - vehicles under 6m excepted" signage be installed throughout the recently completed Jack Evans Boat Harbour carpark off Boundary Street.

RECOMMENDATION TO COUNCIL:

That "Vehicles over 6m prohibited" signage be installed at the entrance of the recently completed Jack Evans Boat Harbour carpark off Boundary Street.

FOR VOTE - Ian Shanahan, Cr Kevin Skinner, Geoff Provest

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE

B1 [LTC] Kingscliff Triathlon 25 to 26 September 2010

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 19216117; Traffic - Committee; Traffic - Safety; Bicycle Matters; Road Closures - Temporary; Parks - Faulks; Chinderah Bay Drive; Marine Parade; Moss Street; Murphys Road; Ocean Drive; Sutherland Street; Wommin Bay Road

SUMMARY OF REPORT:

The Kingscliff Triathlon is proposed to take place on the 26 September 2010 between 6.00am to 12.00pm, using similar routes as the event held in March 2010.

Changes from the previous event included:

- Transition area in Faulks Park instead of car park adjacent to caravan park
- Full closure at Marine Parade from Moss Street to Seaview Street
- Commercial bus service (603 and 601) no access through race areas
- Possible extension of run leg down Sutherland Point
- Finish line on Marine Parade south of fig tree roundabout

It is proposed that the roads associated with the conduct of the Kingscliff Triathlon, 26 September 2010, being Marine Parade, Wommin Bay Road, Chinderah Bay Drive, Sutherland Point (road related area) be closed from 6.00am to 12.00pm with staged re-openings under the direction of Police.

It is recommended that the road closures be approved subject to standard conditions and Police approval.

The Committee decided that a letterbox drop to affected residents and businesses should be made by the organisers in the vicinity of the road closures and that evidence be provided to the Local Traffic Committee of such consultation.

Discussion was held regarding the route via Sutherland Street and Moss Street for the running leg and the Committee did not support the closure of Sutherland Street and Moss Street and recommended that the boardwalk be used for this leg and the traffic control plan should reflect this.

It was noted that the Police raised concerns last year with buses using Wommin Bay Road and turning into Kingscliff Street during the event.

The Committee did not support the movement of buses through the event and it was recommended that Council officers negotiate with Surfside Buslines to provide a limited service in Kingscliff during the Kingscliff Triathlon event on 26 September 2010.

COMMITTEE ADVICE:

That:

1. Council officers negotiate with Surfside Buslines to provide a limited bus service in Kingscliff during the Kingscliff Triathlon event on 26 September 2010.
2. No objection is raised to the proposed temporary road closures for the Kingscliff Triathlon event on 25 to 26 September 2010 subject to Police approval, development of traffic control plans and evidence of consultation with stakeholders.

B2 [LTC] Tweed Coast Road, Hastings Point

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 18482573; Tweed Coast Road, Hastings Point: Traffic - Committee; Safety; Speed Zones; School Zones

SUMMARY OF REPORT:

Request received for a reduction in the speed limit to 60km/h on Tweed Coast Road, Hastings Point between Hastings Point and Bogangar Primary School.

- "1. *As a regular driver between Hastings Point and Melbourne I have noticed that Hastings Point seems to be the ONLY place on the east coast where speed reduces from 80kph to 50kph with no warning '50kph ahead' sign. In fact it seems to be the only village where there is a 30kph immediate decrease in speed. As a result traffic simply does not reduce and continues through the Hastings Point village well over the speed limit of 50kph. It is appalling for an average speed of 68.5kph through the village to be considered acceptable.*
2. *There is just under 1 kilometre in distance between the roundabout just south of the Bogangar school and the Hastings Point 50kph sign. That one kilometre includes a skate park where numerous young children cross Tweed Coast Rd to the beach, and a football ground where increasing numbers of events are occurring and cars park along Tweed Coast Road, severely reducing the safety of traffic flow through the area.*
3. *This 'less than one kilometre' stretch of road also passes a pony club where young children on horses regularly ride across Tweed Coast Rd en route to the beach. Most of these riders are young and inexperienced and it is a miracle that an accident has not occurred.*
4. *As you are all aware Hastings Point has a large number of older residents, particularly in the Northstar retirement community who experience difficulty in crossing Tweed Coast Rd safely.*
5. *Hastings Point also has several blind residents and representations have been made to Council by Vision Australia asking for the installation of a pedestrian crossing at the corner of Tweed Coast Rd and Creek St.*

Finally- we ask that this committee strongly reject requests by a developer to remove the pedestrian refuge island at the corner of Tweed Coast Rd and Creek St to enable easier access for construction trucks. To consider construction trucks over pedestrian safety is an appalling request."

Further correspondence has been received regarding this matter which is attached to this report.

Council's traffic data for the week up to 2 April 2009 for Tweed Coast Road south of Creek Street is:

Average Daily Traffic: 6,237 vehicles per day
85th percentile speed: 62kph

Council officers will assess sight distance issues near the Pony Club, oval and skateboard park and report to the meeting.

The installation of a pedestrian crossing near the Creek Street/Tweed Coast Road intersection would not meet warrants under Roads and Traffic Authority of NSW guidelines.

The issue of the probable removal of an existing pedestrian refuge for a proposed development at the end of Creek Street is a matter for consideration as part of the development assessment process.

The length of the 80km/h zone mentioned in the correspondence is approximately 1.5km.

The correspondent requests that trucks that are too large to negotiate the Creek Street/Tweed Coast Road intersection be prohibited from entering Creek Street. Current legislation allows large vehicles (except for b-doubles longer than 19m) to use the street network. Signage cannot be installed at potentially numerous intersections to prohibit large truck turns.

Mr McKennariey's comments were discussed in relation to pedestrian safety especially for the disabled and aged.

It was suggested that Council officers check the swept paths of a number of large vehicles for right turns into Creek Street from Tweed Coast Road, Hastings Point.

The Committee considered that the retention of the existing pedestrian refuge in its existing location or close proximity is essential for pedestrian safety.

The Roads and Traffic Authority of NSW representative advised that a speed rating review is currently being undertaken for Tweed Coast Road from Cudgen to Pottsville. This review will include the section of Tweed Coast Road between Cabarita and Hastings Point villages.

COMMITTEE ADVICE:

That:

1. "50km/hr" *Ahead* signage be installed at the approaches to Cabarita, Hastings Point and Pottsville villages on Tweed Coast Road in accordance with the relevant guidelines.
2. The correspondent be advised of the Committee's considerations on this matter.

B3 [LTC] Pottsville Public School - Tweed Coast Road, Pottsville

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 14868320; Traffic - Committee; Traffic - School Zones; Pedestrian Crossings; Safety; Pottsville Public School; Tweed Coast Road Pottsville

SUMMARY OF REPORT:

From Meeting held 22/4/10 (Item B3)

"Request received for a pedestrian crossing at Pottsville Beach Public School.

"I am writing this letter to raise my concerns about the lack of a pedestrian crossing at Pottsville Primary School.

Since the start of the school year I have seen many incidents that could have quite easily resulted in serious injury or death.

Due to the fact that this is a primary school there are many very young children who are at most risk due to their lack of road safety and maturity.

The current situation where there are 'children crossing' flags yet no lollipop person seems untenable, and an invitation for disaster.

I invite representatives from the local traffic committee to view the current situation in person and see for themselves how precarious this situation is."

The Roads and Traffic Authority of NSW administer the School Crossing Supervisor Scheme and Council provides advice on current traffic and pedestrian volumes for its consideration.

Pedestrian counts will be submitted to the Committee meeting.

The Committee Representatives considered that the existing school crossing is located undesirably, being immediately adjacent to the roundabout. Consideration should be given to relocating the School Crossing to the north side of the roundabout near the School's southern driveway entrance and a report tabled at the next meeting including comments from the School.

Council's pedestrian counts did not satisfy the Roads and Traffic Authority of NSW's warrants for a School Crossing Supervisor however additional counts will be carried out by the Roads and Traffic Authority of NSW and an assessment will be undertaken. Counts conducted on Wednesday 24 March 2010 found there were 10 unaccompanied children, 24 children with adults and 24 adults in a one hour period after school in the afternoon.

COMMITTEE ADVICE:

That the item for Pottsville Public School be brought forward to the May 2010 meeting of the Local Traffic Committee.

Current Status: That Item 3 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 24 June 2010 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 22 April 2010)."

From meeting held 22/7/10

Further advice has been received from the Roads and Traffic Authority of NSW that the pedestrian warrant counts were not met for a school crossing supervisor and advice would be forwarded from the Roads and Traffic Authority of NSW to the school directly.

COMMITTEE ADVICE:

That the advice from the Roads and Traffic Authority of NSW regarding a school crossing supervisor at Pottsville Public School be noted.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 19 August 2010 in the Mt Warning Meeting Room commencing at 9.30am.

Mr Provost provided a list of issues for the next meeting of the Local Traffic Committee.

The Roads and Traffic Authority of NSW Representative advised of a speed review of the Tweed Valley Way from Condong to Murwillumbah.

Cr Skinner requested that an item be placed on the Agenda for the next Local Traffic Committee meeting which considers public and road safety at the intersection of Chinderah Road and Chinderah Bay Drive, especially in relation to the proposed improvements to the Chinderah Bay foreshore at this location. This should include consideration of a pedestrian refuge crossing near the existing bus stop on Chinderah Bay Drive.

There being no further business the Meeting terminated at 11:40am.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

A1 [LTC] Jack Evans Boat Harbour Site - Tweed Heads

Nil.

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

A1 [LTC] Jack Evans Boat Harbour Site - Tweed Heads

That "Vehicles over 6m prohibited" signage be installed at the entrance of the recently completed Jack Evans Boat Harbour carpark off Boundary Street.

44 [SUBCOM] Minutes of Subcommittees circulated to Councillors with this Agenda not requiring a Council decision

1. Minutes of the Aboriginal Advisory Committee Meeting held Friday 2 July 2010 (ECM 20231217).
 2. Minutes of the Tweed Equal Access Advisory Committee Meeting held Wednesday 21 July 2010 (ECM 20181231).
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ORDERS OF THE DAY

45 [NOR-Crs B Longland, K Milne and D Holdom] Pottsville Shopping Village

NOTICE OF RESCISSION:

Councillor B Longland, K Milne and D Holdom move that Council resolution at Minute No 518 in relation to Item 71 of the Meeting held 20 July 2010 being:

518

**Cr W Polglase
Cr P Youngblutt**

RESOLVED that:-

1. *Council schedules a Workshop on a revised shopping village proposal on the Seabreeze/Pottsville site which includes a presentation from the proponents.*
2. *If the community wishes to have a meeting with Council, such a meeting be organised.*

be rescinded.

46 [NOM-Cr D Holdom] Code of Meeting Practice - Council Meetings

NOTICE OF MOTION:

Councillor D Holdom moves that the time for the commencement of the Council meetings as shown in the Code of Meeting Practice (Version 2.0 adopted 26/2/2010) at s1.1.2 be amended to read *“Council Meeting to be held on the third Tuesday of the month from 3.30 pm”*.

47 [NOM-Cr W Polglase] Koala Sanctuary

NOTICE OF MOTION:

Councillor W Polglase moves that Council requests the Koala Advisory Committee to give consideration to investigate the opportunity of creating a koala sanctuary in Tweed Shire.

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

1 [CNR-CM] Share Farm Agreement - Part Lot 602 DP 1001049 - Duranbah

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

2 [EO-CM] Potential Council Owned Employment Land - Wardrop Valley

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

3 [EO-CM] Purchase of Land for Proposed Sportsfields Part Lot 3 DP 1000385 Fraser Drive, Tweed Heads West

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

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