



TWEED
SHIRE COUNCIL

Mayor: Cr K Skinner (Mayor)

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

Agenda

Ordinary Council Meeting Tuesday 16 November 2010

held at Murwillumbah Cultural & Civic Centre
commencing at 3.30pm

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.

Items for Consideration of Council:

ITEM	PRECIS	PAGE
	CONFIRMATION OF MINUTES	7
1	Minutes of the Ordinary and Confidential Council Meeting held Tuesday 19 October 2010	7
2	Minutes of the Extraordinary Council Meeting held Monday 1 November 2010	9
	SCHEDULE OF OUTSTANDING RESOLUTIONS	11
3	Schedule of Outstanding Resolutions	11
	MAYORAL MINUTE	15
4	[MM] Mayoral Minute for 05 October to 04 November 2010	15
	ORDINARY ITEMS FOR CONSIDERATION	19
	REPORTS THROUGH THE GENERAL MANAGER	19
	REPORTS FROM THE GENERAL MANAGER	19
5	[GM-CM] North Coast Institute of TAFE Memorandum of Understanding	19
	REPORTS FROM THE DIRECTOR PLANNING AND REGULATION	25
6	[PR-CM] Development Application DA10/0451 for a Two (2) Lot Subdivision at Lot 2 DP 562104, No. 42-44 Terrace Street, Chinderah	27
7	[PR-CM] Development Application DA06/1034.08 for an Amendment to Development Consent DA06/1034 for Alterations and Additions to Existing Tavern at Lot 1 DP 848875, No. 2-14 Henry Lawson Drive, Terranora	63
8	[PR-CM] Development Application DA08/1225.01 for an amendment to Development Consent DA08/1225 for Demolition of Existing Dwellings & Hall & Construction of an Aged Care Facility Comprising 200 Units in a Three (3) Storey Building at Lot 4 DP 617471; Lot 1 DP 605577; Lot 6 Section 1 and Lot 7 Section 1 DP 28949; Lot 1 and Lot 2 DP 378971; Nos. 16-20 Kingscliff Street and Nos. 90 and 92 Pearl Street, Kingscliff	75
9	[PR-CM] Notice of Appeal of a Joint Regional Planning Panel (JRPP) Development Application DA09/0727 for Additions to Existing Manufactured Home Estate (Noble Lakeside Park) including 45 New Manufactured Home Sites, Construction of a Community Hall and F	119
10	[PR-CM] Development Control Policy	125

11	[PR-CM] Visitor Carparking at Lot 1 DP 525502 No. 4 Second Avenue, Tweed Heads	129
12	[PR-CM] Vegetation Removal Complaints	133
13	[PR-CM] Planning Reform Unit - Tweed Development Control Plan Section B23 - Hastings Point Locality Based Development Code	137
14	[PR-CM] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards	155
REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES		157
15	[CNR-CM] Community Preschools	157
16	[CNR-CM] Cultural Program	167
17	[CNR-CM] Sewerage Options for Urban Land Release Strategy Areas Burringbar (Area 8) and Mooball (Area 9)	171
18	[CNR-CM] Tweed District Water Supply Augmentation - Subsequent Issues	179
19	[CNR-CM] Continued River Health Grant Program Implementation 2010 - 2011 Financial Year	183
20	[CNR-CM] Acceptance of Grant - Youth Week 2011	187
21	[CNR-CM] Request for "In Kind" Support/Waive Fee	191
22	[CNR-CM] Acceptance of Grant Funding from Department of Community Services for Community Builders	195
23	[CNR-CM] Entomological Control Report for Period August to October 2010	199
24	[CNR-CM] EC2010-167 Manufacture, Supply and Delivery of DN 300mm Pressure Pipe	205
REPORTS FROM THE DIRECTOR ENGINEERING AND OPERATIONS		207
25	[EO-CM] Land Acquisition - Terranora Road, Bungalora	207
26	[EO-CM] Flood Mitigation Program Grant Funding	209
27	[EO-CM] EC2010-139 Tender for the Supply of Three (3) 60 HP Self Propelled Triple Deck Mower Units	211
28	[EO-CM] EC2010-134 Drilling and Blasting of Council Quarries	215
REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES		219
29	[TCS-CM] 2009/2010 Statutory Financial Reports/Audit Report	219
30	[TCS-CM] 2009/2010 Statutory Annual Report	251
31	[TCS-CM] Quarterly Budget Review - 30 September 2010	253
32	[TCS-CM] Corporate Quarterly Report - 1 July to 30 September 2010 Incorporating the 7 Year Infrastructure and Services Plan	265

33	[TCS-CM] Tender EC2010-147 - Design and Construction of an Industrial Building (Records Storage Facility) at Lot 212 DP 1122768 No 24 Honeyeater Circuit, Murwillumbah	267
34	[TCS-CM] In Kind and Real Donations - July to September 2010	273
35	[TCS-CM] Review of Council Policy "Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors"	277
36	[TCS-CM] Meeting Dates January to December 2011	279
37	[TCS-CM] Monthly Investment Report for Period Ending 31 October 2010	283
REPORTS FROM SUB-COMMITTEES/WORKING GROUPS		297
38	[SUB-TEAAC] Minutes of the Tweed Equal Access Advisory Committee Meeting held Wednesday 15 September 2010	297
39	[SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 21 October 2010	302
40	[SUBCOM] Minutes of Subcommittees/Working Groups not requiring a Council decision	319
ORDERS OF THE DAY		320
41	[NOR-Cr Longland, Cr Milne, Cr Holdom] Lots 2-8 DP28597 Terranora Road Terranora	320
42	[NOR-Cr Polglase, Cr van Lieshout, Cr Youngblutt] Cobaki Lakes Concept Plan	320
43	[NOM-Cr J van Lieshout] Cobaki Lakes Concept Plan	321
44	[NOM-Cr J van Lieshout] Council Meetings December 2010 to February 2011	321
45	[NOM-Cr van Lieshout] Tweed River Festival - 30 October 2010	321
46	[NOM-Cr K Skinner] Workshop Requests	322
47	[NOM-Cr Holdom] Councillor Conference Policy	322
48	[NOM-Cr Milne] Public Transport Strategy	322
49	[NOM-Cr Milne] Quarry Monitoring	323
50	[NOM-Cr Milne] Native Vegetation Act	323
51	[NOM-Cr Milne] Marine Litter Volunteer Groups	323
52	[NOM-Cr Milne] Sustainable Caravan Parks	324
53	[NOM-Cr Milne] Water Conservation Kings Forest and Cobaki Developments	324
54	[NOM-Cr Milne] Water Conservation	324

QUESTION TIME	325
55 [QON-Cr Holdom] Byrrill Creek Dam - Size Specified	325
56 [QON-Cr Holdom] Project Plan, Cost Estimates and Time Line/s Byrrill Creek Dam	325
CONFIDENTIAL ITEMS FOR CONSIDERATION	327
REPORTS THROUGH GENERAL MANAGER IN COMMITTEE	327
REPORTS FROM THE GENERAL MANAGER IN COMMITTEE	327
1 [GM-CM] Tweed Shire Council Sale of Land – Wollumbin Street, Murwillumbah	327
2 [GM-CM] 108 Reserve Creek Road, South Murwillumbah	327
REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE	328
3 [CNR-CM] EQ2010-151 Share Farming Proposal at Lot 602 DP 1001049 Duranbah	328
ORDERS OF THE DAY IN COMMITTEE	328
4 [NOM-Cr Milne] Complaints re Flood Flow impediments	328

CONFIRMATION OF MINUTES

- 1 **Minutes of the Ordinary and Confidential Council Meeting held Tuesday 19 October 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 19 October 2010 (ECM 23015667).
 2. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Tuesday 19 October 2010 (ECM 22967346).
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2 Minutes of the Extraordinary Council Meeting held Monday 1 November 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 Extraordinary Council Meeting held Monday 1 November 2010 (ECM 23642341)
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SCHEDULE OF OUTSTANDING RESOLUTIONS

3 Schedule of Outstanding Resolutions

FOR COUNCILLOR'S INFORMATION:

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

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 will be submitted to a future Council meeting dependent on outcomes of discussions with the Department of Planning on draft LEP 2010.

18 MAY 2010

ORDERS OF THE DAY

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

1
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: Preliminary report prepared for the Executive Management Team's consideration on Friday 12 November 2010.

21 September 2010

ORDERS OF THE DAY

54 [NOM-Cr B Longland] Museums

664

Cr B Longland

Cr D Holdom

RESOLVED that in view of Council's 2004 Memorandum of Understanding with the combined Historical Societies involving Council's 7-Year Plan commitment to a purpose-built Museum at Tweed Heads and the extension of the Murwillumbah Museum, could a comprehensive report be brought forward on the following:

- the scope for revisiting the design and cost estimates for both projects with the architect with a view to identifying substantial savings. In the case of the Murwillumbah project, an amount of approximately \$2million being a more realistic estimate;
- how it is intended that the \$1million Museum commitment from the Federal Government will be utilised before its expiry on 30 June 2011;
- assuming significant cost reductions can be found, plans for the urgent completion of a Development Application for the Murwillumbah Museum extensions in order that funding opportunities can be exploited as and when they become available;
- reassurance of Council's commitment to these projects (and possible planned commencement dates), for the dedicated volunteer Historical Society workforce involved in the acquisition, care, maintenance and display of the valuable collection that is now in the ownership of Council.

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

56 [NOM-Cr D Holdom] Workshop-Department of Environment, Climate Change and Water NSW 2010 Border Ranges Rainforest Biodiversity Management Plan - NSW and Queensland, Department of Environment, Climate Change and Water NSW, Sydney

666

Cr D Holdom

Cr K Milne

RESOLVED that the General Manager organises a workshop for Councillors on the Department of Environment, Climate Change and Water NSW 2010 Border Ranges Rainforest Biodiversity Management Plan - NSW and Queensland, Department of Environment, Climate Change and Water NSW, Sydney, similar to the public workshop held on 4 September 2010 at the Canvas and Kettle Restaurant, Murwillumbah.

Current Status: Workshop to be scheduled.

16 October 2010

REPORTS THROUGH THE GENERAL MANAGER

23 [CNR-CM] Tweed District Water Supply - Demand Management Strategy

686

Cr K Milne

Cr B Longland

RESOLVED that Council:

- 5. *Conducts a Workshop with a view to forming a proposal to lobby the State Government to review the BASIX and WELS programs to enhance the water conservation outcomes.***

Current Status: Workshop scheduled for 30 November 2010.

- 6. *Develops a water friendly garden Policy.***

Current Status: Policy to be developed.

MAYORAL MINUTE

4 [MM] Mayoral Minute for 05 October to 04 November 2010

Councillors,

COMMITTEE MEETINGS

Attended by the Mayor

- 28 Oct 2010 - Tweed River Art Gallery (TRAG) Foundation AGM – TRAG, Mistral Rd, Murwillumbah (also attended by Cr van Lieshout)

Inability to Attend

- 05 Oct 2010 - NOROC – Lismore City Council
- 07 Oct 2010 - Arts Northern Rivers Board Meeting, Kyogle Council Chambers
- 13 Oct 2010 - Community Safety Precinct Committee Meeting – Tweed Heads Police Station
- 02 Nov 2010 - Richmond Tweed Library Committee Meeting - Lismore City Council (Cr Holdom advised her attendance)

INVITATIONS:

Attended by the Mayor

- 06 Oct 2010 - 4CRB Radio Talkback - 8 Stevenson Crt, Burleigh Heads
- 07 Oct 2010 - Chinderah Community Meeting - Guest House, Walsh Street, Chinderah
- 16 Oct 2010 - Start of Robbie Sammel Ovarian Cancer Awareness Walk - Jack Bayliss Park, Kingscliff
- 16 Oct 2010 - Cabarita Youth Service Launch - Cabarita Youth Service, 45 Tweed Coast Road, Bogangar
- 24 Oct 2010 - Opening of NSW Fire Brigades Firefighters' Championships - Recreation Park, Recreation St, Tweed Heads
- 27 Oct 2010 - Tweed River Agricultural Society Sponsors Night - Function Room, Murwillumbah Showgrounds
- 30 Oct 2010 - Tweed River Festival Opening - Budd Park, Murwillumbah (Cr van Lieshout and Milne also advised their attendance)

Council Meeting held Tuesday 16 November 2010

- 01 Nov 2010 - Banora Point Residents Association Meeting - Banora Point Community Centre, Cnr Leisure Drive & Woodlands Drive, Banora Point
- 03 Nov 2010 - Welcome, North Coast Local Government Sport and Recreation Forum - Renaissance Room - Twin Towns, Tweed Heads
- 03 Nov 2010 - 4CRB Radio Talkback - 8 Stevenson Crt, Burleigh Heads
- 03 Nov 2010 - 6th Gold Coast region Homelessness Symposium - Robina Community Centre, 196 Robina Town Centre Drive, Robina

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

- 12 Oct 2010 - Murwillumbah Autumn Club, Opening of annual get-together of Senior Citizens Clubs - Murwillumbah Catholic Church Hall, Main Street, Murwillumbah (attended by Cr Barry Longland)
- 15 Oct 2010 - Ecosure "Bold & Sustainable" Presentation - Gold Coast Convention & Exhibition Centre (attended by Cr Joan van Lieshout)
- 22 Oct 2010 - Regal Rubies Red Hatter Cocktail Party - Official Welcome to 150 visiting members – Twin Towns Services Club (attended by Cr Warren Polglase)
- 26 Oct 2010 - Launch of Tumbulgum 'Plastic Bag Free Village' initiative - Ferryside General Store, Tumbulgum (attended by Cr Katie Milne)
- 28 Oct 2010 - Tweed Kenya Mentoring Program Update and presentation by Skyjuice Foundation - Tweed Sustainable Living Centre, Altona Rd, Cudgen (Cr van Lieshout advised her attendance)
- 31 Oct 2010 - All Saints Anglican Church 50th Anniversary Service - 32 Byangum Rd, Murwillumbah (attended by Cr Polglase)

Inability to Attend by or on behalf of the Mayor

- 08-10 Oct 2010 - Tweed River Classic Boat Regatta, 10th Anniversary – Tweed River
- 08 Oct 2010 - Clean Beaches Presentation by Keep Australia Beautiful NSW – Murwillumbah Civic Centre, 3 Tumbulgum Rd, Murwillumbah
- 20 Oct 2010 - Girl Guide Movement 100 Year Celebrations - 64 Laura Street, Banora Point
- 23 Oct 2010 - Opening of Knox Park Clay Tennis Courts – Knox Park, Brisbane St, Murwillumbah
- 29 Oct 2010 - Tweed Theatre Company - Pins and Needles Opening Night - Tweed Civic Centre, Tweed Heads
- 30 Oct 2010 - 50th Anniversary of the All Saints Anglican Church Celebration - All Saints Anglican Church, Murwillumbah

- 30 Oct 2010 - Murwillumbah Theatre Company Production of "Fantastic Mr Fox" - Murwillumbah Civic Centre, Tumbulgum Road, Murwillumbah
 - 03 Nov 2010 - Official Launch of the Learn. Earn. Legend! Indigenous All Stars 2011 Jersey and The 'Titans Beyond Tomorrow' Program - Titans Centre of Excellence, 2 Promethean Way, Robina
-

CONFERENCES:

Conferences attended by the Mayor and/or Councillors

- 18-19 October – 2010 Tourism Symposium, Peppers Salt Resort Kingscliff – attended by Crs Skinner and van Lieshout

Information on Conferences to be held

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

- 4-8 Apr 2011 - Greenhouse 2011, The Science of Climate Change – Cairns Convention Centre, Registration Cost \$1440 plus 5 nights accommodation
-

SIGNING OF DOCUMENTS BY THE MAYOR:

- 12 Oct 2010 - Transfer – Lot 9, DP1141215 – Lake Kimberley Estate, Banora Point
- 12 Oct 2010 - Option to purchase – Lot 212 DP1122768 – 24 Honeyeater Circuit, South Murwillumbah
- 12 Oct 2010 - Share Farm Agreement – Part Lot 602, DP 1001049 – Duranbah
- 21 Oct 2010 - Section 88B Instrument – Easement Lot 400, DP776483 – 165 Darlington Drive, Banora Point
- 01 Nov 2010 - Easement Request – Banora Terrace, Bilambil Heights
- 01 Nov 2010 - Transfer Granting Easement – 1-3 Young Street, Hastings Point

RECOMMENDATION:

That:-

- 1. The Mayoral Minute for the period 05 October to 04 November 2010 be received and noted.**
 - 2. The attendance of Councillors at nominated Conferences be authorised.**
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ORDINARY ITEMS FOR CONSIDERATION

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE GENERAL MANAGER

5 [GM-CM] North Coast Institute of TAFE Memorandum of Understanding

ORIGIN:

General Manager

SUMMARY OF REPORT:

North Coast TAFE have requested that Council give consideration to the development of a Memorandum of Understanding (MOU) to work cooperatively in education, skills and workforce development for the Tweed local government area and for Council's own workforce.

RECOMMENDATION:

That Council enters into a Memorandum of Understanding with North Coast TAFE as outlined in the body of the report.

REPORT:

North Coast TAFE have requested that Council give consideration to the development of a Memorandum of Understanding (MOU) to work cooperatively in education, skills and workforce development for the Tweed local government area and for Council's own workforce.

North Coast TAFE is the major provider of education, training, skills and workforce development services to the Tweed and broader North Coast region. It operates 17 campuses across the region from Tuncurry/Forster to the Tweed, including Kingscliff and Murwillumbah, with Ballina and Wollongbar only a little over an hour away.

North Coast TAFE's investment in the Tweed is substantial with the return on investment over twenty years forecast to be approximately \$102 million

Students have access to extensive facilities and support including canteens, libraries and learner support centres, student counselling, support for Aboriginal students and those with a disability.

Kingscliff Campus

Kingscliff Campus offers state-of-the-art vocational education and training facilities. Specialist areas of study available include hospitality, graphic design, carpentry and joinery, information technology, health & fitness, nursing, business, hairdressing and children's services. The campus also offers programs in general education and TAFE delivered VET. The profile of Kingscliff Campus is planned to complement the programs offered by Murwillumbah Campus.

Kingscliff Campus employs 169 staff (full time and part time) in a range of teaching, administrative and technical support roles.

Annual enrolments at the campus average 4,700 and include:

- International students
- local school students enrolled in TAFE delivered VET programs
- unemployed people gaining new skills as a result of the Federal Government's Productivity Places Program
- New Entrant and Existing Worker Trainees who learn largely on-the-job
- School Based Apprentices and Trainees
- Children's Services students who have taken advantage of the Federal Government's recent fees waiver for Diploma studies.
- local students undertaking either a customised short course or legislative short course to add to their existing skills

Murwillumbah Campus

Murwillumbah Campus is located in the central business district of Murwillumbah and offers a range of vocational education and training services to industry and members of the community. Qualifications and courses currently offered include general education, fine arts, ceramics, community services work, information technology, automotive, business and retail.

Murwillumbah Campus employs 37 staff (full time and part time) in a range of teaching, administrative and technical support roles.

Average annual enrolments at the campus are 1,400 and include:

- Local school students undertaking TAFE delivered VET programs
- Unemployed people gaining new skills as a result of the Commonwealth Government's Productivity Places Program
- New Entrant and Existing Worker Trainees
- School Based Trainees
- Aboriginal students
- Local students undertaking either a customised short course or legislative short course to add to their existing skills.

The Institute's on-the-job heavy vehicle program is managed from Murwillumbah Campus. The campus also provides an extensive Outreach program for rural and remote communities in the Tweed area such as Tyalgum and Uki.

MOU

Council has a MOU with Southern Cross University which is proving quite effective for both organisations. This MOU has particularly enable the Management Team to gain a better understanding of the broad range of skills and services available from Southern Cross University. Attached to this report is the current schedule of activity which is the working document behind the Southern Cross University MOU.

Following discussions with the Institute Director, North Coast TAFE has forwarded a draft MOU for Council's consideration.

Draft Memorandum of Understanding for Council's consideration



Memorandum of Understanding

between

**Tweed Shire Council
and
TAFE NSW - North Coast Institute**

1. PREAMBLE

Tweed Shire Council (The Council) and TAFE NSW - North Coast Institute (North Coast TAFE) have entered into this Memorandum of Understanding to work cooperatively in education, skills and workforce development for the Tweed Local Government Area (LGA), and for the Council's own workforce.

2. PURPOSE AND OBJECTIVES

The purpose of this Memorandum is to best use the capabilities of both parties to optimise the value of education and workforce development opportunities for the local community and Council staff. The parties commit themselves to a strategic alliance to:

- 2.1 Work jointly to promote the benefits of education and skills development to individuals, communities and enterprises in the Tweed LGA
- 2.2 Partner to increase opportunities to access funding to assist individuals, communities and enterprises within the Tweed LGA in achieving their educational and workforce development goals
- 2.3 Work collaboratively with each other, schools, universities and other organisations to address barriers to student aspirations, participation and completion in vocational education and training and tertiary education programs
- 2.4 Work cooperatively to optimise educational and skills development outcomes for disadvantaged people and communities in the Tweed LGA and to collaborate with other organisations to achieve this objective
- 2.5 Explore and promote ways to support individuals in the Tweed LGA to successfully enrol in and complete North Coast TAFE programs to assist them to achieve their career and employment objectives
- 2.6 Work collaboratively with each other, the local business community and regional development bodies to support economic, industry and enterprise development, including support for start-up businesses and new businesses relocating to the area.
- 2.7 Work jointly and collaboratively with other parties as appropriate to address the environmental, skills shortage and social inclusion challenges within the Tweed LGA
- 2.8 Use the capability of both organisations to facilitate delivery of accredited vocational programs and other learning and development programs for Council staff and management
- 2.9 Explore and promote ways to support North Coast TAFE students to undertake course-related work placements with the Tweed Shire Council and other businesses in the LGA
- 2.10 Advise our respective staff members on the intent and objective of this alliance and the expectation of their involvement in joint initiatives to achieve them.

3. TERMS OF THE MEMORANDUM

3.1 Notwithstanding the strategic alliance each party acknowledges that the other remains independent and free to pursue other collaborative arrangements and that no rights are conferred by this Memorandum or otherwise which will permit one to speak on behalf of the other or jointly or commit the other to a course of action which has not been previously agreed. This document sets out an understanding which has been reached and as such is not intended to be legally binding or to create rights which might be enforceable at law.

4. TERM OF THE MEMORANDUM

4.1 This Memorandum commences on the date that it is executed on behalf of both parties and operates for the period to Both parties can agree prior to that date to extend the duration of the operation of this understanding.

4.2 Where it is necessary for the parties to enter into specific and individual program/project contracts with each other to progress the purpose and objectives of this Memorandum then these shall be negotiated in good faith and on a case by case basis.

_____ Date: _____

_____ Date: _____

Elizabeth McGregor
Institute Director
TAFE NSW - North Coast Institute

Councillor Kevin Skinner
Mayor
Tweed Shire Council

.....

.....

Lester Searle
Director TAFE Services
Information Technology &
Creative Industries Faculty
(Community Relations – Tweed)

Mike Rayner
General Manager
Tweed Shire Council

Of particular relevance to Council is the emergence of workforce development as the most effective way the training system can meet the needs of industry to:

- adopt high performance work practices
- support their employees to upgrade their skills
- improve their products and services
- adapt to technological and economic change; and
- increase their productivity.

This report recommends that Council endorse the MOU outlined above.

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. Schedule of activity - working document behind the Southern Cross University MOU (ECM23753083)
-

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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6 [PR-CM] Development Application DA10/0451 for a Two (2) Lot Subdivision at Lot 2 DP 562104, No. 42-44 Terrace Street, Chinderah

ORIGIN:

Development Assessment

FILE NO: DA10/0451 Pt1

SUMMARY OF REPORT:

The proposed development involves an allotment with the zoning being part 1(a) Rural and part 7(a) Environmental Protection (Wetlands & Littoral Rainforests). The area of the lot is 3.66ha. The applicant is seeking approval for a two (2) lot subdivision of land. The 7(a) zoned land will be contained within proposed Lot 2.

The proposal incorporates a SEPP 1 Objection in relation to the 1(a) 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.

The subdivision will result in two (2) allotments with areas of 3.483ha and 0.1761ha. Each allotment will contain a dwelling.

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

RECOMMENDATION:

That Development Application DA10/0451 for a two (2) lot subdivision at Lot 2 DP 562104, No. 42-44 Terrace Street Chinderah 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 18035 D Rev. A prepared by B & P Surveys and dated 25/01/10, except where varied by the conditions of this consent.

[GEN0005]

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.

[GEN0125]

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. Council advises that the land is subject to inundation in a 1 in 100 year event to the Design Flood Level of 3.2m AHD.

[GEN0195]

5. The referenced easement for water supply over existing line of pipe (Y) as shown on proposed Survey Plan 18035 D Rev. A, prepared by B & P Surveys and dated 25/01/10 is not supported by Council.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works 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 Subdivision Certificate is issued.

[PCC0275]

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

[PCC0285]

8. 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]

9. Prior to the issue of a Construction Certificate for civil works to be dedicated to Council, the following detail in accordance with Councils Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

(a) copies of compliance certificates relied upon

(b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:

- earthworks
- roadworks/furnishings
 - The extension of Walsh Street, including a sealed pavement of 6.0m width with barrier kerb and gutter for the on the subject site's side of Walsh Street, for it's full frontage, on an alignment approved by Tweed Shire Council.

- Access shall be provided to the proposed allotments in accordance with Council standards including:
 - a) The proposed Right of Carriageway shall be upgraded to a 3.6m wide, 150mm thick gravel pavement and 2 coat seal from Walsh Street to the property boundary of Proposed Lot 2.
- stormwater drainage
- Roofwater from the existing dwelling on proposed Lot 3 shall discharge into the new kerb and gutter in Walsh Street, where physically achievable.
- water supply works
- The existing dwellings must be serviced by separate water meters, with the water service for proposed Lot 2 to be provided along that allotments frontage to Walsh Street. Any interconnection of water pipes between the two properties must be removed.
- sewerage works
- The septic systems servicing the existing dwellings must be decommissioned and replaced with individual, private pump stations.
- All pressure mains shall be located with the road reserve. The Developer shall provide a Boundary Kit for connection for each lot to be serviced by the pressure sewer within each associated lot, in accordance with Council's standard specifications and drawings. The location of connection or the pressure main to sewerage shall be determined in consultation with Council during preparation of the engineering design plans so as to minimise the length of rising main so as to reduce any potential odour and septicity issues.
- The associated pressure mains will become the responsibility of Council. The mains must be sized so as to permit neighbouring properties to the north to be connected in the future.
- sedimentation and erosion management plans
- location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure)

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

10. Permanent stormwater quality treatment shall be provided in accordance with Councils *Development Design Specification D7 - Stormwater Quality*.

[PCC1105]

11. Erosion and Sediment Control shall be provided in accordance with the following:

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

[PCC1155]

PRIOR TO COMMENCEMENT OF WORK

- 12. 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]

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

- (a) a construction certificate for the civil work has been issued in accordance with Councils Development Construction Specification C101 by:

- (i) the consent authority, or
- (ii) an accredited certifier, and

- (b) the person having the benefit of the development consent:

- (i) has appointed a principal certifying authority,
- (ii) has appointed a Subdivision Works Accredited Certifier (SWAC) accredited in accordance with Tweed Shire Council DCP Part A5 – Subdivision Manual, Appendix C with accreditation in accordance with the Building Professionals Board Accreditation Scheme. As a minimum the SWAC shall possess accreditation in the following categories:

C4: Accredited Certifier – Stormwater management facilities construction compliance

C6: Accredited Certifier – Subdivision road and drainage construction compliance

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

- (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment,
- (iv) a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works

Accredited Certifier is erected and maintained in a prominent position at the entry to the site in accordance with Councils Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued, and

- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the civil work.

[PCW0815]

14. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

15. 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.

[PCW0985]

DURING CONSTRUCTION

16. 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]

17. 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]

18. 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]

19. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.

[DUR0815]

20. 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]

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

[DUR0995]

22. 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]

23. 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]

24. 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]

25. All works shall be carried out in accordance with Councils Acid Sulfate Soils Management Plan for Minor Works. A signed copy of this Management Plan shall be submitted to Council prior to the commencement of works.

[DUR1075]

26. 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]

27. Before the commencement of the relevant stages of road construction, pavement design detail including reports from a Registered NATA Consultant shall be submitted to Council for approval and demonstrating.

- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
- (c) That site fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

28. During the relevant stages of road construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:

- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

29. 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]

30. Any damage caused to public infrastructure (roads, 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 the issue of a Subdivision Certificate.

[DUR1875]

31. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, Appendix D. Inspection fees are based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal

(g) Final inspections - on maintenance

(h) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

(a) Excavation

(b) Bedding

(c) Laying/jointing

(d) Manholes/pits

(e) Backfilling

(f) Permanent erosion and sedimentation control measures

(g) Drainage channels

(h) Final inspection - on maintenance

(i) Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

32. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

33. 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]

34. Any required stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Councils Development Design and Construction Specifications.

[DUR2355]

35. 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]

36. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

37. All waters that are to be discharged from the site or works shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l.

[DUR2435]

38. All works shall comply with the Erosion and Sediment Control Plan, Cozens Regan Williams Prove June 2010.

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

[PSC0005]

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

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

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

Water DSP5:	1 ET @ \$11020 per ET	\$11020
Sewer Kingscliff:	1 ET @ \$5295 per ET	\$5295

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]

41. Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works (minimum as tabled in Council's 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 Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

42. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

43. Prior to the issue of a Subdivision Certificate, Work as Executed Plans shall be submitted in accordance with the provisions of Tweed Shire Council's Development Control Plan Part A5 - Subdivision Manual and Council's Development Design 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.

[PSC0735]

44. 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]

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

- (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
- (b) Creation of a Right of Carriageway over proposed Lot 3 to service proposed Lot 2.

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]

46. Submit to Council's property officer an appropriate plan indicating the address number to both new and existing lots for approval. Prior to the issue of a Subdivision Certificate, each lot shall have its' address number displayed in accordance with Council policy.

[PSC0845]

47. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.

[PSC0855]

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

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within 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]

49. Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-

- (a) Compliance Certificate – Roads
- (b) Compliance Certificate – Water Reticulation
- (c) Compliance Certificate – Sewerage Reticulation
- (d) Compliance Certificate - Drainage

Note:

- 1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual and Councils Development Design and Construction Specifications.
- 2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[PSC0915]

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

[PSC0925]

51. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of any stormwater pipes and gravity sewerage systems installed and to be dedicated to Council

including joints and junctions will be required to demonstrate that the standard of the infrastructure is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

52. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with Tweed Shire Council's Development Control Plan Part A5 - Subdivisions Manual, Councils Development Design and Construction Specifications and the Construction Certificate approval.

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

[PSC1115]

53. Prior to the issue of a subdivision certificate the existing dwellings shall be connected to reticulated sewer to the satisfaction of the General Manager or his delegate and the applicant is required to lodge an application to install and operate an onsite sewage management system (private pump station) under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval.

[PSCNS01]

54. Prior to the issue of a subdivision certificate the existing on-site sewage management systems are to be removed in accordance with NSW Health Advisory Note 3 - October 2000 "Destruction, Removal or Reuse of Septic Tanks, Collection Wells and Aerated Wastewater Treatment Systems (AWTS)" to the satisfaction of the General Manager or his delegate.

[PSCNS02]

55. Prior to the issue of a Subdivision Certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 68 of the Local Government Act 1993.

[PSCNS01]

56. Prior to the issue of a Subdivision 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.

[PSCNS02]

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 2 and 3, to a distance of 20 metres, 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 the following requirements of 4.1.3 of 'Planning for Bush Fire Protection 2006'.

- A hardened ground surface for truck access is to be supplied up to and within 4 metres of the water source.
 - A 65mm metal Storz outlet with a gate or ball valve shall be provided.
 - In recognition that an unreliable reticulated water supply exists, a 5000 litre water supply shall be provided for fire fighting purposes.
 - Polycarbonate/plastic tanks shall be shielded from the impact of radiant heat and direct flame contact.
3. The existing building on proposed Lot 2 and 3 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 any sub floor areas, openable windows, doors, vents, weepholes and eaves.
 4. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

REPORT:

Applicant: Mrs L Curtis and Mr D Curtis
Owner: Estate OF EJ Holland
Location: Lot 2 DP 562104, No. 42-44 Terrace Street, Chinderah
Zoning: Part 1(a) Rural and Part - 7(a) Environmental Protection (Wetlands & Littoral Rainforests)
Cost: Nil

BACKGROUND:

Council is in receipt of a development application for a subdivision.

The subject site is legally described as Lot 2 DP562104 and is located at 42-44 Terrace Street, Chinderah. The allotment is irregular in shape and has an overall area of 3.66 hectares. The site contains two dwellings with one dwelling located in proximity to the alignment of Walsh Street and the other located further to the east in proximity to the southern boundary. The area to the north and east of the existing dwellings comprises a low lying vegetated area which is also burdened by an easement (variable width) for drainage.

The proposed new allotments do 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 site, as the existing allotment is not currently used for agricultural purposes and the proposal will be almost identical to the current situation.

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: a single storey dwelling in the rural area, approved under Development Permit T4/3168 and Building Permit No 276/84 in 1984; and a single storey dwelling that was constructed on site prior to 1964 and inhabited continually. A statutory declaration has been provided in relation to the construction of the original dwelling.

Whilst there are two (2) existing dwellings on the site Section 64 contributions for water and sewer are applicable as the site has only been rated for one water service.

Access to the rear dwelling on proposed Lot 2 is proposed via the utilisation of an existing track through proposed Lot 3. This will be covered via an ROW/ROC. This access will be sealed to at least the property boundary.

SITE DIAGRAM:



Locality Plan

Lot 2 DP 562104

No.42-44 Terrace Street, Chinderah

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 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 damages) 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 approximate 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 1100. The information contained on this document remains valid for 30 days only from the date of supply.

Cadastre: 03 November, 2010
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Boundaries shown should be considered approximate only.



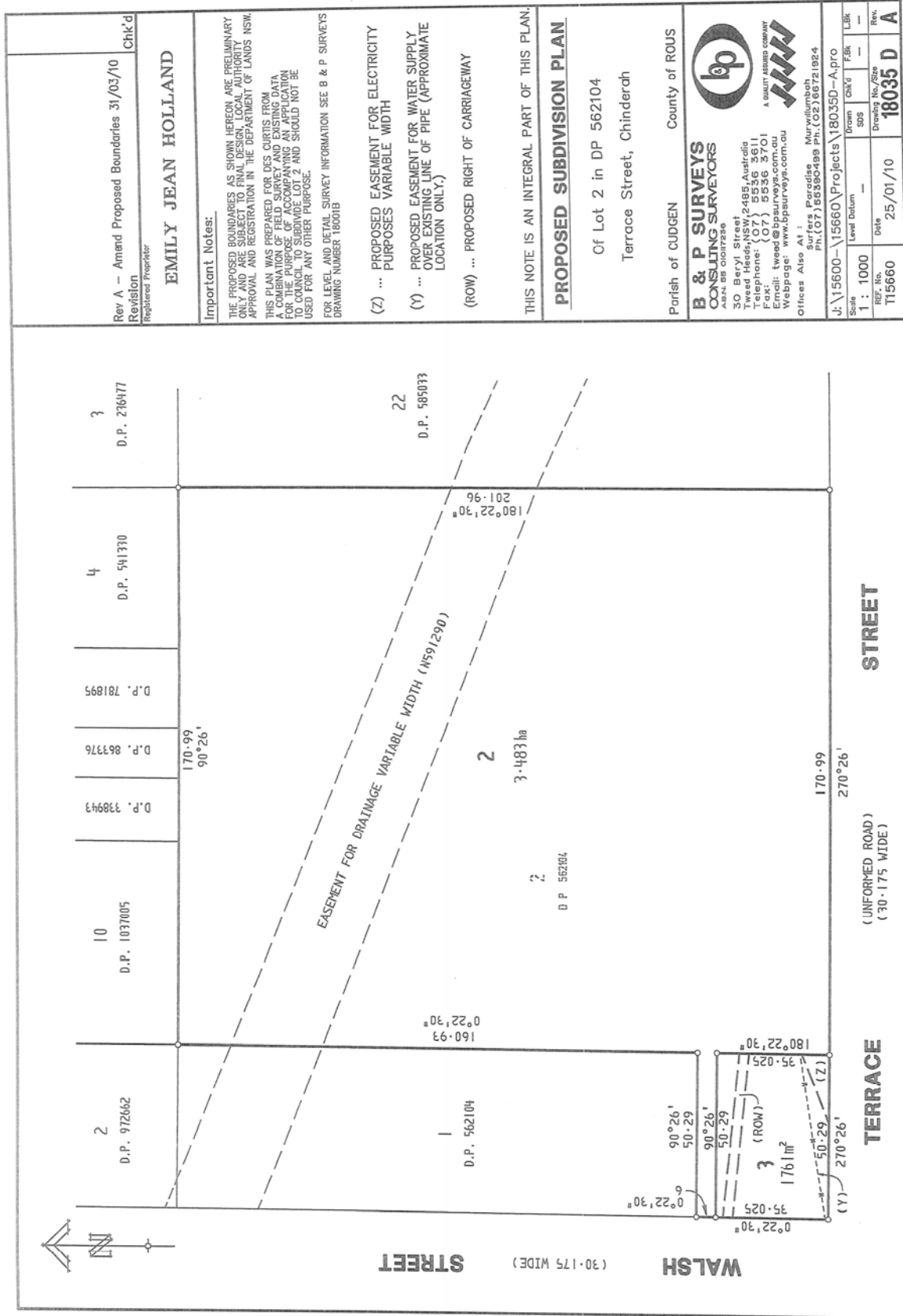
Civic and Cultural Centre
3 Tumbulgum Road
Murwillumbah NSW 2484

PO Box 816
Murwillumbah NSW 2484



T | (02) 6670 2400 | 1300 292 872
F | (02) 6670 2429
W | www.tweed.nsw.gov.au
E | planning@tweed.nsw.gov.au

DEVELOPMENT PLAN:



Rev A - Amend Proposed Boundaries 31/03/10
 Revision
 Registrars Proprietor
EMILY JEAN HOLLAND
 Chk'd

Important Notes:
 THE PROPOSED BOUNDARIES AS SHOWN HEREON ARE PRELIMINARY ONLY AND ARE SUBJECT TO FINAL DESIGN, LOCAL AUTHORITY APPROVAL AND REGISTRATION IN THE DEPARTMENT OF LANDS NSW.
 THIS PLAN WAS PREPARED FOR DES CURTIS FROM A COMBINATION OF FIELD SURVEY AND EXISTING DATA. FOR THE PURPOSES OF THIS PLAN, THE SURVEY DATA ON CUDGEN SUBDIVISION LOT 2 AND SHOULD NOT BE USED FOR ANY OTHER PURPOSE.
 FOR LEVEL AND DETAIL SURVEY INFORMATION SEE B & P SURVEYS DRAWING NUMBER 18035D

- (Z) ... PROPOSED EASEMENT FOR ELECTRICITY PURPOSES VARIABLE WIDTH
- (Y) ... PROPOSED EASEMENT FOR WATER SUPPLY OVER EXISTING LINE OF PIPE (APPROXIMATE LOCATION ONLY).
- (ROW) ... PROPOSED RIGHT OF CARRIAGEWAY

THIS NOTE IS AN INTEGRAL PART OF THIS PLAN.

PROPOSED SUBDIVISION PLAN
 Of Lot 2 in DP 562104
 Terrace Street, Chinderah

Parish of CUDGEN County of ROUS
B & P SURVEYS
 CONSULTING SURVEYORS
 30 Beryl Street
 Chinderah NSW 2485 Australia
 Telephone: (07) 5556 3611
 Fax: (07) 5556 3701
 Email: tweed@bpaurveyors.com.au
 Webpage: www.bpaurveyors.com.au
 Offices Also At:
 111 The Parade Mirwillimbah
 Ph: (07) 55390499 Ph: (02) 66721924

J: \15660-Projects\18035D-A.PTO	Drawn	CHK'd	LSK
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REF. No.	T15660	Date	25/01/10
Rev.			A

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 - Zone objectives

This clause specifies that the consent authority may grant consent to development (other than development specified in Item 3 of the table to clause 11) only if:

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

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. 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 of the allotment and one (1) additional lot, 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) Zoned land under the provisions of the LEP. The objectives of this 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 subdivision does not affect the agricultural suitability of the site. The site does not have adequate area to sustain agricultural or natural resource utilisation. There are currently two (2) approved dwellings and this will not change as a result of the application. As such, there is no agricultural use of the land that requires protection and the proposal is considered to meet the objectives of the zone. The Department of Planning and the NSW Rural Fire Service have also noted that the proposal is consistent with the objectives of the zone.

The objectives of the 7(a) Environmental Protection (Wetlands and Littoral Rainforests) zone are as follows:

Primary objectives

- *to identify, protect and conserve significant wetlands and littoral rainforests.*
- *to prohibit development which could destroy or damage a wetland or littoral rainforest ecosystem.*

Secondary objectives

- *to protect the scenic values of wetlands and littoral rainforests.*
- *to allow other development that is compatible with the primary function of the zone.*

The proposed subdivision will locate the subject dwellings within the Rural 1(a) zoned part of the site and no development or additional impacts are associated with the 7(a) zoned part of the site. The whole of the land zoned 7a will be contained within one lot. Accordingly, the proposal will protect and conserve the part of the site that is located within the 7(a) zone and is therefore consistent with the objectives of the 7(a) zone.

Clause 15 - Essential Services

Clause 15 of the TLEP requires the provision of essential services to be available to the site. Onsite effluent treatment and disposal systems exist for each dwelling house. Reticulated water, electricity and telecommunications are connected to both existing dwellings on the land. As part of this proposal, each existing dwelling will be provided with a connection to the reticulated sewer. It should be noted that the property has only been rated for one water service.

Clause 16 - Height of Building

There are no new dwellings proposed. The proposal will not change the existing single storey dwellings located on the allotment and therefore the proposal complies with this clause.

Clause 17 - Social Impact Assessment

It is not considered that the proposed development will result in an adverse social impact.

Clause 20 - Subdivision of Land Zoned 1(a), 1(b2), 7(a), 7(d) or 7(l)

This Clause requires a minimum lot size of 40 hectares. Proposed Lots 2 and 3 will provide lot areas that do not comply with this development standard. A State Environmental Planning Policy No. 1 Objection was undertaken and sent to the Department of Planning for Concurrence. On 24 August 2010 the Department of Planning granted concurrence in this instance as the proposal will not result in any new dwelling entitlements and will maintain the objectives of the zone.

Clause 25 - Development in Zone 7(a)

This Clause provides that Council must not grant consent to development on land within zone 7(a) unless it has considered various matters relating to flora and fauna, impacts on the water table, any proposed clearing and a Plan of Management showing how adverse affects can be mitigated.

This application does not propose any development, works or clearing within, or within close proximity to, the 7(a) zoned wetland. The only works involved in the application are the construction of underground sewer pipelines from the existing dwellings to the proposed connection points on Walsh Street. These works are approximately 40m from the 7(a) zone boundary.

It is therefore considered that the proposal complies with the provisions of this clause.

Clause 34 - Flooding

The subject site is located within the Flood Prone Area. There is no new dwellings proposed and as such it is considered that the flooding on the site will not be affected by the proposal. Therefore this clause is complied with.

Clause 35 - Acid Sulphate Soils

The subject site is located in an area which is identified as having Class 3 Acid Sulphate Soils which indicates that acid sulphate soil may be disturbed if excavations deeper than 1m below the ground level are proposed. As excavations will be required to install the reticulated sewer a Preliminary Acid Sulphate Soil Investigation was been undertaken which will mitigate any potential disturbance of acid sulphate soils.

Clause 39A - Bushfire

The subject site is located within a Bushfire Prone area. As such the proposal was referred to the NSW Rural Fire Service for comment. The NSW Rural Fire Service responded on 23 August 2010 with conditions of approval to be included in the recommendations.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

This clause requires Council 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 are well under the 40ha minimum and do not have significant agricultural potential.

It is also noted that in granting concurrence for the proposed subdivision, the Department of Planning was 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 15: Wetlands or Fishery Habitats

This Clause requires the consent authority to take into account the likely impact of the proposed development on rivers, streams and wetlands. A drain is located in the vegetated area to the north of the existing dwellings.

On the basis that the proposal is only for a subdivision that does not involve any change of use of the land, it is considered that approval of the application would not create any additional impact to any river stream or wetland and would not be inconsistent with this Clause or any other relevant provisions of this Plan.

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 subdivision is located within the 1(a) Rural zone.

The applicant has submitted the following in support of the SEPP 1 objection:

“This State Environmental Planning Policy No.1 Objection has been prepared by Darryl Anderson Consulting Pty Ltd and relates to the 40 hectare minimum lot size, which applies to land zoned 1(a), 1(b), 7(a), 7(d) and 7(l) pursuant to Clause 20(2) of Tweed Local Environmental Plan 2000. Proposed Lot 2 will be within land zoned part 1(a) and part 7(a) having an area of 3.483 hectares. Proposed Lot 3 will be within land zoned 1(a) and will have an area of 1761m². The purpose of the subdivision is to achieve separate titles for the two existing detached dwellings which are presently located on the land. The proposed lot shapes and areas are characteristic of the locality and will not result in the creation of any additional dwelling entitlements. Clause 20(2) of Tweed Local Environmental Plan 2000 is in the following terms:

‘Consent may only be granted for 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 ha.’

The Court has consistently emphasised that there is no single determinative test for assessing a SEPP 1 Objection. However, it has become usual practice in recent years to apply the “underlying object test” and to use the formulation suggested by Lloyd J in Winten Property Group Limited v North Sydney Council (2001) 130 LGERA 79.

In Wehbe v Pittwater Council [2007] NSW LEC 827, Chief Judge of the Land and Environment Court, Preston J recast the long standing 5 part test for consideration of a SEPP 1 Objection set out in Winten Property Group Ltd v North Sydney Council (2001).”

The Chief Judge suggests that a consent authority must be satisfied of three matters before a SEPP 1 Objection can be upheld:

- (1) That the objection is well founded and that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*
- (2) That the granting of consent is consistent with the aims of SEPP 1.*
- (3) That Clause 8 matters (in SEPP 1) are satisfied, ie.*
 - Whether noncompliance raises matters of State or Regional planning significance.*
 - The public benefit of maintaining the planning controls.*

Each of the three key matters is addressed in turn, as follows:

- 1. That the objection is well founded and that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.**

The Chief Judge advised that the requirement to demonstrate that an objection is well founded and that the approval of the objection may be consistent with the aims of the policy could be satisfied in any one of the following ways:

- (i) The objectives of the standard are achieved notwithstanding non-compliance with the standard.*
- (ii) The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*
- (iii) The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*
- (iv) The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- (v) The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

We submit that the objectives of the standard are achieved notwithstanding non-compliance with the standard.

Clause 20(1) of the Local Environmental Plan provides the following objectives in relation to subdivisions in zones 1(a), 1(b), 7(a), 7(d) and 7(l), which is directly associated with development standard in question.

- 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.*

The terms of Clause 20(1) of the LEP are not to prevent any fragmentation, rather it is to prevent only fragmentation that has potential to create certain adverse impacts.

The relevant questions to properly assess whether the objectives of the standard are achieved notwithstanding non-compliance with the standard are as follows:

- (a) Will the proposed subdivision result in fragmentation that has potential to adversely affect the continuance or aggregation of sustainable agricultural units?*
- (b) Will the proposed subdivision result in fragmentation which would generate pressure to allow isolated residential development in an uncoordinated manner?*
- (c) Will the proposed subdivision result in any adverse impact upon the ecological or scenic values of the land?*
- (d) Will the proposed subdivision result in any adverse impact upon the area of Tweed's water supply quality?*

The responses to these questions are provided as follows:

- (a) Will the proposed subdivision result in fragmentation that has potential to adversely affect the continuance or aggregation of sustainable agricultural units?*

In this regard the proposed subdivision relates to a lot which is 3.66 ha in size, of which the cleared part of the site is approximately 4000m² (or 1 acre). That part of the site contains two existing dwellings.

Accordingly the parent parcel does not represent a sustainable agricultural unit. In addition the subject site is separated from other rural zoned land to the south by a road reservation. Therefore there are no reasonable prospects for amalgamation. In any case, the subject dwellings will always remain on the site and therefore, whether the land is subdivided or not, it will render that part of the site unsuitable for aggregation as part of any wider agricultural unit.

It is clear that the proposed subdivision therefore will not adversely affect the continuance of, or aggregation of, sustainable agricultural units.

- (b) Will the proposed subdivision result in fragmentation which would generate pressure to allow isolated residential development in an uncoordinated manor?*

The proposed subdivision will not result in any additional dwellings or dwelling entitlements. Therefore the proposal cannot be considered to generate any pressure to allow isolated residential development as the dwellings already exist.

- (c) Will the proposed subdivision result in any adverse impact upon the ecological or scenic values of the land?*

The proposal does not alter the existing built form in any way and does not include vegetation removal. Therefore the proposal cannot affect the ecological or scenic values of the land.

- (d) *Will the proposed subdivision result in any adverse impact upon the area of Tweed's water supply quality?*

The proposal is not located in the Tweed's water supply catchment and therefore cannot affect the quality of the water supply catchment.

It is therefore submitted that the proposed development is consistent with the objectives for subdivision in the Rural 1(a) or 7(a) zone as set out in Clause 20(1) of Tweed LEP 2000.

*For the above stated reasons we submit that the objectives of the standard are achieved notwithstanding non-compliance with the standard. Following from the first test established in *Wehbe v Pittwater Council* [2007] NSW LEC 827, we conclude that the objection is well founded and that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*

2. That the granting of consent is consistent with the aims of SEPP 1.

The aims and objectives of the Policy (SEPP 1) 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."

Section 5(a)(i) and (ii) of the Environmental Planning and Assessment (EP&A) Act 1979 is stated inter alia:

- (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,"*

Compliance with the 40ha development standard would preclude a logical subdivision of the site to provide separate titles for each of the lawfully established dwellings.

The proposed subdivision will not create any additional dwelling entitlements and will not involve any site works other than connection of each dwelling to reticulated sewer. As previously discussed the site cannot be utilised for any agricultural purpose due to the existing dwellings and the vegetation over the balance of the property. In addition, due to the separation of the site to other rural zoned land to the south (neighbouring property approximately 8ha) by the Terrace Street Road reserve, aggregation is impractical. The proposal does not involve any work or disturbance of land within the 7(a) zone. For these reasons the proposal will not alter the current or future agricultural potential of the site. Therefore the proposed development will not alter the management or conservation of agricultural land or environmental protection land as compared to the existing situation.

In this case, where the proposed development would not alter the status-quo, compliance with the development standard would hinder attainment of the EP&A Act's object to promote orderly and economic use and development of land in accordance with the zoning of that land and its physical capabilities.

3. That clause 8 matters (in SEPP 1) are satisfied, ie.

- **Whether noncompliance raises matters of State or regional planning significance.**
- **The public benefit of maintaining the planning controls.**

In considering whether the proposal creates any matters of Regional or State planning significance or raises any issues in relation to the public benefit of maintaining the standard the following points are relevant.

- *No change in land use results from the subdivision;*
- *No physical disturbance to the landform or vegetation results from the subdivision;*
- *Two lawful detached dwelling houses exist on the land;*
- *Two lawful dwelling houses exist on the subject site and are presently not each within an allotment of at least 40 hectares;*
- *No additional dwelling entitlements will be created;*
- *The shape of each lot and common boundary location provides a logical and efficient layout;*
- *The proposed subdivision will create lots that are similar to the size of other lots in the immediate locality;*
- *No impacts can be created by the proposal on the surrounding area.*

We conclude that the proposed two lot subdivision does not raise any matters of Regional planning significance and there is considered to be no public benefit in maintaining the standard.

Assessment of the applicant's submission:

It is considered that compliance with the 40 hectare development standard in this instance would unreasonably prevent the appropriate subdivision of the site in accordance with the capability of the land and the nature of the existing lawful dwellings which are located on the land.

As both of the dwelling houses have existed on the subject site for many years and although being lawful, presently both already represent nonconforming uses as they are presently not each within their own allotment of at least 40 hectares.

The proposal does not involve any change of use, does not involve any physical works, other than connection to reticulated sewer, and will not create any additional dwelling entitlements on the land.

Accordingly, in the circumstances of this case non-compliance with the development standard is well founded. We conclude that upholding the Objection is considered to be in the public interest and consistent with the objects of the Act.

SEPP No. 55 - Remediation of Land

The land currently comprises two dwelling houses. No new dwelling entitlements will be created by the proposed subdivision and no new dwellings are proposed. It is submitted that the parts of the land which will continue to be used for residential purposes will continue to be suitable for that purpose.

The land has been occupied by Lorna Curtis since circa 1943. A declaration from Mrs Curtis in relation to potentially contaminating activities

SEPP No 71 – Coastal Protection

The site is located within the Coastal zone and therefore this Policy applies. As such the applicant provided an assessment under Clause 8 of the policy as follows:

MATTERS FOR CONSIDERATION	COMMENT
<i>a) The aims of this Policy set out in Clause 2.</i>	<i>The proposal is consistent with the aims of the Policy.</i>
<i>b) Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.</i>	<i>The subject land does not have frontage to foreshore reserve and therefore this consideration is not relevant.</i>
<i>c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.</i>	<i>See Above.</i>

<p>d) <i>The suitability of development and its type, location and design and its relationship with the surrounding area.</i></p>	<p><i>Development of the subject land as proposed is consistent with the zone objectives of Tweed LEP 2000, the provisions of Council's Tweed Development Control Plan 2008 and is also consistent with ESD principles and urban consolidation objectives.</i></p>
<p>e) <i>Any detrimental impact that the development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.</i></p>	<p><i>This issue is addressed in the Statement of Environmental Effects and supporting documents.</i></p>
<p>f) <i>The scenic qualities of the NSW coast, and means to protect and improve these qualities.</i></p>	<p><i>As Above.</i></p>
<p>g) <i>Measures to conserve animals (within the meaning of the Threatened Species Conservation Act, 1995) and plants (within the meaning of that Act) and their habitats.</i></p>	<p><i>Given that the site does not propose any removal of native vegetation, it is submitted that impacts will be negligible.</i></p>
<p>h) <i>Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act, 1994 and marine vegetation within the meaning of that part) and their habitats</i></p>	<p><i>Subject to normal management measures in relation to water quality and given that the proposal will connect each dwelling to reticulated sewer rather than the existing on site effluent disposal systems, it is submitted that impacts will be negligible.</i></p>
<p>i) <i>Existing wildlife corridors and the impact of development on these corridors.</i></p>	<p><i>Given that the site does not propose any removal of native vegetation, or the erection of any new dwellings, it is submitted that impacts will be negligible</i></p>
<p>j) <i>The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.</i></p>	<p><i>As the dwellings exist, there is considered to be no increased exposure to impacts of coastal hazards.</i></p>
<p>k) <i>Measures to reduce the potential for conflict between land based and water based coastal activities</i></p>	<p><i>Not applicable.</i></p>
<p>l) <i>Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of aboriginals.</i></p>	<p><i>Not applicable.</i></p>

<p>m) <i>Likely impacts of development on the water quality of coastal water bodies.</i></p>	<p><i>The proposal includes connection of the existing dwellings to reticulated sewer. Subject to implementation of normal water quality management measures during the connection to sewer, the proposed development is unlikely to have any impact on water quality.</i></p>
<p>n) <i>The conservation and preservation of items of heritage, archaeological or historic significance.</i></p>	<p><i>Not applicable.</i></p>
<p>o) <i>Only in cases in which a Council prepares a draft Local Environmental Plan that applies to land to which this policy applies, the means to encourage compact towns and cities.</i></p>	<p><i>Not applicable.</i></p>
<p>p) <i>Only in cases in which development application in relation to proposed development is determined:</i></p> <p><i>i) The cumulative impacts on the proposed development on the environment;</i></p> <p><i>ii) Measures to ensure that water and energy usage by the proposed development is efficient.</i></p>	<p><i>This issue is addressed in the Statement of Environmental Effects and supporting documents.</i></p>

The applicant's assessment of the Clause 8 issues has been taken into consideration. As there are no new dwelling entitlements being created and there will be minimal construction as a result of the application it is considered that the proposal will not affect the provisions as set out in SEPP 71.

SEPP (Rural Subdivision) 2008

Clause 7: Rural Planning Principles

The applicant has provided the following assessment of the principles as follows:

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

The site is not presently suitable for any form of agricultural use due to the existence of the two lawful dwellings, existing sandy soils and the extent of vegetation on the site. Therefore the proposal cannot affect the continuance or aggregation of sustainable agricultural units as none presently exist.

- (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,*

The proposed subdivision will not create any additional dwelling entitlements and as both dwellings presently exist, the proposed subdivision will make no difference to future activities on the site.

- (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,*

As stated above, since the proposal effectively relates to the subdivision of the two existing dwellings which have been established on the site for many years, it is considered that the proposal cannot result in any significant impact on the rural community or create any material social or economic issues.

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

As no dwelling entitlements will be created and both dwellings already exist, the proposal will not create any additional demand upon social, economic or environmental planning considerations.

- (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 proposed subdivision will provide reticulated sewer connections to each of the existing houses (which are presently serviced by septic systems). No other subdivision works are required and therefore no environmental issues are likely to result.

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

The proposed subdivision will allow the creation of lots that are characteristic of the surrounding area.

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

All normal services are to be provided to both dwellings. No subdivision works are required other than the proposed sewer connection.

- (h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The proposed rural subdivision is consistent with the Far North Coast Regional Strategy insofar as it is located within designated “rural land” and “coastal area” and will not alter the rural landscape or increase rural settlement. The proposal will however provide reticulated sewer connections for the existing dwellings which will improve coastal water quality.”

The applicant’s assessment of the abovementioned principles has been taken into consideration. As a result of the proposed subdivision there will be no additional dwelling entitlements created and the proposal will not affect the potential for agricultural uses on the site. It is therefore considered that the proposal will not affect the rural planning principles on the site.

Clause 8: Rural Subdivision Principles

The applicant has provided the following assessment of the principles as follows:

“(a) the minimisation of rural land fragmentation.

The proposed subdivision will not result in any additional dwellings and therefore cannot affect the continuance or aggregation of sustainable agricultural units. Since the dwellings already exist and no new dwelling entitlements will be created, the proposed subdivision will not generate any additional pressure to allow isolated residential development.

(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,

The proposal does not alter the existing built form in any way and therefore cannot affect the potential for any additional residential and rural land use conflicts.

(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 nature of the existing agricultural holding is heavily constrained by the existing vegetation and sandy soils and is effectively unsuitable for agriculture. The proposed development, regardless of lot size, will not result in any increase of dwelling entitlements or affect the future supply of rural residential land.

(d) the consideration of the natural and physical constraints and opportunities of land,

The proposed subdivision will retain the natural features of the site in one lot and will not require any additional subdivision work other than connection to reticulated sewer.

- (e) *ensuring that planning for dwelling opportunities takes account of those constraints*

The proposed subdivision layout relates to the existing dwellings and the constraints of the site. The proposed development will not create any additional dwellings or dwelling entitlements and will not create any additional impacts on the natural features of the site.”

The applicant’s assessment of the abovementioned principles has been taken into consideration. As a result of the proposed subdivision there will be no additional dwelling entitlements created and the proposal will not affect the potential for agricultural uses on the site. It is therefore considered that the proposal will not affect the rural planning principles on the site.

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

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 and the 7(a) land is zoned E2 - Environmental Conservation. The proposed development is considered to be consistent with the objectives of the zone and will only be located within the RU2 zoned land.

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

The proposed development is located on Flood Liable Land. As there is no new building work proposed and there will be no physical change to the land it is considered that the proposed development will not be affected by flooding and will not increase the severity of flooding in the locality. Therefore the proposed complies with the Tweed Development Control Plan Section A3.

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 largely only constrained by the shape of the subject site and location of the existing roadways Terrace Street, Walsh Street and adjoining parcels of land.

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 site is quite flat with a slight fall to the east. No earthworks are proposed as part of the development.

Stormwater Runoff, Drainage, Waterways & Flooding – The existing dwelling on proposed Lot 3 is intended to discharge stormwater / roof-water to Walsh Street. This shall be enforced via appropriate conditions.

The site is subject to external catchments, the extent of which has not been investigated within this application. An open drain bisects both allotments draining stormwater towards the north (towards the drainage easement).

There are inlets and piped drainage within Walsh Street and Terrace Street downstream of the site. The extension of Walsh Street as required under this development will need to grade towards this infrastructure, where possible.

Lot Layout – As the proposed allotment is below the minimum lot size for rural land it is considered that there will be no fragmentation of prime agricultural land. The subdivision would not be in conflict with the purpose of the 40ha standard as both the existing and proposed lot configurations are not sufficient for sustainable agricultural production. It is therefore considered that the standard is not reasonable in the existing context and therefore compliance is not necessary.

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 particular, Council's GIS indicates that the water main along the subject site's frontage is a 300mm dia main. Although Council consider this main a trunk main, Council's Strategic and Assets Engineer has advised that house connections (although not preferred) have been connected to such mains, as appears to be the case here. It was advised that it would be acceptable for the house connections servicing the 2 existing dwellings to remain off this main.

Although the application states that the existing dwellings are serviced by Council's reticulated potable water network, only 1 water meter is shown within the documentation. The Applicant will be required to provide separate water meters to the 2 dwellings, with the water service for proposed Lot 2 to be provided along that allotments frontage to Walsh Street. Any interconnection of water pipes between the two properties must be removed.

Council's Strategic and Assets Engineer advises that the development would be subject to s64 water charges based on 1 ET as only 1 existing water meter is being utilised by the existing 2 properties. The development will also be charged on 1ET for the additional sewer connection.

In light of the above assessment, the proposed subdivision to create proposed Lot 2 (3.483ha) and Proposed Lot 3 (1761m²) is considered to meet the provisions of Section A5 of Council's Consolidated DCP.

A11-Public Notification of Development Proposals

The proposed development was notified to adjoining neighbours for a period of 14 days from 21 July 2010 to 4 August 2010. During this time there were no submissions received.

(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

7(a) Environmental Protection (Wetlands & Littoral Rainforests) Zoned Land

The subject site has a large area that is zoned 7(a) Environmental Protection. This area of the land will not be affected by the proposed subdivision which will be entirely located within the 1(a) zoned land. Additionally, there will be no building work with the exception of excavation for the extension of the sewer connection. As such it is considered that there will be no impact on the Environmental Protection area and does not warrant refusal of the application.

(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

The proposed development was notified to adjoining neighbours for a period of 14 days from 21 July 2010 to 4 August 2010. During this time there were no submissions received.

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)(a) of the Tweed LEP 2000 to permit two proposed lots being; Lot 2 - 3.483ha and Lot 3 - 0.1761ha.

Concurrence was granted in this instance as the proposal will not result in any additional dwelling entitlements and will maintain the objectives of the zone."

The Department of Planning have not included any conditions to be placed in the recommendations. It is therefore considered that the proposal has satisfied the requirements.

NSW Rural Fire Service

The proposed development was referred to the NSW Rural Fire Service for comment as the land has been identified as being Fire Prone Land. The Rural Fire Service has provided conditions on 23 August 2010 to be included in the recommendations. The conditions relate to Asset Protection Zones, Water and Utilities, Design and Construction and Landscaping. The proposal will comply with these conditions and is therefore considered to satisfy the requirements.

(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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7 [PR-CM] Development Application DA06/1034.08 for an Amendment to Development Consent DA06/1034 for Alterations and Additions to Existing Tavern at Lot 1 DP 848875, No. 2-14 Henry Lawson Drive, Terranora

ORIGIN:

Development Assessment

FILE NO: DA06/1034 Pt6

SUMMARY OF REPORT:

Council has received a S96 Modification Application to DA06/1034 which approved alterations and additions to an existing tavern within the Terranora Shopping Village.

The proposed modification seeks to adopt the operating hours as per the 6 month trial period which would result in a change to Condition 62A which currently reads as follows:

62A. The Trading Hours of the Tavern are restricted to the following:-

- Sunday to Saturday 10.00 am to 12 midnight for a trial period of six (6) months from the date of commencement of trading operations of the Tavern. The applicant shall notify Tweed Shire Council by notice in writing of the date of commencement of trading operations of the Tavern

Any request to vary this condition to a permanent arrangement will require a Section 96 application to be lodged at least two (2) months prior to the expiry of the six (6) month trial period. If after the trial period no application has been received and approved, the trading hours of the Tavern are restricted to the following:

- 10.00am to 10.00pm – Sunday to Wednesday
- 10.00am to 11.00pm – Thursday to Saturday

The tavern has been operating since 11 December 2009 and now seeks consent to amend Condition 62 to allow the tavern to operate between 10.00am to 12 midnight Sunday to Saturday.

During the exhibition period Council received four (4) letters of objection. The main reasons for objection to the increased hours were the loud music when a live band performs, and general noise concerns.

The original S96 seeking a change to the hours of operation was substantiated by an Acoustic Report and Management Plans. Council's Environmental Health Officer has re-considered the original documentation as well as an additional Acoustic Report and Management Plan, liaised with NSW Police and reviewed the four letters of objection. Neither Council nor the Police have recorded any complaints in regards to the operation of the Tavern. Upon review of all of this material it has now been recommended that the hours being sought be approved.

This Section 96 application is being reported to Council due to being a sensitive operational matter for the tavern (increased trading hours). It is concluded that the original trial period has enabled Council to monitor the impacts of additional trading hours and given the applicant an opportunity to prove the tavern can run effectively without impacting upon the amenity of the neighbourhood. This is demonstrated by the reduction in the number of objections from 20 objections (plus petitions) at the time of the original proposed hours (DA06/1034.06) down to four objections for this application (DA06/1034.08).

RECOMMENDATION:

That Development Application DA06/1034.08 for an amendment to Development Consent DA06/1034 for alterations and additions to existing tavern at Lot 1 DP 848875, No. 2-14 Henry Lawson Drive, Terranora be approved subject to the following amendments to the consent:

1. A new condition 59A be added as follows:

59A Any live music shall be conducted from the original stage near the kitchen (centrally located within the building) and not in the immediate vicinity of the balconies.

2. A new condition 59B be added as follows:

59B. The operation of live music events at the Tavern shall comply with the provisions of the Noise Management Plan prepared by Terranora Tavern received by Council on 6 September 2010, that is:

- All doors to the outdoor deck are to remain closed
- Doors to the outdoor beer garden are to remain closed
- Such doors shall only be permitted to be open temporarily for ingress and egress purposes

3. Condition 62A be deleted and replaced with new condition 62B which reads as follows:

62B. The Trading Hours of the Tavern are restricted to the following:

- Sunday to Saturday 10.00am to 12 midnight

REPORT:

Applicant: Terranora Village Shopping Centre Pty Ltd
Owner: Terranora Village Shopping Centre Pty Ltd
Location: Lot 1 DP 848875, No. 2-14 Henry Lawson Drive Terranora
Zoning: 2(d) Residential Village
Cost: N/A

BACKGROUND:

The tavern was originally approved as part of the Terranora Shopping Village under D95/0320.

In 2006 the applicant lodged DA06/1034 seeking approval for internal alterations. As part of that application the applicant also requested an extension to the trading hours to between 9.00am till 1.00am. After discussions and meetings with Council Officers and strong community objection to the extended trading hours the applicant requested that the application be amended to propose to have the trading hours revised to 10.00am to 11.00pm seven days a week.

DA06/1034 was considered at the Council Meeting 28 November 2006. Council Officers recommended adoption of the proposed hours (being 10.00am to 11.00pm seven days a week), however, the then administrators amended the recommended conditions and approved the application with trading hours of the Tavern restricted to the following:

- 10.00am to 10.00pm - Sunday to Wednesday
- 10.00am to 11.00pm - Thursday to Saturday

In October 2008 the applicant lodged a S96 (DA06/1034.06) to again request Council reconsider these hours. At that time Council resolved to allow the proposed additional hours as follows:

62A. The Trading Hours of the Tavern are restricted to the following:

- Sunday to Saturday 10.00 am to 12 midnight for a trial period of six (6) months from the date of commencement of trading operations of the Tavern. The applicant shall notify Tweed Shire Council by notice in writing of the date of commencement of trading operations of the Tavern

Any request to vary this condition to a permanent arrangement will require a Section 96 application to be lodged at least two (2) months prior to the expiry of the six (6) month trial period. If after the trial period no application has been received and approved, the trading hours of the Tavern are restricted to the following:

- 10.00am to 10.00pm – Sunday to Wednesday
- 10.00am to 11.00pm – Thursday to Saturday

Having now operated since December 2009 the applicant is requesting that the trial hours be adopted as the permanent hours of operation thus enabling operation Sunday to Saturday between 10.00 am to 12 midnight.

The applicant has provided the following justification for the S96:

“The tavern is operating under management who are very experienced in managing hotels in accordance with the current NSW state legislation.

It is proposed that this Section 96 application is to seek a variation of condition No. 62A, being “Trading Hours of the Tavern are restricted to Sunday – Saturday 10am to 12 midnight for a trial of six months from the date of commencement of trading.” The application is to make the trading hours till midnight a permanent arrangement, to bring the Tavern in line with standard trading conditions administered by the NSW Office of Liquor and Gaming and Racing (OLGR) which will avoid any discriminatory conditions imposed upon Terranora Tavern.

Standard Conditions of trading hours as administered by OLGR are as follows:

Monday to Saturday: 5:00AM till 12:00 midnight

Midnight Sunday: 10:00 AM till 10:00 PM

This application will show that the extended trading hours can be achieved without varying the noise levels imposed by condition 60 of the abovementioned consent, being “Noise from amplified entertainment is not to exceed 5dB(a) above the L10 background at the boundary of the closest affecting property between 7:00 AM and 12 midnight and is not to exceed the L10 background between 12 midnight and 7:00 AM weekdays and 12 midnight weekends.”

There are no further matters or conditions of the previously approved consents that we wish to vary as part of this application.

PREVIOUS APPLICATIONS

We note a previous application has been made to extend the trading hours and was granted for a trial period of six months from the date of commencement of trading operations of the Tavern.

PREVIOUS PUBLIC SUBMISSIONS (OBJECTIONS)

We have read through the previous submitted letters from the community of Terranora outlining their objections to the previous applications.

The public submissions can be summarised as follows:

- *Anti social public behaviour*
- *Increased vandalism*
- *Increased vehicle noise*

While we respect the views of the local community, the above matters are police matters and not solely attributable to Terranora Tavern as there is a number of other licensed venues in the area and these incidents do not occur within the licensed premises.

Other matters raised by the community were:

- *Increase in alcohol consumption*
- *Patrons being further intoxicated by extending trading hours*

The above matters are licensing matters administered by the OLGR and not a matter for council to administer. Intoxicated patrons are asked to leave the premises and cannot be served under current licensing conditions.

Since the tavern has begun trading there appears to be very few community complaints to either the Tavern, Council or the Tweed Heads Police.

COMMUNITY IMPACT

We would like to point out some of the added benefits to the community for extending the trading hours.

- *Cater for the growth of the population of the local community.*
- *Increased employment opportunities of the local community.*
- *Financial benefits of catering for an increased tourist industry.*
- *Giving the local community access to Pay TV and Sporting events they would not normally have access to at home after 10:00 PM.*

OLGR has imposed state wide standard conditions of trading till midnight for 6 days a week similar to that of all other licensed venues in the Tweed area.

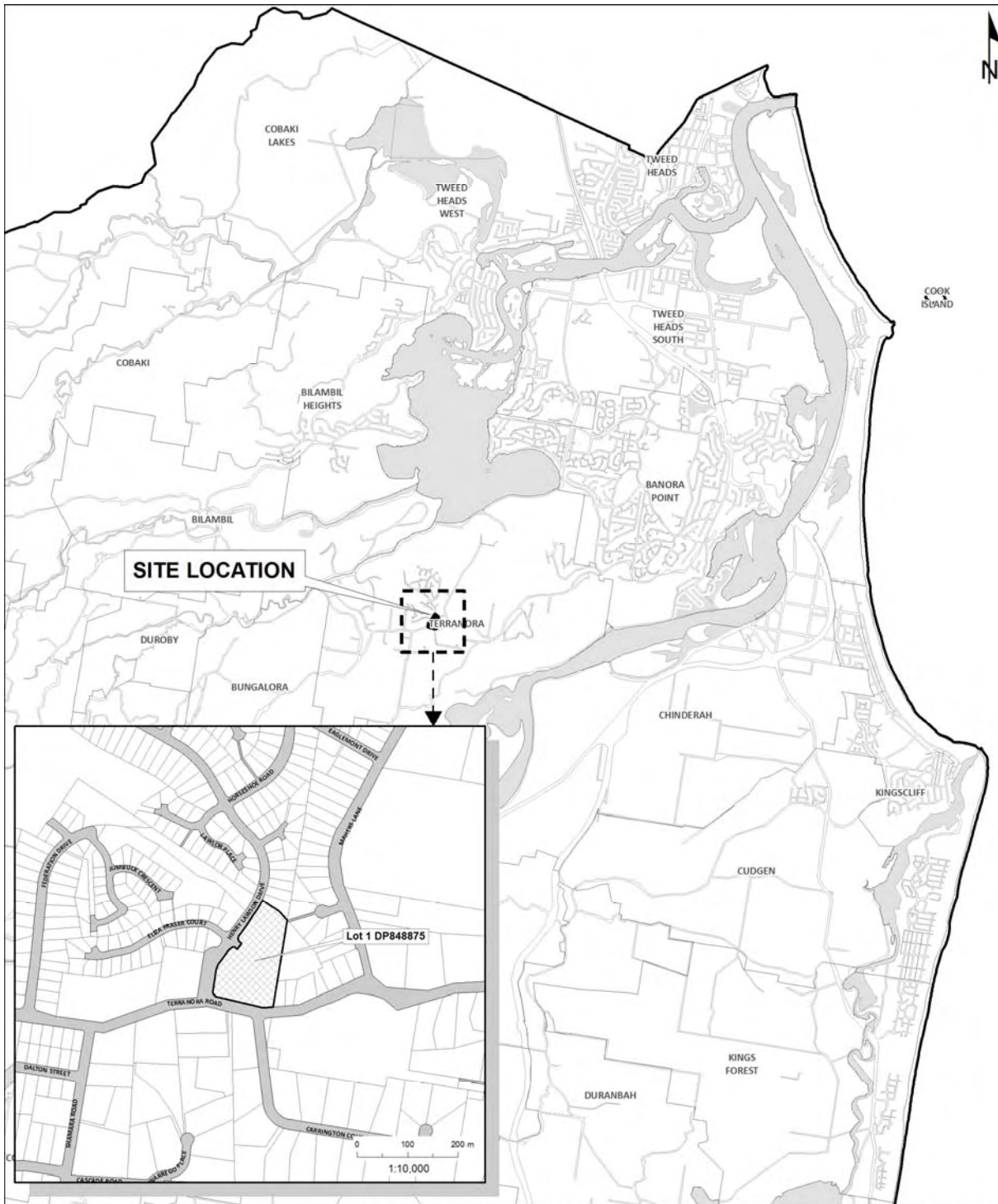
The dining room is design to meet the needs of the local community and not necessarily to draw from outside the local community with the likes of amplified music. It will be promoted as a family tavern.

It is not envisaged that the tavern will be trading till midnight every night as it will not be financially viable. We envisage the tavern to trade in accordance with the demands of the local community and subsequently it may only be open til midnight on Friday and Saturday nights. Other events like State of Origin Football and Day/Night cricket games will give the local community an opportunity to watch such sporting events in the company of their specific social groups that may continue to pass 10:00 PM on a few nights of the year.

TWEED BYRON POLICE SUPPORT

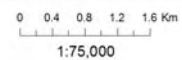
We have contacted the current liquor licensing officer at Tweed Heads Police, Snr Cons Grant Seddon, who has also pledged his support.”

SITE DIAGRAM:



LOCALITY PLAN

Lot 1 DP 848875
Henry Lawson Drive, Terranora



Filename: z:\esri\planning\mxd\A4P_B&W SitePlan.mxd

Author: J.Batchelor - Planning Reforms Unit

Date Printed: 04 May, 2010

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Cadastral: 04 May, 2010
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Coordinate System - MGA Zone 56
 Datum - GDA 94

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Civic and Cultural Centre
 3 Tumbulgum Road
 Murwillumbah NSW 2484
 PO Box 816
 Murwillumbah NSW 2484
 T: (02) 6670 2400 / 1300 292 872
 F: (02) 6670 2463
 W: www.tweed.nsw.gov.au
 E: planningreforms@tweed.nsw.gov.au



TWEED
 SHIRE COUNCIL

CONSIDERATIONS UNDER SECTION 96 and 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

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

Minimal Environmental Impact

The subject Section 96 Application has been submitted to allow for increased trading hours only. The proposed amendments have no direct physical environmental impacts. Social implications (including possible anti social behaviour) and noise management are addressed further below.

The proposed increased trading hours are considered to have minimal environmental impact.

Substantially the Same Development

The applicant's proposal to increase the trading hours of the venue will still result in substantially the same development as was detailed within the original Development Consent.

Notification & Consideration of Submissions

The Section 96 Application was notified to all originally nearby properties and to all those people who previously objected to DA06/1034 from Monday 29 March 2010 to Wednesday 14 April 2010.

During the exhibition period Council received four (4) letters of objection. The reasons for objection are summarised below:

- *There is ample opportunity for accessing alcohol needs within the confines of the Tweed CBD;*
- *The tavern is located adjoining a school and its incorporation within a shopping centre is a concern;*
- *Vandalism, noise, domestic violence and loud drunken obscene abuse is now a regular weekend – late night happening on once a quiet road;*
- *There is a lack of Police presence;*
- *On the whole I have found the tavern has not caused many problems with the service of alcohol and have acted responsibly. The only problem I have experienced is with loud music when a live band /performances occur. I have on occasion heard the music, particularly later in the evening as other background noises abates.*
- *The noise at times is intrusive. The placement of the live performances on the balcony as opposed to inside the property is causing problems for people.*

- *Terranora Village is a quiet peaceful area and this is why people move here in the first place. By 9pm on a Sunday the valley is very quiet and any noise from the tavern is unacceptable. An 11pm close on Saturdays seems ideal.*
- *The tavern in no way tries to contain the live music it hosts every weekend to its own premises. All folding doors on the balcony are opened and the music is broadcast across the suburb.*
- *The noise levels of the music is closer to 50decibles at times at our house, not even close to the 5decibles or less at the nearest boundary as required by the Council condition.*
- *My family have suffered sleep deprivation due to excessive noise. On occasion the noise has continued past midnight.*
- *The Police have been contacted on numerous occasions due to excessive noise.*
- *The tavern has had very few positive benefits to the Terranora Community being far outweighed by the negative aspects.*

Council's Environmental Health Coordinator has reviewed the above submissions and assessed the application as follows:

Letters of objection received by Council in regard to the proposal as requested have been considered. This necessitated an inspection of the area in the locale of the Tavern to:

- (i) determine the proximity of the Tavern to the residential premises occupied by those objecting*
- (ii) establish the existence of other factors (if any) which may contribute to the assessment by this unit.*

The inspection of the area was undertaken by Council's Coordinator Environmental Health and Council Environmental Health Officer on 28/04/10 and included external visitations to all premises in which the objectors reside, the Tavern and the surrounding area in the immediate vicinity of the Tavern. No residents were interviewed.

There are a considerable number of other occupied residential premises between the Tavern and those occupied by the objectors. No objections have been received by Council from those tenants. Also the area is in part quite heavily vegetated by trees and the like which may shield some residential premises and perhaps filter or block out any noise associated with the conduct and operation of the Tavern. There are also a number of such trees and the like between the objectors and the Tavern.

*Since the Tavern commenced trading just prior to Christmas there have been **no objections** received by Health Unit relating to noise or any other issue.*

Further, TSC contacted the Tweed Heads Police enquiring as to their receiving complaints from the public including those persons in nearby residence to the Tavern and was advised that "No complaints of any nature have been received since the Tavern commenced trading."

Although the letters of objection received by Council relate mainly to noise issues it is considered that the majority of residents are not opposed to the presence of the

Tavern and its conduct and/or operation – a total of four (4) objections have been received.

It is therefore recommended by the Environmental Health Unit that the S96 Application seeking a change to Hours of Operation as applied for (DA06/1034.08) be granted subject to the conditions of consent as originally imposed as follows:

58A. A Management Plan shall be prepared which addresses all recommendations as contained within the Noise Impact Study prepared by Warrick Smith RPE:7099AAAS.MBE REF:J160 dated 28.08.06. Such plan shall detail what operational measures will be employed to satisfy all recommendations in the Noise Impact Study. Such Plan shall be submitted to Council prior to the issue of an Occupational Certificate and shall be to the satisfaction of Council's General Manager or delegate.

[POCNS01]

58B. A Post Construction Noise Impact Report shall be provided to the satisfaction of Council's General Manager or delegate from a suitably qualified acoustic consultant which assesses the compliance with all recommendations as contained within the Noise Impact Study prepared by Warrick Smith RPE:7099AAAS.MBE RFE:J160 dated 28.08.06. Such Report shall in addition specifically address any noise issues associated with the operation of any air conditioning plant or other mechanical plant. Any recommended noise attenuation measures as contained within the Post Construction Noise Impact Report shall be complied with within 60 days of the date of the Report or such other time period as may be approved by Council's General Manager. Such Post Construction Noise Impact Report shall be submitted and approved prior to the issue of the Construction Certificate.

[POCNS02]

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

[USE0125]

60. The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0165]

61. 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 noise.

[USE0175]

In addition to this assessment Council's Coordinator Development Assessment has reviewed the objections and recommends an additional new condition of consent to ensure any live music is conducted from the original stage near the kitchen (centrally located within the building) and not in the immediate vicinity of the balconies.

The condition shall read:

59A Any live music shall be conducted from the original stage near the kitchen (centrally located within the building) and not in the immediate vicinity of the balconies.

Such additional condition should assist mitigate impacts as described above.

Further to the above, additional information from an acoustic consultant demonstrating that compliance with Condition 60 is achievable was requested during the assessment process. The applicant supplied a further acoustic report which incorporated sound testing over five separate occasions and concluded that compliance is possible with the introduction of management actions. Such actions were set out in a Noise Management Plan as follows:

- All doors to the outdoor deck are to remain closed
- Doors to the outdoor beer garden are to remain closed
- The doors shall only remain open for ingress and egress purposes

Council's Environmental Health Officer has reviewed the acoustic report and Management Plan and confirmed that subject to enforcement of the recommendations of both documents (via conditions), compliance with Condition 60 is possible.

The following comments were supplied:

"In my opinion, I consider the recommendations of the Acoustic Consultant to be reasonable and the Noise Management Plan provided by the Tavern management (in the context of the recommendations that have been made by the Acoustic Consultant) to be reasonable as well. The provisions of the Noise Management Plan can be included as conditions on the Section 96 application in addition to those as originally suggested in the comments in previous conditions.

The provisions of Condition 60 will remain unchanged as the applicant is not proposing to amend this condition; in addition other enforcement provisions are available to Council to control noise from licensed premises under the provisions of the Liquor Act".

With respect to the above, the following additional condition has been applied:

59B. The operation of live music events at the Tavern shall comply with the provisions of the Noise Management Plan prepared by Terranora Tavern received by Council on 6 September 2010, that is:

- All doors to the outdoor deck are to remain closed
- Doors to the outdoor beer garden are to remain closed
- Such doors shall only be permitted to be open temporarily for ingress and egress purposes

As such, the application is recommended for conditional approval.

79C Matters for Consideration

Having regard to the applicable planning instruments (including the Tweed LEP 2000, the Tweed Development Control Plan and Draft LEP 2010), site suitability and the overall social

implications of the proposed development, the proposed S96 Application is considered suitable for approval.

OPTIONS:

1. Approve the S96 as per the recommendation.
2. Refuse the S96 and provide reasons for the refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with Council's determination they may lodge an appeal with the NSW Land & Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The subject site has been operating in accordance with the trial hours of operation since December 2009. These operating hours have attracted no complaints to Council or the NSW Police. The applicant has in place acoustic reports, management plans, and detailed conditions of consent regarding noise management. The four letters of objection are not considered to be representative of the broader community and accordingly it is considered reasonable to allow the applicant the increased hours of operation.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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

1. Council Report DA06/1034.06 (ECM 15885200)
 2. Council Report DA06/1034 (ECM 15885207)
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- 8 [PR-CM] Development Application DA08/1225.01 for an amendment to Development Consent DA08/1225 for Demolition of Existing Dwellings & Hall & Construction of an Aged Care Facility Comprising 200 Units in a Three (3) Storey Building at Lot 4 DP 617471; Lot 1 DP 605577; Lot 6 Section 1 and Lot 7 Section 1 DP 28949; Lot 1 and Lot 2 DP 378971; Nos. 16-20 Kingscliff Street and Nos. 90 and 92 Pearl Street, Kingscliff**

ORIGIN:

Development Assessment

FILE NO: DA08/1225 Pt5

SUMMARY OF REPORT:

Council is in receipt of a S96 application for proposed modifications to an existing approval for a 200 unit retirement village at Kingscliff. The application has been lodged under the provisions of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

The originally approved development incorporated a negotiated agreement involving a developers contribution of \$1,130,000.00 towards the upgrade of the Blue Jay Circuit stormwater pipe to provide sufficient capacity for the proposed development in terms of stormwater drainage.

Consequently, the applicant is seeking to modify the proposed development by way of increasing the yield of units to assist in offsetting part of the unforeseen drainage costs and to achieve a more efficient and viable project.

The proposal involves an increase in yield from 200 to 225 units. The footprint of the overall development is essentially the same as originally approved.

The application was advertised for a period of 14 days, during which time one submission was received in support of the development.

Having undertaken a thorough assessment against all relevant statutory requirements, the proposed development is recommended for conditional approval.

RECOMMENDATION:

That Development Application DA08/1225.01 for an amendment to Development Consent DA08/1225 for demolition of existing dwellings and hall and construction of an aged care facility comprising 200 units in a three (3) storey building at Lot 4 DP 617471; Lot 1 DP 605577; Lot 6 Section 1 and Lot 7 Section 1 DP 28949; Lot 1 and Lot 2 DP 378971; Nos. 16-20 Kingscliff Street and Nos. 90 and 92 Pearl Street, Kingscliff be approved and the following conditions be amended:

- 1. Delete Condition No. 1 and replace it with Condition No. 1A which reads as follows:**

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

- **A-DA-01-01 (Rev H) – *Site Plan* prepared by ML Design and dated 21/05/2010;**
- **A-DA-03-01 (Rev F) – *Yield Schedule* prepared by ML Design and dated 21/05/2010;**
- **A-DA-10-01 (Rev I) – *Basement Floor Plan* prepared by ML Design and dated 21/05/2010;**
- **A-DA-10-02 (Rev I) – *Ground Floor Plan* prepared by ML Design and dated 21/05/2010;**
- **A-DA-10-03 (Rev F) – *Level 01 Floor Plan* prepared by ML Design and dated 21/05/2010;**
- **A-DA-10-04 (Rev B) – *Level 02 Floor Plan* prepared by ML Design and dated 21/05/2010;**
- **A-DA-14-01 (Rev B) – *Roof Plan* prepared by ML Design and dated 21/05/2010;**
- **A-DA-15-01 (Rev B) – *Tenancy Plans (Type A – C)* prepared by ML Design and dated 21/05/2010;**
- **A-DA-15-02 (Rev A) – *Tenancy Plans (Type D – E)* prepared by ML Design and dated 21/05/2010;**
- **A-DA-18-01 (Rev B) – *Sequence Stages 1-4* prepared by ML Design and dated 21/05/2010;**
- **A-DA-20-01 (Rev D) – *Overall Section* prepared by ML Design and dated 21/05/2010;**
- **A-DA-20-02 (Rev F) – *Typical Section* prepared by ML Design and dated 21/05/2010;**
- **A-DA-30-01 (Rev D) – *Elevations 1-4* prepared by ML Design and dated 21/05/2010;**
- **A-DA-30-02 (Rev D) – *Elevations 5-8* prepared by ML Design and dated 21/05/2010;**
- **A-DA-30-03 (Rev G) – *Elevations 9-12* prepared by ML Design and dated 21/05/2010;**
- **A-DA-30-04 (Rev B) – *Typical Elevations* prepared by ML Design and dated 21/05/2010;**
- **A-DA-30-05 (Rev A) – *Materials & Finishes* prepared by ML Design and dated 21/05/2010,**

except where varied by the conditions of this consent.

2. Delete Condition No. 7 and replace it with Condition No. 7A which reads as follows:

- 7A. Staging of the development (Stages 1-4) shall be in accordance with the approved Construction Sequencing Plan Reference No. A-DA-18-01 Rev B, 21/05/10.**

3. Delete Condition No. 9 and replace it with Condition No. 9A which reads as follows:

9A. The developer shall provide a total of 257 parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code. This includes the provision of 14 on-street parking spaces.

Full design detail of the proposed parking and manoeuvring areas (including integrated landscaping) shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. Landscaping within the parking and manoeuvring areas shall be in accordance with any Council approved landscaping plan.

4. Delete Condition No. 10 and replace it with Condition No. 10A which reads as follows:

10A. 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.

Stage 1

(a) Tweed Road Contribution Plan:

289.9 Trips @ \$861 per Trips \$249,604

(\$782 base rate + \$79 indexation)

S94 Plan No. 4

Sector6_4

(b) West Kingscliff – Open Space:

53.3723 ET @ \$2386 per ET \$127,346

(\$1849 base rate + \$537 indexation)

DCP Section B4

S94 Plan No. 7

(c) Shirewide Library Facilities:	
53.3723 ET @ \$792 per ET	\$42,271
(\$792 base rate + \$0 indexation)	
S94 Plan No. 11	
(d) Bus Shelters:	
53.3723 ET @ \$60 per ET	\$3,202
(\$60 base rate + \$0 indexation)	
S94 Plan No. 12	
(e) Eviron Cemetery:	
53.3723 ET @ \$120 per ET	\$6,405
(\$101 base rate + \$19 indexation)	
S94 Plan No. 13	
(f) Community Facilities (Tweed Coast - North)	
53.3723 ET @ \$1305.6 per ET	\$69,683
(\$1305.6 base rate + \$0 indexation)	
S94 Plan No. 15	
(g) Emergency Facilities (Surf Lifesaving):	
53.3723 ET @ \$113 per ET	\$6,031
(\$113 base rate + \$0 indexation)	
S94 Plan No. 16	
(h) Extensions to Council Administration Offices & Technical Support Facilities	
53.3723 ET @ \$1759.9 per ET	\$93,929.91
(\$1759.9 base rate + \$0 indexation)	
S94 Plan No. 18	
(i) Cycleways:	
53.3723 ET @ \$447 per ET	\$23,857
(\$447 base rate + \$0 indexation)	
S94 Plan No. 22	
(j) Regional Open Space (Casual)	
53.3723 ET @ \$1031 per ET	\$55,027
(\$1031 base rate + \$0 indexation)	
S94 Plan No. 26	

Stage 2

- (a) **Tweed Road Contribution Plan:**
 171.6 Trips @ \$861 per Trips \$147,748
 (\$782 base rate + \$79 indexation)
 S94 Plan No. 4
 Sector6_4
- (b) **West Kingscliff – Open Space:**
 31.1652 ET @ \$2386 per ET \$74,360
 (\$1849 base rate + \$537 indexation)
 DCP Section B4
 S94 Plan No. 7
- (c) **Shirewide Library Facilities:**
 31.1652 ET @ \$792 per ET \$24,683
 (\$792 base rate + \$0 indexation)
 S94 Plan No. 11
- (d) **Bus Shelters:**
 31.1652 ET @ \$60 per ET \$1,870
 (\$60 base rate + \$0 indexation)
 S94 Plan No. 12
- (e) **Eviron Cemetery:**
 31.1652 ET @ \$120 per ET \$3,740
 (\$101 base rate + \$19 indexation)
 S94 Plan No. 13
- (f) **Community Facilities (Tweed Coast - North)**
 31.1652 ET @ \$1305.6 per ET \$40,689
 (\$1305.6 base rate + \$0 indexation)
 S94 Plan No. 15
- (g) **Emergency Facilities (Surf Lifesaving):**
 31.1652 ET @ \$113 per ET \$3,522
 (\$113 base rate + \$0 indexation)
 S94 Plan No. 16
- (h) **Extensions to Council Administration Offices
 & Technical Support Facilities**
 31.1652 ET @ \$1759.9 per ET \$54,847.64
 (\$1759.9 base rate + \$0 indexation)
 S94 Plan No. 18

- (i) **Cycleways:**
 - 31.1652 ET @ \$447 per ET \$13,931
 - (\$447 base rate + \$0 indexation)
 - S94 Plan No. 22

- (j) **Regional Open Space (Casual)**
 - 31.1652 ET @ \$1031 per ET \$32,131
 - (\$1031 base rate + \$0 indexation)
 - S94 Plan No. 26

- Stage 3**

- (a) **Tweed Road Contribution Plan:**
 - 237.9 Trips @ \$861 per Trips \$204,832
 - (\$782 base rate + \$79 indexation)
 - S94 Plan No. 4
 - Sector6_4

- (b) **West Kingscliff – Open Space:**
 - 43.2063 ET @ \$2386 per ET \$103,090
 - (\$1849 base rate + \$537 indexation)
 - DCP Section B4
 - S94 Plan No. 7

- (c) **Shirewide Library Facilities:**
 - 43.2063 ET @ \$792 per ET \$34,219
 - (\$792 base rate + \$0 indexation)
 - S94 Plan No. 11

- (d) **Bus Shelters:**
 - 43.2063 ET @ \$60 per ET \$2,592
 - (\$60 base rate + \$0 indexation)
 - S94 Plan No. 12

- (e) **Eviron Cemetery:**
 - 43.2063 ET @ \$120 per ET \$5,185
 - (\$101 base rate + \$19 indexation)
 - S94 Plan No. 13

- (f) **Community Facilities (Tweed Coast - North)**
 - 43.2063 ET @ \$1305.6 per ET \$56,410
 - (\$1305.6 base rate + \$0 indexation)
 - S94 Plan No. 15

(g) Emergency Facilities (Surf Lifesaving):	
43.2063 ET @ \$113 per ET	\$4,882
(\$113 base rate + \$0 indexation)	
S94 Plan No. 16	
(h) Extensions to Council Administration Offices & Technical Support Facilities	
43.2063 ET @ \$1759.9 per ET	\$76,038.77
(\$1759.9 base rate + \$0 indexation)	
S94 Plan No. 18	
(i) Cycleways:	
43.2063 ET @ \$447 per ET	\$19,313
(\$447 base rate + \$0 indexation)	
S94 Plan No. 22	
(j) Regional Open Space (Casual)	
43.2063 ET @ \$1031 per ET	\$44,546
(\$1031 base rate + \$0 indexation)	
S94 Plan No. 26	
Stage 4	
(a) Tweed Road Contribution Plan:	
152.1 Trips @ \$861 per Trips	\$130,958
(\$782 base rate + \$79 indexation)	
S94 Plan No. 4	
Sector6_4	
(b) West Kingscliff – Open Space:	
27.6237 ET @ \$2386 per ET	\$65,910
(\$1849 base rate + \$537 indexation)	
DCP Section B4	
S94 Plan No. 7	
(c) Shirewide Library Facilities:	
27.6237 ET @ \$792 per ET	\$21,878
(\$792 base rate + \$0 indexation)	
S94 Plan No. 11	
(d) Bus Shelters:	
27.6237 ET @ \$60 per ET	\$1,657
(\$60 base rate + \$0 indexation)	
S94 Plan No. 12	

- (e) Eviron Cemetery:
27.6237 ET @ \$120 per ET \$3,315
(\$101 base rate + \$19 indexation)
S94 Plan No. 13
- (f) Community Facilities (Tweed Coast - North)
27.6237 ET @ \$1305.6 per ET \$36,066
(\$1305.6 base rate + \$0 indexation)
S94 Plan No. 15
- (g) Emergency Facilities (Surf Lifesaving):
27.6237 ET @ \$113 per ET \$3,121
(\$113 base rate + \$0 indexation)
S94 Plan No. 16
- (h) Extensions to Council Administration Offices
& Technical Support Facilities
27.6237 ET @ \$1759.9 per ET \$48,614.95
(\$1759.9 base rate + \$0 indexation)
S94 Plan No. 18
- (i) Cycleways:
27.6237 ET @ \$447 per ET \$12,348
(\$447 base rate + \$0 indexation)
S94 Plan No. 22
- (j) Regional Open Space (Casual)
27.6237 ET @ \$1031 per ET \$28,480
(\$1031 base rate + \$0 indexation)
S94 Plan No. 26

5. Delete Condition No. 12 and replace it with Condition No. 12A which reads as follows:

12A. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

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

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

Stage 1

Water DSP5:	55.776 ET @ \$11020 per ET	\$614,651.50
Sewer Kingscliff:	64.201 ET @ \$5295 per ET	\$339,944.30

Stage 2

Water DSP5:	26.4 ET @ \$11020 per ET	\$290,928
Sewer Kingscliff:	33 ET @ \$5295 per ET	\$174,735

Stage 3

Water DSP5:	36.6 ET @ \$11020 per ET	\$403,332
Sewer Kingscliff:	45.75 ET @ \$5295 per ET	\$242,246.30

Stage 4

Water DSP5:	23.4 ET @ \$11020 per ET	\$257,868
Sewer Kingscliff:	29.75 ET @ \$5295 per ET	\$157,526.30

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.

6. Delete Condition No. 21 and replace it with Condition No. 21A which reads as follows:

21A. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -

- (a) Vehicular access to Pearl Street**
- (b) Construction of vehicular access to Kingscliff Street, within the existing (un-named) road reserve.**
- (c) The above-mentioned access to Kingscliff Street is to have a minor realignment to ensure the driveway is perpendicular to the kerb line.**
- (d) The construction of 14 on-street parking spaces within the existing road reserve.**
- (e) Construction of a 1.2m wide concrete footpath within the existing road reserve, to link with the existing path in Kingscliff Street.**
- (f) Provision of suitable identifying marks or signage to delineate the actual end of the public road area.**

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
7. Delete Condition No. 41 and replace it with Condition No. 41A which reads as follows:
- 41A. The relocation of public stormwater infrastructure through the site requires separate TSC approval of a Section 68 Local Government Act Stormwater Application, prior to the issue of a Construction Certificate. For the design of public stormwater systems, a safety factor of 2 shall be applied to design rainfall intensities, with a 500mm freeboard to be provided before overtopping can occur. Provision of this factor of safety and freeboard shall be clearly detailed in the s68 Stormwater Application.
- Any Council stormwater infrastructure traversing the site should make provision for a relief overland flowpath through the site, as a fail-safe alternative measure.**
8. Delete Condition No. 58 and replace it with Condition No. 58A which reads as follows:-
- 58A. The provision of 257 car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.
- All visitor and staff spaces within the subject site are to be marked and maintained as such.**
9. Delete Condition No. 73 and replace it with Condition No. 73A which reads as follows:
- 73A. The development is to be carried out in accordance with the **BASIX certificate dated 21 April 2010 and the Schedule of Commitments approved in relation to this modified** development consent.
10. Delete Condition No. 115 and replace it with Condition No. 115A which reads as follows:-
- 115A. All works associated with the demolition, construction and use of the proposed development are to be in accordance with the Waste Management Plan **prepared by HMC Pty Ltd, dated May 2010** and HMC's detailed plan of the Waste Storage Area (submitted on 22 June 2009), unless approved otherwise by Council's General Manager or his delegate.
11. The following new DURING condition is to be ADDED as Condition 116.2:
- 116.2 ***Where any treatment/processing area or bunding is required to be placed in association with site dewatering or acid sulfate treatment, the location and construction of that area shall be approved on site by***

Council's Environmental Health Officer prior to the commencement of any treatment or discharge activities'.

12. Delete Condition No. 127 and replace it with Condition No. 127A which reads as follows:
 - 127A. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "Certificate of Practical Completion" issued by Council for all works covered by the Sec.68 approval for sewer relocation works.
13. Delete Condition No. 130 and replace it with Condition No. 130A which reads as follows:
 - 130A. Construction and operation of the development shall comply with the Environmental Noise Impact Report prepared by CRG Pty Ltd, dated 10 May 2010, including Section 6, to the satisfaction of the General Manager or his delegate.

Prior to the issue of an occupation certificate for any stage of the development a report shall be provided to Council from a suitably qualified person which confirms that the recommendations made in that report have been satisfactorily complied with.
14. The following new USE condition is to be ADDED as Condition 156:
 156. Servicing and storage of the waste/recycling bins shall be carried out so as not to cause a nuisance to occupants of adjoining properties and/or residents of the aged care facility.
15. The Department of Water and Energy Schedule of Conditions is to be replaced with the following:

DEPARTMENT OF WATER AND ENERGY
SCHEDULE OF CONDITIONS FOR TEMPORARY DEWATERING
DEVELOPMENT APPLICATION NUMBER__DA08/1225

 1. All works shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
 2. All works are to be constructed in accordance with Report HMC 2008.144B Dewatering Management Plan December 2008 HMC's Addendum to HMC 2008.144B dated 12 May 2010 (pages 1-5) and/or with conditions of development consent.
 3. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
 4. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
 5. All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
 6. All precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other

hazardous materials used in the construction or operation of the works shall be taken.

7. The water extracted shall not be used for any purpose other than temporary construction dewatering.
8. Any water extracted by the works must not be discharged into any watercourse or groundwater if it would pollute that water.
9. Polluted water shall not be discharged into a river or lake other than in accordance with the conditions of a licence granted under the Protection of the Environment Operations Act 1997.
10. Tailwater drainage shall not be allowed to discharge onto adjoining roads, Crown land or other persons land, or into any river as defined in the Water Act 1912, or a groundwater aquifer, by surface or sub-surface drains or pipes or any other means.
11. Water must not be discharged unless the ph of the water is between 6.5 and 8.5, or the water has been treated to bring the ph to a level between 6.5 and 8.5 prior to discharge, or the water is discharged through the Council's sewerage treatment system.
12. The ph of any water extracted must be tested prior to the commencement of discharge and at least twice daily thereafter and a record kept of the date, time and result of each test in the site log.
13. Works used for the purposes of conveying, distributing or storing water from the dewatering work shall not be constructed or installed so as to obstruct the free passage of floodwaters flowing in, to or from a river or lake.
14. Authorised officers of the Department of Water and Energy (DWE), or any other duly authorised officer, must be granted unrestricted access to the works either during or after construction, for the purpose of carrying out any inspection or test of the of the works and its fittings or to take samples of water or material in the work.
15. Any works deemed necessary by DWE for the protection or proper maintenance of the works, or for the control of the water extracted or prevention of pollution of groundwater, shall be undertaken on instruction to do so.
16. A record shall be maintained of the actual volume of groundwater pumped (in kilolitres or megalitres) from the dewatering works, the discharge rate (in litres per second) and duration of pumping (number of days) and this information is to be provided to DWE if and when requested.
17. A record shall be maintained of the actual volume and quality of any tailwater generated by the dewatering and this information is to be provided to DWE if and when requested.
18. A record shall be maintained of the groundwater levels beneath and around the construction site throughout the duration of the dewatering and for a period of at least two (2) months following cessation of the required pumping, and this information is to be provided to DWE if and when requested.

19. DWE may request the provision of interim information relating to the records described in the above three (3) conditions at any time during construction.
16. The NSW Rural Fire Service General Terms of Approval is to be replaced with the following:

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

1. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within Appendices 2 and 5 of 'Planning for Bushfire 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 Bushfire Protection 2006'.
3. Internal roads shall comply with section 4.2.7 of 'Planning for Bushfire Protection 2006'. Except that in this instance a perimeter road and a through road is not required.
4. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bushfire Protection 2006'.
5. New construction shall comply with section 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bushfire Protection 2006'.
6. A minimum 1.8 metre high radiant heat shield made of non-combustible materials shall be constructed along the southeast, south and west boundaries adjacent to the hazard. All posts and rails shall be constructed of steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth.
7. Landscaping to the site is to comply with principles of Appendix 5 of 'Planning for Bushfire Protection 2006'.
8. No brushwood fencing shall be used.

REPORT:

Applicant: Kingscliff Retirement Ltd Atf Kingscliff Retirement Trust
Owner: Kingscliff Retirement Ltd
Location: Lot 4 DP 617471; Lot 1 DP 605577; Lot 6 Section 1 & Lot 7 Section 1 DP 28949; Lot 1 & Lot 2 DP 378971; Nos. 16-20 Kingscliff Street & Nos. 90 & 92 Pearl Street, Kingscliff
Zoning: 2(b) Medium Density Residential and 2(c) Urban Expansion
Cost: N/A

BACKGROUND:

The subject site (involving 6 allotments) is described as Lot 4 DP 617471; Lot 1 DP 605577; Lot 6 Section 1 & Lot 7 Section 1 DP 28949; Lot 1 & Lot 2 DP 378971; No 16, No 18, No 20 Kingscliff Street & No 90 & 92 Pearl Street Kingscliff. The site is irregular in shape with a 32m frontage to Kingscliff Street to the north and an approximate 34m frontage to Pearl Street to the east.

Council granted consent on 24 July 2009 for the construction of a multi-level aged care development (retirement village), comprising of two hundred (200) two and three bedroom self contained units in a staged development. The proposal incorporated six clusters of apartments (on three levels), with the clusters grouped around and linked to a Central Facility at ground level.

In addition to the 200 units, the proposal incorporated: a basement car park; construction of a bowls green; vegetable gardens serviced by the residents; medical and day care nursing onsite visitation; demolition of the existing RSL Hall and dwelling houses; filling of the site to the design flood level of RL 3.3m AHD; driveway entry off Kingscliff Street; and separate service and delivery bay access off Pearl Street.

As a result of detailed assessment and negotiations with the applicant, Council proposes to upgrade the Blue Jay Circuit stormwater pipe to provide sufficient capacity for the proposed development in terms of stormwater drainage. Due to the high cost of this project, and the reliance on this service to provide a lawful point of discharge for the subject land, the applicant agreed to provide a monetary contribution to the project. A condition was been imposed requiring a Planning Agreement to be entered into for the stormwater works.

PROPOSED DEVELOPMENT:

Condition 38 of the development consent requires payment of a drainage contribution of \$3,000,037.00 in total, of which Council is required to pay a fixed amount of \$1,900,000.00.

The applicant has noted that the developers contribution of \$1,130,000.00 was not contemplated in the project feasibility analysis because the downstream drainage capacity constraints and difficulties (in terms of timing in particular) with other drainage options through the adjoining land were not known at that time.

Consequently, the applicant is seeking to modify the proposed development by way of increasing the yield of units to assist in offsetting part of the unforeseen drainage costs and to achieve a more efficient and viable project.

The key modifications to Development Consent DA08/1225 include:

- An increase in the number of units from 200 to 225;

- A reduction in the size of the basement car park and a reconfiguration of the basement car parking layout;
- Relatively minor external alterations to the building in relation to balconies, setbacks and footprint;
- An increase in the number of bedrooms from 429 to 450 (ie 21 bedrooms or 4.9%); and
- An increase in car parking from 256 to 257 spaces.

The type of units has been modified in that the proposal no longer incorporates 3 bedroom units. Each cluster of apartments incorporates six to eighteen units per floor, in a staggered configuration. The individual apartments are self contained and consist of a mix of two bedroom units (approximately 82m²) and two bedroom units plus study (up to 105m²).

The breakdown of the 225 units is as follows:

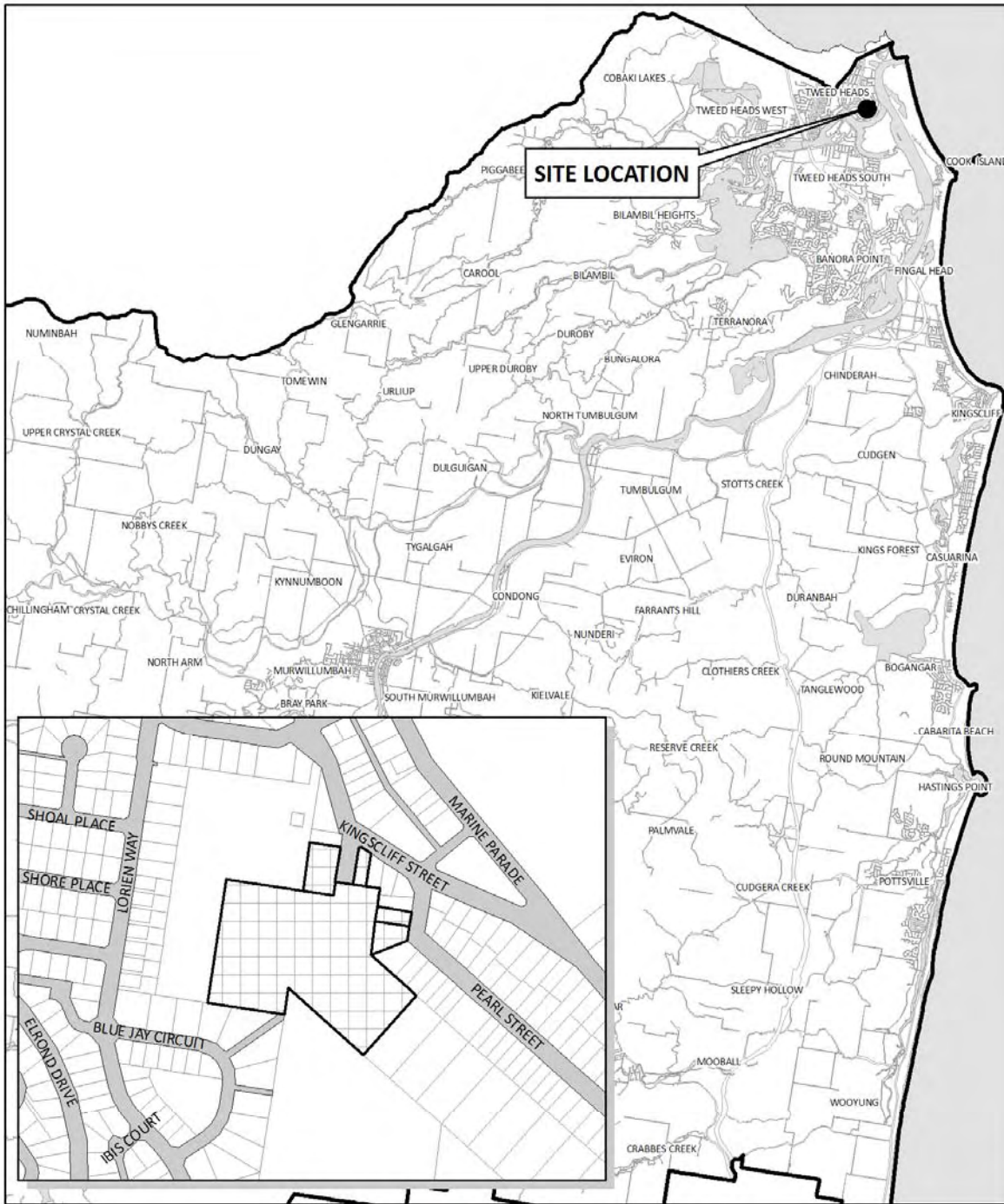
- 88 x Type A units (2 bedrooms);
- 11 x Type B units (2 bedrooms);
- 96 x Type C units (2 bedrooms + study)
- 19 x Type D units (2 bedrooms + study)
- 11 x Type E units (2 bedrooms + study nook)

The application was advertised for a period of fourteen days from Wednesday 30 June 2010 to Thursday 14 July 2010. In response to the advertising, one (1) submission was received in support of the proposed modifications. The application was also forwarded to the NSW Office of Water and the NSW Rural Fire Service.

The applicant's proposed modifications relate to the following conditions:

- **Condition 1** to be replaced with revised approved plans;
- **Condition 7** to be replaced with a revised condition for the proposed staging of the development;
- **Condition 9** to be replaced with a revised condition with regard to the amended carparking spaces required;
- **Condition 10** to be replaced with revised Section 94 contributions (staged);
- **Condition 12** to be replaced with revised Section 64 contributions (staged);
- **Condition 58** to be deleted as it duplicates Condition 9;
- **Condition 73** to be revised to indicate the updated BASIX certification;
- **Condition 115** to be revised to indicate the updated Waste Management Plan; and
- **Condition 130** to be revised to indicate the updated Environmental Noise Impact Report.

SITE DIAGRAM:



LOCALITY PLAN



Lot 4 DP 617471; Lot 1 DP 605577; Lot 6 Section 1 & Lot 7 Section 1 DP 28949; Lot 1 & Lot 2 DP 378971
 No 16, No 18, No 20 Kingscliff Street & No 90 & 92 Pearl Street Kingscliff

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Author: J.Batchelor - Planning Reforms Unit

Date Printed: July 03, 2009

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  Cadastre July 03, 2009
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Coordinate System - MGA Zone 56
 Datum - GDA 94

DO NOT SCALE
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Tweed Shire Council
 PO Box 816,
 Murwillumbah
 NSW 2484

Tel: (02) 6670 2409
 Fax: (02) 6670 2483

CONTRACTOR'S NOTES
 1. Agree dimensions of this plan with your local authority.
 2. Agree dimensions of this plan with your local authority.
 3. Agree dimensions of this plan with your local authority.
 4. Agree dimensions of this plan with your local authority.
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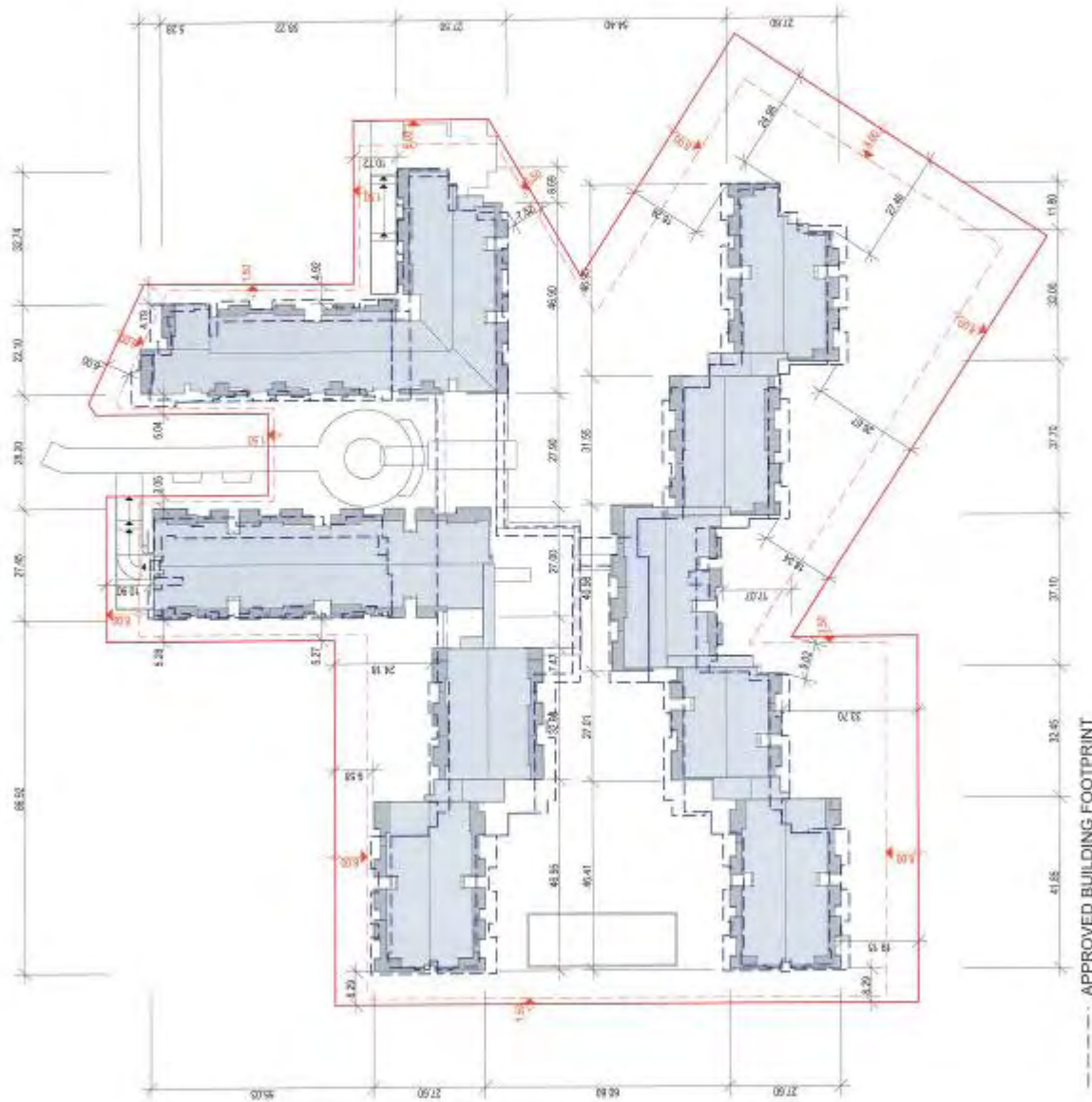
ADDRESS
 PLANNING
 SERVICE ENGINEERS
 Unit 12
 Southway
 Southport
 Merseyside
 L35 9EF
 Tel: 0151 455 400
 Fax: 0151 455 401
 Email: info@mdesign.co.uk

PROJECT
 KINGSCLIFF RETIREMENT
 VILLAGE - ADDENDUM
 DEVELOPMENT CONSULTING 081223

FOR
 KINGSCLIFF RETIREMENT TRUST
 LIMITED

SITE PLANS
 APPROVED BUILDING
 FOOTPRINT OVERLAY

GRAPH TITLE SHEET
 1:500 PLAN
 2000010
 1:500 PLAN
 4627-01-0 A-DN-01-08
 A



Published by Engineering & Planning Services Ltd. 0151 455 400

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REVISED
 1. Details of dimensions of floor plan are in accordance with the approved planning application.

REVISIONS

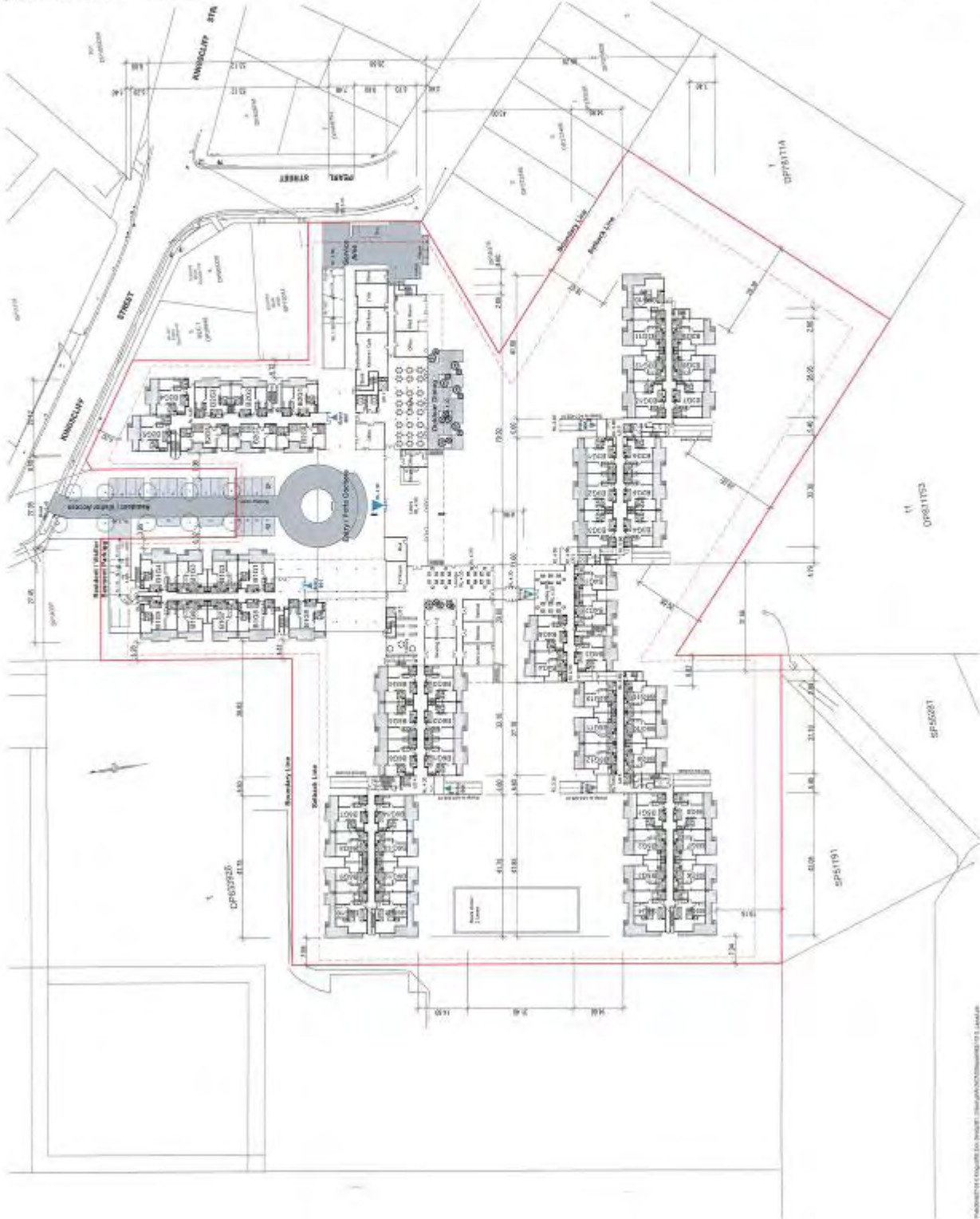
NO.	DESCRIPTION	DATE
01	ISSUED FOR TENDERS	11/10/10
02	ISSUED FOR TENDERS	11/10/10



KINGSCLIFF RETIREMENT VILLAGE - ARCHITECTURAL DEVELOPMENT CONSULTANT NO. 1001020
 FOR **KINGSCLIFF RETIREMENT TRUST LIMITED**

FLOOR PLANS GROUND

PROJEKTION
 PLAN: 1001020
 DATE: 11/10/10
 SCALE: 1:1000
 SHEET: 4827-01.0 A-DX-10-02



PLANNING CONSULTANT: MILDREY CONSULTANTS LTD. 1001020

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NOTES
 1. Approved drawings shall be used in accordance with the contract documents.

REVISIONS

NO.	DATE	DESCRIPTION
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		



architect
 interior designers
 1000 10th Avenue
 Suite 200
 Boulder, CO 80502
 Phone: 303.440.8888
 Fax: 303.440.8889
 www.mldesign.com

KINGSCLIFF RETIREMENT VILLAGE - ADDITION OF DEVELOPMENT CONSENT NO. 081223

KINGSCLIFF RETIREMENT TRUST LIMITED

**FLOOR PLANS
 LEVEL 01**

ORANGE TREE

1200 8th St
 Boulder, CO 80502
 Phone: 303.440.8888
 Fax: 303.440.8889

4627-01-0 A-DN-10-03



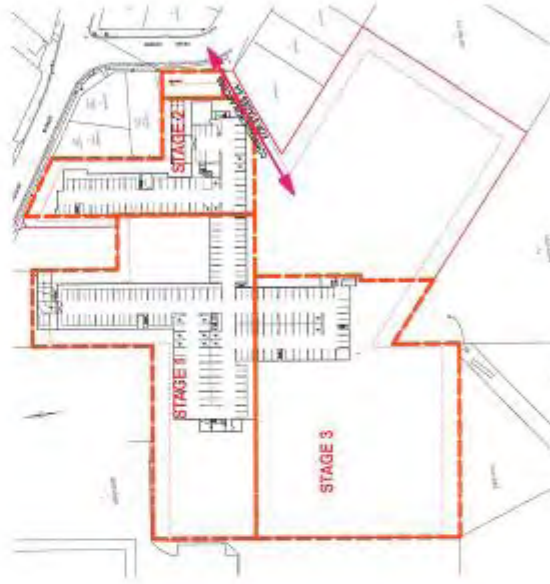
Yield per Stage

Stage	1	2	3	4
Units	32	5	32	4
Breakdown	0	2	3	4
Grid	0	3	0	0
Units breakdown Stage 1	32	0	43	0
Total Yield in Stage 1				
Units	0	5	0	0
Breakdown	0	2	0	0
Grid	0	3	0	0
Units breakdown Stage 2	0	4	10	0
Total Yield in Stage 2				
Units	0	0	32	0
Breakdown	0	0	3	0
Grid	0	0	0	0
Units breakdown Stage 3	0	0	34	0
Total Yield in Stage 3				
Units	0	0	0	4
Breakdown	0	0	0	4
Grid	0	0	0	0
Units breakdown Stage 4	0	0	0	20
Total Yield in Stage 4				
Total Yield of Stage 1-4	32	5	66	4
Total number of units	32	5	66	4

Stages 1-4



Basement Stages 1-3



CONSENT
 This consent is valid for the period of 12 months from the date of issue. It is subject to the conditions set out in the consent and the relevant planning legislation. It is not transferable and cannot be assigned. It is not a guarantee of planning permission and does not constitute a contract. It is not a license to develop and does not constitute a contract. It is not a guarantee of planning permission and does not constitute a contract. It is not a license to develop and does not constitute a contract.



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 ARCHITECTS
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 SURVEYORS
 COST CONSULTANTS
 PROJECT MANAGERS
 100, 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, 468, 470, 472, 474, 476, 478, 480, 482, 484, 486, 488, 490, 492, 494, 496, 498, 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528, 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, 576, 578, 580, 582, 584, 586, 588, 590, 592, 594, 596, 598, 600, 602, 604, 606, 608, 610, 612, 614, 616, 618, 620, 622, 624, 626, 628, 630, 632, 634, 636, 638, 640, 642, 644, 646, 648, 650, 652, 654, 656, 658, 660, 662, 664, 666, 668, 670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690, 692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712, 714, 716, 718, 720, 722, 724, 726, 728, 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, 774, 776, 778, 780, 782, 784, 786, 788, 790, 792, 794, 796, 798, 800, 802, 804, 806, 808, 810, 812, 814, 816, 818, 820, 822, 824, 826, 828, 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000.

KINGSCLIFF RETIREMENT VILLAGE - APPROVAL CONSENT NO. 06/0120
 BY **KINGSCLIFF RETIREMENT TRUST LIMITED**
CONSTRUCTION SEQUENCE STAGES 1-4
 DRAWN BY: **ORANGE TREE**
 DATE: **10/10/2010**
 SCALE: **A4-D**
 PROJECT NO: **06/0120**



North Elevation 01 / Kingscliff Street



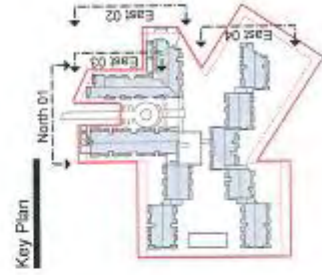
East Elevation 02 / Pearl Street



East Elevation 03



East Elevation 04



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NOTES
 1. All dimensions are in millimeters unless otherwise stated.
 2. All dimensions are to the centerline of the element unless otherwise stated.
 3. All dimensions are to the finished surface unless otherwise stated.
 4. All dimensions are to the centerline of the element unless otherwise stated.

REVISIONS

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	10/11/10

MDesign

architects
 project designers

Level 11
 55 Market Street
 Kingscliff NSW 2486
 Australia
 Tel: 08 9371 1000
 Fax: 08 9371 1001
 Email: info@mdesign.com.au

KINGSCLIFF RETIREMENT VILLAGE - REVISION OF DEVELOPMENT CONSENT NO. 08/02/02

for
KINGSCLIFF RETIREMENT TRUST LIMITED

ELEVATIONS OVERALL ELEVATIONS 1-4

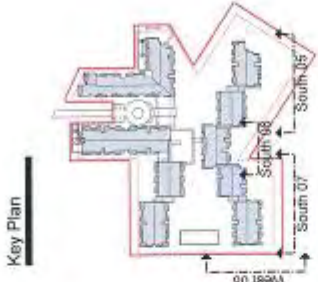
DATE: 10/11/10
 DRAWN BY: J. HARRIS
 CHECKED BY: J. HARRIS
 SCALE: AS SHOWN
 PROJECT NO: 4827-01-0 A-DA-30-01
 SHEET NO: D

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South Elevation 05



Key Plan



South Elevation 06



South Elevation 07



West Elevation 08



KINGSCLIFF RETIREMENT VILLAGE - ASSOCIATION OF DEVELOPERS CONSULT NO. 040029
 for KINGSCLIFF RETIREMENT TRUST LIMITED
ELEVATIONS OVERALL ELEVATIONS 5-8
 DRAWN THESE: [Scale bar and drawing number 4827-01-0 A-DK-30-02 D]

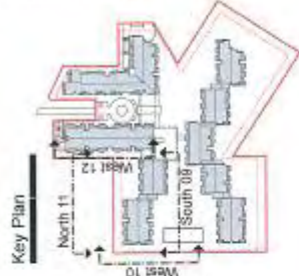
CONTRACT
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NOTES
 1. Check all dimensions and levels on all construction drawings.
 2. Check all dimensions and levels on all construction drawings.
 3. Check all dimensions and levels on all construction drawings.

DATE
 15/11/2010

BY
 J. M. M. M.

FOR
 J. M. M. M.



South Elevation 09



West Elevation 10



North Elevation 11



West Elevation 12



KINGSCLIFF RETIREMENT VILLAGE - LANDSCAPE ARCHITECTURE
SCS ARCHITECTURAL CONSULTANTS

KINGSCLIFF RETIREMENT TRUST LIMITED

ELEVATIONS OVERALL ELEVATIONS 9-12

SCALE
 1:100
 1:200
 1:500
 1:1000

DATE
 15/11/2010

PROJECT NO.
 4827-01-0

SCALE
 A-DK-30-03

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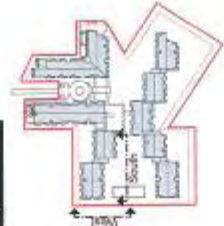
COMMENTS
 ALL WORK TO BE DONE IN ACCORDANCE WITH THE RELEVANT STANDARDS AND REGULATIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE RELEVANT AUTHORITIES.

NOTES
 1. Refer to drawings of this project for additional details and specifications.

REVISIONS

NO.	DATE	DESCRIPTION
1	10/11/10	ISSUED FOR TENDER

Key Plan



PROJECT
 KINGSCLIFF RETIREMENT VILLAGE - ASSOCIATION OF RETIREES

CLIENT
 KINGSCLIFF RETIREMENT TRUST LIMITED

DESIGNER
 MLDesign

DATE
 10/11/10

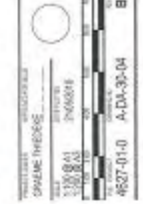
SCALE
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PROJECT NO.
 A-DA-05-04

KINGSCLIFF RETIREMENT VILLAGE - ASSOCIATION OF RETIREES
 DEVELOPMENT CONSULTANT NO. 0010224

for
KINGSCLIFF RETIREMENT TRUST LIMITED

ELEVATIONS
 TYPICAL ELEVATIONS



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

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 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 proposed modifications are considered to result in a development which is consistent with the primary objective of the 2(b) and 2(c) zones by way of optimum utilisation of the site, whilst taking into account environmental constraints. 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.

The proposed development is not considered to have an unacceptable cumulative impact on the locality or the community as a whole.

SEPP (Housing for Seniors or People with a Disability) 2004

The original assessment of the development undertook a detailed assessment of the proposal, concluding that the 200 unit development met the provisions of the SEPP. The applicant has provided an amended compliance checklist to demonstrate that the modified development has substantial compliance with the SEPP or justifies any minor non-compliance. The proposed modifications have been assessed against the SEPP, with only relevant clauses affected by the revised design noted below.

Part 2 – Site-related requirements

Clause 27 – Bush fire prone land

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter to carry out development on land identified on a bush fire prone land map certified under section 146 of the Act as “Bush fire prone land—vegetation category 1”, “Bush fire prone land—vegetation category 2” or “Bush fire prone land—vegetation buffer” unless the consent authority is satisfied that the development complies with the requirements of the document titled Planning for Bush Fire Protection, ISBN 0 9751033 2 6, prepared by the NSW Rural Fire Service in co-operation with the Department of Planning, dated December 2006.*

The subject site is identified as bush fire prone land and as such the applicant submitted an addendum to the original Bushfire Threat Assessment Report. The application was referred to the NSW Rural Fire Services for consideration. The RFS have issued a bushfire safety authority as required under section 100B of the Rural Fires Act 1997 and the amended conditions have been applied.

Clause 28 - Water and sewer

- (1) *A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that the housing will be connected to a reticulated water system and have adequate facilities for the removal or disposal of sewage.*
- (2) *Not applicable*

Council's Water & Sewer Engineer has confirmed that connection is available to Council's reticulated water and sewer mains in Pearl Street and Kingscliff Street. Further detail regarding water and sewer are discussed later in this report. Clause 28 is considered satisfied.

Part 3 – Design requirements

Division 2 – Design Principles

Clause 33 - Neighbourhood amenity and streetscape

The proposed development should:

- (a) *recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area; and*
- (b) *N/A; and*
- (c) *maintain reasonable neighbourhood amenity and appropriate residential character by:*
- (i) *providing building setbacks to reduce bulk and overshadowing; and*
 - (ii) *using building form and siting that relates to the site's land form; and*
 - (iii) *adopting building heights at the street frontage that are compatible in scale with adjacent development; and*
 - (iv) *considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours; and*
- (d) *be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and*
- (e) *embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and*
- (f) *retain, wherever reasonable, major existing trees, and*
- (g) *be designed so that no building is constructed in a riparian zone.*

The original development was considered to be acceptable with regard to neighbourhood amenity and streetscape. Setbacks from adjoining residential development have largely been maintained. Figure 1 below indicates the original and proposed footprint. In summary, despite an increase in yield, the proposed modifications are considered to satisfy this clause.

Clause 34 - Visual and acoustic privacy

The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:

- (a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping, and*
- (b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.*

The applicant has provided an assessment of the proposed modifications in terms of compliance with DCP A1, which highlights that the development remains compliant with required separation from existing residences and between each unit within the proposal.

An addendum to the original Environmental Noise Impact Assessment has been submitted with the application. Council's Environment & Health Unit has assessed the proposed development with no objections, subject to conditions of consent. Therefore, this clause is considered satisfied.

Clause 36 - Stormwater

The proposed development should:

- (a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas, and*
- (b) include, where practical, on-site stormwater detention or re-use for second quality water uses.*

Stormwater was largely addressed during the original assessment, which resulted in an agreement between Council and the applicant in relation to an upgrade in the public stormwater drainage system. The proposed modifications are not considered to increase the development footprint with regard to stormwater. Therefore, no stormwater issues are raised by the amended design. Appropriate conditions of consent have been applied to ensure that the development complies with Clause 26 of the SEPP.

Part 4 – Development standards to be complied with

Clause 40 - Development standards – minimum sizes and building height.

- (1) **General** A consent authority must not consent to a development application made pursuant to this Chapter unless the proposed development complies with the standards specified in this clause.*
- (2) **Site size** The size of the site must be at least 1,000 square metres.*
- (3) **Site frontage** The site frontage must be at least 20 metres wide measured at the building line.*
- (4) **Height in zones where residential flat buildings are not permitted** If the development is proposed in a residential zone where residential flat buildings are not permitted:
 - (a) the height of all buildings in the proposed development must be 8 metres or less, and*
 - (b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and**

Note. *The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.*

- (c) *a building located in the rear 25% area of the site must not exceed 1 storey in height.*

The original assessment determined that the proposal satisfied Clause 40. The proposed modifications maintain compliance with all relevant development standards in Clause 40.

Division 3 – Hostels and Self-Contained Dwellings: Standards concerning access and usability

Clause 41 - Standards for hostels and self-contained dwellings.

The SEPP notes that development standards concerning accessibility and usability for self contained dwellings require the development to be assessed against the standards specified in Schedule 3. An assessment against the provisions of Schedule 3 was undertaken during the original assessment. The proposed modifications are considered to maintain compliance. Applicable conditions of consent remain in place, in terms of requiring further detail prior to the issue of a construction certificate, to ensure that access and usability standards are met.

Part 7 – Development standards that cannot be used as grounds to refuse consent

Division 4 – Self contained dwellings

Clause 50 – *Standards that cannot be used to refuse development consent for self contained dwellings*

- (a) **Building Height:** *if all proposed buildings are 8 metres or less in height.*

This clause stipulates that Council cannot refuse a residential care facility on the grounds of height, if the building height is less than 8m.

The proposed modifications do not result in any change to the approved building height. Although the proposal is a multi level development that exceeds 8m, the development meets the three (3) storey height limit applicable to the site.

- (b) **Density and Scale:** *if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less.*

The applicant has noted that the proposed modifications have slightly increased the Floor Space Ratio to 0.80:1, which is allowable under the FSR provisions of DCP Section A1 for multi dwelling development. It is also noted that the maximum FSR under Section A1 is 1.2:1 for residential flat buildings.

- (c) **Landscaped area:** *if a minimum of 30% of the area of the site is landscaped.*

The area of the site is 3.5188ha, which equates to the need for 10,556m² of landscaped area. The proposed modifications slightly reduce the landscaping, with an area of 10,716m² (30.45% of the site), which exceeds the requirement and is considered satisfactory.

- (d) **Deep soil zones:** *15% of the site area, with two-thirds of the area to be located at the rear of the site, each having a minimum dimension of 3m.*

15% of the site equates to 5,278m² in area required for deep soil zones. The reduced basement excavation increases the deep soil zone area of the site from 5,600m² (16%) to 7189m² (20.4%). Therefore, the proposal is considered to exceed the minimum deep soil zone requirements.

(e) Solar access: *living rooms and private open spaces for a minimum of 70% of the dwellings receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter.*

In order to meet the 70% solar access requirement, 158 of the 225 units have to comply with the solar access provisions for living rooms and private open space areas. The applicant has noted that 127 units (56.4%) fully comply with this clause. An additional 31 units comply for 2 hours and 45 minutes. The outstanding 15 minutes of direct sunlight occur at lunchtime where the sun will be controlled by eaves and balconies) east facing units of B01 and B02). This results in 158 units (70%) complying with the objective of Clause 50(e).

The original design incorporated a clerestory component in the roof design to enable compliance with the solar access requirements. It is unclear as to whether the clerestory is proposed to remain in the modified design. The original condition of consent requiring the clerestory component to be incorporated into the development at the Construction Certificate stage has been kept; enabling the applicant to incorporate that into the design if desired.

(h) Parking: *if at least the following is provided:*

- (i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider.*

The proposed modifications incorporate 450 beds, which requires 225 car spaces under this provision of the SEPP. After various discussions relating to car parking (detailed later in this report) a car parking arrangement has been proposed incorporating 257 spaces. As such, the proposal is considered to comply with this clause.

Therefore, having considered all of the abovementioned criteria, the proposed modifications are considered to meet the aims and requirements of the SEPP (Housing for Seniors or People with a Disability) 2004, subject to applicable conditions of consent.

Tweed Development Control Plan

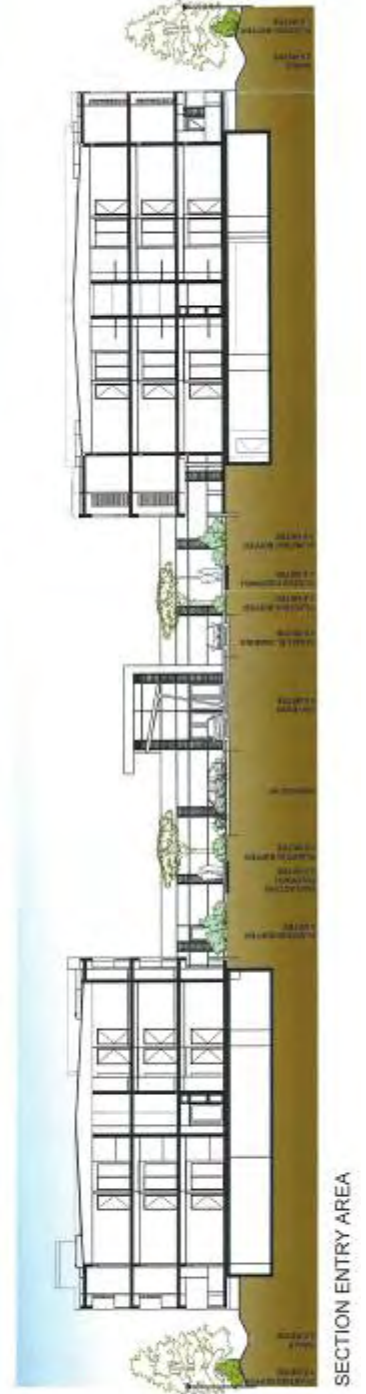
A2-Site Access and Parking Code

Council's DCP refers to the Seniors SEPP carparking requirements for housing for older people or people with a disability. As noted above, the SEPP requires 0.5 spaces for every bed within the development. The proposed modifications increase the total bed numbers from 429 to 450, which results in a minimum of 225 spaces for parking purposes.

Prior to the lodgement of this S96 application, the applicant met with Council staff to discuss the merits of the proposed modifications in terms of car parking. In order to reduce construction costs, the applicant advised that the basement was to be reduced. The overall residential parking was to remain relatively consistent with the original approval, but the basement visitor spaces were removed from the design. The applicant proposed additional visitor spaces on ground level.

The concept of ground level visitor spaces was encouraged, but not at the expense of visual amenity concerns for the main entry to the development. That is, wall to wall hardstand would not be supported. The applicant modified the ground level car parking design to incorporate landscaping bays for amenity purposes, whilst maintaining 22 visitor spaces (see Figure 2 below). It should also be noted that 14 of the 22 spaces are located on the road reserve leading into the subject site. The use of the public road reserve was assessed and supported in the original assessment.

Figure 2 – Perspective and section of entry area



The applicant has provided an amended Traffic and Parking Impact Assessment, which notes that inclusive of the 257 spaces, the proposal incorporates 2 parking spaces for a community bus and an ambulance and 2 car spaces for carwash bays. 50% of the residential spaces have been designed with a width of 3.2m or greater and two 3.8m wide disabled spaces have been provided on the ground level for disabled visitors.

Council's Development Engineer has provided the following comments:

'The existing consent approved the provision of 256 parking spaces in total. The amended submission proposes 257 parking spaces in total (note that both totals include 2 x car wash bays, a bus bay and an ambulance bay).

Although 25 more units (but only 21 more beds) are proposed, the applicant has provided supporting evidence and investigations to justify this small increase in parking space numbers.

The submitted proposal is the end result of prior discussions and negotiations, which have been supported by Council's Traffic Engineer.

This submission alters the previously approved access and parking provisions as follows: extra visitor parking in the road reserve beside the main driveway; reduced and reconfigured basement parking with improved circulation; resident parking increased from 200 to 225; visitor parking reduced from 40 to 22; staff parking reduced from 12 to 6; total parking bays @ 3.8m wide reduced from 19 to 17; total parking bays @ 3.2m wide increased from 85 to 99; total parking bays @ 2.6m wide reduced from 136 to 131'

Upon consideration of the revised parking layout and justification for the variation to SEPP requirements, Council's Traffic Engineer and Development Engineer have no objections to the development, subject to conditions.

The applicant has requested that **Condition 9** be modified (shown in bold) to reflect the amended car parking provisions, suggesting the following wording:

9. The developer shall provide a total of **257** parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code. ~~This includes the provision of 10 on-street parking spaces.~~

Full design detail of the proposed parking and manoeuvring areas (including integrated landscaping) shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate. Landscaping within the parking and manoeuvring areas shall be in accordance with any Council approved landscaping plan.

Council's Development Engineer has no objection to Condition 9 being modified to nominate 257 parking spaces, but wants the reference to on-street parking spaces to remain. It should be noted that the on-street parking spaces has increased from 10 spaces to 14, which is considered to be acceptable. The following modification to **Condition 9** (modifications shown in bold) is recommended:

9. The developer shall provide a total of **257** parking spaces including parking for the disabled in accordance with Tweed Shire Council Development Control Plan Part A2 - Site Access and Parking Code. This includes the provision of **14** on-street parking spaces.

Full design detail of the proposed parking and manoeuvring areas (including integrated landscaping) shall be submitted to and approved by the Principal Certifying Authority

prior to the issue of a construction certificate. Landscaping within the parking and manoeuvring areas shall be in accordance with any Council approved landscaping plan.

Although not identified by the applicant, Council's Development Engineer has recommended a modification to **Condition 21(d)** (as shown in bold) as a result of the revised car parking design:

21. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -
 - (a) Vehicular access to Pearl Street
 - (b) Construction of vehicular access to Kingscliff Street, within the existing (unnamed) road reserve.
 - (c) The above-mentioned access to Kingscliff Street is to have a minor realignment to ensure the driveway is perpendicular to the kerb line.
 - (d) The construction of **14** on-street parking spaces within the existing road reserve.
 - (e) Construction of a 1.2m wide concrete footpath within the existing road reserve, to link with the existing path in Kingscliff Street.
 - (f) Provision of suitable identifying marks or signage to delineate the actual end of the public road area.

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

The applicant has also requested the deletion of **Condition 58**, as they believe it duplicates Condition 9. Condition 9 requires detail design of the proposed car parking prior to the issue of a Construction Certificate, where as Condition 58 applies to the "During Construction" component of the development and it also references signage requirements. Council's Development Engineer does not support the deletion of Condition 58, but recommends the following modification (shown in bold):

58. The provision of **257** car parking spaces including parking for the disabled where applicable. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

All visitor and staff spaces within the subject site are to be marked and maintained as such.

Likely Impacts

Revised Plans & Staging

The applicant has requested a modification to **Condition 1** to reflect the revised plans of the development. There are no objections to this request and Condition 1 has been revised accordingly.

The proposed modifications maintain four (4) stages for the development. The applicant has requested a modification to **Condition 7** (as shown in bold). There are no objections to this proposed modification:

7. Staging of the development (Stages 1-4) shall be in accordance with the approved **Construction Sequencing Plan Reference No. A-DA-18-01 Rev B, 21/05/10**.

The change to the yield and unit type in each stage triggers a modification to the development contributions. The applicant has requested a modification to **Conditions 10 and 12** to reflect the changes. An assessment of the revised staging has been undertaken and the development contributions conditions have been replaced with the updated figures.

Acid Sulfate Soils

The original application was supported by an Acid Sulfate Soils Investigation Report (Border Tech, 7 November 2008), which addressed potential impacts arising from the disturbance of acid sulfate soils. The applicant has noted that the revised proposal decreases the basement car park excavation by approximately 500m² and it follows that that there will be no additional impact resulting from the modified proposal.

Council's Environmental Health Unit has assessed the proposed modification with regard to acid sulfate soils, noting the following:

'The modified submission indicates that the basement excavation is decreased by about 500m² and the depth of excavation remains unchanged. This issue is adequately dealt with by existing condition 116. No further action required'.

Dewatering

The applicant has submitted an addendum to the Dewatering Management Plan for the proposed development. In addition to the decreased area of basement carpark excavation, the addendum notes that the perimeter of the excavation also decreases from approximately 700m to approximately 570m, which results in a reduced discharge.

Council's Environment & Health Unit has assessed the addendum to the approved management plan with no objection, noting that...*'the dewatering requirements to facilitate the development remain largely unchanged. The existing conditions are deemed adequate'*.

In addition, Council's Specialist Planner / Ecologist assessed the proposal in this regard, providing the following comment:

'Although the proposal involves an intensification of use of the site by adding an additional 25 units and some additional carparking, the development footprint has not increased in the main area of interest for frog habitat. The proposal will result in a reduction (of some 500m²) in the excavated area required for basement carparking. The perimeter of the excavation will also decrease under the revised proposal, from approximately 700m to approximately 570m. Coupled with the reduced excavation requirements is a reduction in the dewatering needed to complete excavations, hence reduced discharge and drawdown will result, meaning the zone of influence will not extend outside the site southern boundaries (where any impact on wetlands might be problematic)'.

The proposal was also forwarded to the NSW Office of Water within the Department of Environment, Climate Change and Water (DECCW) for consideration. The Office of Water's comments have been noted later in this report.

Contamination

The applicant has submitted an addendum to the Preliminary Contaminated Land Assessment for the proposed development. The addendum notes that although the basement excavation will decrease, recommendations 6 and 7 in section 12 of the HMC report remain generally unchanged.

Council's Environment & Health Unit has assessed the addendum to the approved management plan with no objection, noting that...*'with respect to site disturbances and filling of the site, the development remains largely unchanged. The existing assessment and conditions of consent are deemed satisfactory'*.

Noise

The applicant provided a modified Environmental Noise Impact Assessment (incorporating consideration with regards to: construction noise; vehicle noise; and operational noise impacts for both on and off site). In summary, the revised report concludes that the amended design does not alter acoustic impacts significantly.

The applicant has requested that **Condition 130** be modified (shown in bold) to reflect the amended report, suggesting the following wording:

130. Construction and operation of the development shall comply with the Environmental Noise Impact **Report prepared by CRG Pty Ltd, dated 10 May 2010**, including Section 6, to the satisfaction of the General Manager or his delegate.

Prior to the issue of an occupation certificate for any stage of the development a report shall be provided to Council from a suitably qualified person which confirms that the recommendations made in that report have been satisfactorily complied with.

Council's Environment & Health Unit has provided the following comments:

'The document has been reviewed and found to be satisfactory (minor amendments provided). The various existing conditions of consent related to noise limitations are noted.'

No objection is raised to the proposed amendment to the existing condition 130 (refer pg14 of the submission) which is basically an upgrade of the reference to the most current Noise Impact Report'.

Stormwater Management

The applicant has submitted a revised Stormwater Management Plan addressing the potential impacts of the modified proposal. Council's Development Engineer has provided the following comment with regard to the proposed modifications:

'No significant change to the previous stormwater management concept – all stormwater will drain to the southern corner to discharge to an upgraded stormwater system that the developer will contribute to. No attenuation or retention of stormwater from the site will be required.'

No new details provided, but a revised Stormwater Management Plan by Hyder (dated 12 march 2010), reiterates the above information.

Upon re-checking the existing consent conditions though, it is desirable to 'enhance' an existing condition regarding the relocation and upgrading of the existing Council stormwater lines that currently traverse and encumber the site. The provision of an overland flowpath is considered essential for any Council stormwater infrastructure coming off the public road system, as a fail-safe trunk drainage design requirement. This may well be a design requirement, but it should be reinforced via consent'

conditions, to avoid any subsequent 'alternative' argument regarding Q100 pipes or factors of safety'.

The abovementioned enhancement of a condition refers to **Condition 41**, which is to be modified (shown in bold) as follows:

41. The relocation of public stormwater infrastructure through the site requires separate TSC approval of a Section 68 Local Government Act Stormwater Application, prior to the issue of a Construction Certificate. For the design of public stormwater systems, a safety factor of 2 shall be applied to design rainfall intensities, with a 500mm freeboard to be provided before overtopping can occur. Provision of this factor of safety and freeboard shall be clearly detailed in the s68 Stormwater Application.

Any Council stormwater infrastructure traversing the site should make provision for a relief overland flowpath through the site, as a fail-safe alternative measure.

In terms of stormwater, Council's Environmental Health Unit has also noted the following:

'Having regard for the sediment fencing and temporary bunding plans provided under Appendix N to Annexure 7, it is proposed to apply the following condition:

Where any treatment/processing area or bunding is required to be placed in association with site dewatering or acid sulfate treatment, the location and construction of that area shall be approved on site by Council's Environmental Health Officer prior to the commencement of any treatment or discharge activities'.

The recommended additional condition has been applied as new DUR **Condition 116.2**.

Sewer

The applicant provided a revised Services Report, which addresses the potential impacts of the modified proposal in terms of sewer, water supply and access. Based on this documentation, Council's Water & Sewer Engineer provided the following comment:

'I advise that the changes do not appear to make any significant difference to the water and sewer aspects of the development, other than resulting in an increase in s64 charges due to the increase in number of units.

The sewer relocation appears to still be possible and provide the 4m easement that we require.

The details of the relocation proposed are not necessarily the final design as there is some potential to shorten the relocation and hence improve the grade.

Condition 127 relates to receiving a "satisfactory inspection report". Water Unit would prefer this to be "Certificate of Practical Completion" as this is issued by the manager and will require submission of works as executed drawings and details and a post construction video. In the past we have had difficulty obtaining these once the development is completed and we have had to chase it up or go and get the details our selves'.

Condition 127 has been suitably modified, as noted below (changes shown in bold). S64 Water and Sewer development contributions (Condition 12) have also been amended to reflect the proposed increased to unit numbers.

127. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the **"Certificate of Practical Completion"** issued by Council for all works covered by the Sec.68 approval for sewer relocation works.

Waste Collection

The applicant has provided an amended Waste Management Plan (WMP) for the proposal, (which includes the additional 25 units). The WMP incorporates works involved with the demolition of existing structures, construction and operation of the proposed development. Also provided were details of the location, size and collection of the waste bins.

The applicant has requested that **Condition 115** be modified (shown in bold) to reflect the amended report, suggesting the following wording:

115. All works associated with the demolition, construction and use of the proposed development are to be in accordance with the Waste Management Plan **prepared by HMC Pty Ltd, dated May 2010** and HMC's detailed plan of the Waste Storage Area (submitted on 22 June 2009), unless approved otherwise by Council's General Manager or his delegate.

Council Waste Management Unit has provided the following comments:

'I have looked at the Waste Management Plan for the abovementioned development application and consider it to be satisfactory.

Waste generated from the additional rooms proposed under the proposed DA can be satisfactorily managed through increased servicing of the existing waste/recycling bins.

It is noted that the property is rated commercial and does not have to use Council as the waste service contractor (residential properties required to use Council).

Should the development be approved, I recommend that the following conditions be included:

- *Waste management shall be carried out in accordance with the approved Waste Management Plan prepared by HMC Pty Ltd, dated May 2010, reference number 2010.029.*

[Reason: To ensure suitable management of waste]

- *Servicing and storage of the waste/recycling bins shall be carried out so as not to cause a nuisance to occupants of adjoining properties and/or residents of the aged care facility.*

[Reason: To ensure noise and odour issues are not created by servicing or storage of waste].

The first condition recommended by the Water Management Unit is adequately addressed by the applicant's proposed modification of Condition 115. The second condition results in a new USE **Condition 156** being applied.

Bushfire

The applicant has provided an addendum to the Bushfire Threat Assessment Report for the proposed development. The addendum notes that the proposed building envelope is not closer to the hazard than the proposal that was subject to the original bushfire threat assessment report and concludes that no changes are required to the recommendations of the original bushfire threat assessment report.

The proposal was also forwarded to the NSW Rural Fire Service (RFS) for consideration. The RFS comments have been noted later in this report.

BASIX Certification

The applicant provided an amended BASIX Certification and has requested that **Condition 73** be modified (shown in bold) to reflect the amended certificate as follows:

73. The development is to be carried out in accordance with the ***BASIX certificate dated 21 April 2010 and the Schedule of Commitments approved in relation to this modified*** development consent.

The proposed modification of Condition 73 is supported.

Flora and Fauna

The applicant has provided an addendum to the original Ecological Assessment, which concludes that with adherence to the construction phase mitigation measures and the collection of stormwater by the upgraded Council Stormwater System, it is considered that there will be no adverse impacts, of the proposed development, on any ecological value outlined in the original report, including the threatened Wallum Froglet on the neighbouring property.

Council's Specialist Planner / Ecologist has made the following comments in this regard:

*'The main concern remaining from initial consideration of the proposed amendment was that resulting from an engineering condition applied to the original consent which required **all** stormwater to be directed to a legal point of discharge in the southwest corner (known as Blue Jay Crescent inlet), raising uncertainty over what impact the changed water regime may have on the threatened frog populations to the south. This aspect has been satisfactorily explained within a recently submitted Council application for the stormwater drainage augmentation submitted by Council's Design Unit.*

In light of this information, no ecological issues remain and the amendment can be supported. I have also copied my previous conditions applied to the original application. No amendment to these conditions has been requested and no change is considered necessary as addendums to the named reports have not resulted in any substantial change to their original recommendations such that would require reference to them within the conditions'.

Site Suitability

As noted above, the subject site is located within a well established residential area of Kingscliff. The proposed modifications are generally compliant with all relevant policies applicable to such a development. This includes the SEPP (Housing for Seniors and People with a Disability) 2004, the Tweed LEP 2000 and Development Control Plan. As such, the proposed development is considered suitable for the subject site, subject to conditions of consent.

CONSIDERATIONS UNDER SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

Section 96 (1A) of the Act states that in order to grant consent, the consent authority must consider the following:

- "(a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require and*

(d) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations.”*

Likely Environmental Impact

An extensive assessment has been undertaken with regard to the proposed modifications to the approved aged care development, as noted in the 79C assessment above.

In conclusion, the proposed amendments are not considered to result in any significant environmental impact, subject to appropriate conditions of consent.

Substantially the Same Development

The applicant has referenced Land and Environment Court decisions with regard to the threshold requirement that the development to which the consent as modified relates is substantially the same development for which consent was originally granted.

The following key principles have been applied:

- *The comparison is undertaken at a general level rather than between detail;*
- *The question is whether the development as a whole is essentially or materially the same development;*
- *If the impacts of the modifications are minor, the modified development is more likely to be essentially or materially the same development; and*
- *It is relevant to consider the magnitude of any physical changes to the development and any changes to the use of the land.*

The applicant provided the following comparative analysis between the currently approved development and the proposed modified development:

TABLE 1 – COMPARATIVE ANALYSIS		
ELEMENT	DEVELOPMENT CONSENT NO. 08/1225	PROPOSED MODIFICATIONS
Units	200	225
Bedrooms	429	450
Configuration	3 storey over basement	3 storey over basement
Basement Footprint	See Annexure 2	See Annexure 4 the basement footprint is reduced
Building Footprint	See Annexure 2	See Annexure 4 the building footprint involves minor changes only
Car Parking	456	457
Staging	4 Stages	4 Stages
Use	Aged Persons	Aged Persons
Entry/Exit	No Change	No Change
Building Height	No Change	No Change
Side Setbacks	West – See Annexure 2	West – See Annexure 4 – minor changes only

TABLE 1 – COMPARATIVE ANALYSIS

ELEMENT	DEVELOPMENT CONSENT NO. 08/1225	PROPOSED MODIFICATIONS
	East – See Annexure 2	East – See Annexure 4 – minor changes only
	South – See Annexure 2	South – See Annexure 4 – minor changes only
	North – See Annexure 2	North – See Annexure 4 – minor changes only

In summary, the applicant submits that the threshold question is satisfied on the basis that :

- *‘The development as a whole, being for an aged care facility, will remain unchanged.*
- *The proposed modifications will not alter the statutory or policy compliance of the proposal, create any other material difference and do not give rise to any significant environmental impacts.*
- *The siting, bulk and scale of the buildings essentially remain the same.*
- *The impacts of the modifications are minor.*
- *The increase in the number of units by 25 (12.5%) and the number of bedrooms by 21 (4.9%) does not amount to a radical transformation and the modified development will have essentially and materially the same essence. That is to say, the building bulk, scale and footprint will be essentially the same as will be the use and access arrangements’.*

The submission put forward by the applicant with regard to the proposed modifications being substantially the same development as that originally approved is concurred with. The proposed modifications are considered to satisfy the key principles for determining the threshold requirements in this regard.

Consideration of Submissions

The application was placed on exhibition for 14 days. During this time, one (1) written submission was received from the Kingscliff Ratepayers & Progress Association, in support of the proposal.

NSW Office of Water

The proposed modifications required referral to DWE (now known as the NSW Office of Water, within the Department of Environment, Climate Change and Water (DECCW)) with regard to dewatering licensing. The following is an extract from the Office of Water’s correspondence:

‘Please be advised that the Department has reviewed the documentation provided and has determined that the proposal would still fall into the category of “low risk” due to the limited time frame (one month) and volume of dewatering (7.8 megalitres) involved.

Consistent with advice provided by way of letter dated 19.01.09, please include the schedule of conditions in any development consent granted. Note, these conditions are not General Terms of Approval as the Department does not require licensing of the dewatering as proposed.

It is again requested that the applicant's attention should also be drawn to the fact that the act of dewatering has the potential to lower the water table beneath adjacent properties which, under some circumstances, may result in subsidence of material causing adverse impacts on the above ground structures. It is the applicant's responsibility to ensure that all appropriate action is taken to avoid this occurring'.

Essentially, the only modification to the Schedule of Conditions applied to the original approval was the reference to HMC's Addendum report. However to avoid any confusion, all of the Department's original conditions have been replaced with the updated set of conditions.

NSW Rural Fire Services

The proposed modifications required referral to the NSW Rural Fire Services with regard to bushfire provisions for this type of development. The RFS has issued a revised bush fire safety authority under section 100B of the Rural Fires Act 1997, subject to conditions of consent relating to: asset protection zones; water & utilities; access; evacuation & emergency management; design & construction; and landscaping. The revised authority essentially makes reference to additional Appendices of *Planning for Bushfire Protection 2006*. The design and construction conditions have also been revised.

For simplicity, the original RFS conditions have been replaced with the revised conditions as noted in the recommended conditions of consent.

Public interest

The provision of a retirement village within the local community is an important need, which upon completion will contain 225 self contained units. The proposed development is considered to be of a high standard and would cater for a need within the community.

The subject land has been identified for medium density residential purposes under the Tweed Local Environmental Plan 2000. The proposed development is a permissible use within the zone and has been designed in accordance with the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

In summary, the proposal is not considered to be in conflict with the general public interest.

OPTIONS:

1. Approve the proposed modifications, subject to the recommended conditions of consent.
2. Refuse the proposed modifications.

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 entirely assessed on its merits and for that reason the development does not generate a policy implication for Council.

CONCLUSION:

The proposed modifications comply with the requirements of SEPP (Housing for Seniors or People with a Disability) 2004 and meets Council's requirements.

The proposed development is considered to be suitable for the site and has been designed with regard to the need for the future residents within the development as well as the surrounding environment. The recommended conditions of consent will enable management of the site during the construction phase and through to the operation of the facility.

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.

9 [PR-CM] Notice of Appeal of a Joint Regional Planning Panel (JRPP) Development Application DA09/0727 for Additions to Existing Manufactured Home Estate (Noble Lakeside Park) including 45 New Manufactured Home Sites, Construction of a Community Hall and F

ORIGIN:

Development Assessment

FILE NO: DA09/0727 Pt3

SUMMARY OF REPORT:

At its meeting on 20 August 2010, the Joint Regional Planning Panel refused Development Application DA09/0727 including 45 new manufactured home sites construction of a community hall and facilities and extension of internal roads (JRPP) at Lot 193 DP 1014329, No. 34 Monarch Drive, Kingscliff.

Council has been served notice of a Class 1 Appeal against the Joint Regional Planning Panels determination in the NSW Land and Environment Court. A telephone direction's hearing has been set down for 22 November 2010.

The Legal Services Branch of the Department of Planning have provided the following advice:

"In the Department's view, the usual course for appeals against Panel determinations is that the Council has responsibility for these appeals (including financial responsibility). However, we note that this appeal has been brought in the circumstances where the Council officer's recommendation was wholly not adopted by the Panel. (The Council recommendation for approval of the proposal subject to deferred commencement and other conditions, and the Panel refused the proposal subject to the reasons for refusal as detailed in minutes of the Panel's 20 August 2010 meeting).

In these limited circumstances, the Department's position is that the Panel ought to appear in the proceedings under s64 of the LEC Act to defend its determination. The Council will still be a necessary party to the proceedings to provide assistance to the Court in relation to such matters as conditions, etc. To the extent that the Council is required to participate in the proceedings, it will be entirely responsible for its own legal costs of the appeal."

From the above advice and further contact by email, it appears that the Department will co-ordinate legal defence on behalf of the JRPP, and Council is expected to have a lesser role, primarily to provide directions on any proposed conditions of development consent. The full extent of Council's role in this matter has yet to be clarified. It is expected that these details will be clarified at the upcoming telephone directions hearing.

The purpose of this report is to establish Council's position on defending the Appeal to enable engagement of solicitors and consultants where needed.

RECOMMENDATION:

That Council in respect of the Joint Regional Planning Panel's decision to refuse Development Application DA09/0727 including 45 new manufactured home sites construction of a community hall and facilities and extension of internal roads (JRPP application) at Lot 193 DP 1014329, No. 34 Monarch Drive, Kingscliff:

- 1. Engages its solicitors to provide assistance to the Court only in a limited capacity in relation to such matters as conditions of consent; and**
- 2. Pursues the Department of Planning for associated legal costs incurred by Council.**

REPORT:

Council received a development application for an extension to an existing manufactured homes estate on Lot 193 DP1014329 at 39 Monarch Drive, Kingscliff.

The extension allowed for 45 new manufactured homes on the northern side of the existing on-site lake. The proposal included construction of a new community facilities building as well as an internal road and additional car parking.

The main issues raised during the assessment of the application include the following:

- Legal uncertainties in terms of existing use rights, canal estate development and applicable provisions;
- Flooding and drainage impacts;
- Geotechnical and landforming issues, particularly with proposed fill;
- Ecological issues and impact on potential on-site Endangered Ecological Communities (EEC);
- Impacts on amenity due to loss of open space, and
- Issues associated with land use conflict and noise.

The development application was notified and advertised for a period of 30 days from 25 November 2009 to 29 December 2009. The advertising period was extended until 14 January 2010. A total of approximately 50 submissions were received. This includes two petitions, one with approximately 92 signatures and another with approximately 84 signatures.

Council officers assessed the proposal and considered that the applicant satisfactorily addressed most of the matters of concern, except for insufficient information in relation to drainage and on-site EEC. In this regard, deferred commencement conditions were recommended to ensure that off-site compensatory habitat is nominated and Council drainage works are undertaken prior to commencement of the consent.

The Joint Regional Planning Panel (JRPP) was the consent authority for the proposal due to value of works. Despite the Council officer recommendation for deferred commencement, the JRPP resolved to refuse the application based on the following grounds.

1. *In accordance with Section 79(c) (1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development is considered to have a detrimental impact on the natural and built environment and detrimental social and economic impacts in the locality as the development will result in:*
 - *Loss of visual amenity for existing residents in the development because of loss of vegetation and change of view to urban environment;*
 - *Loss of amenity for existing residents due to loss of access to the nature walk;*
 - *Loss of amenity for existing residents due to increased noise from the proposed residences affecting the open space on the southern side of the lake;*

- *Loss of visual amenity to adjoining properties due to the impact of the proposed fill, retaining walls and noise attenuation fencing;*
 - *The proposed community building will have a setback of only 20m to Tweed Coast Road and is therefore out of keeping with adjoining properties and other developments;*
 - *The impact of retaining walls. Council's design specifications specify that the maximum height of retaining walls & batters is 2.4m. The application is not in accordance with Council's specifications due to the excessive fill and height of retaining walls;*
 - *There is insufficient information to demonstrate that the development will not have a negative impact on flooding affecting neighbouring properties; and*
 - *The noise level impact assessment indicates noise from the adjacent trotting track will exceed background noise levels by 10dBa.*
2. *Pursuant to Section 79C(1)(C) of the Environmental Planning and Assessment Act 1979 the site is not considered suitable for the proposed development for the following reasons:*
- *The proposed development will have a negative impact on the natural environment as the site is of ecological significance as part of a regional wildlife corridor and in providing habitat for wading birds and other wetland species, a number of which are listed as threatened on the Schedules of the Threatened Species Conservation Act 1995 and all existing vegetation is proposed to be removed.*
 - *A geotechnical report addressing the potential impacts of the development has not been provided. It is uncertain if the site is suitable for the development.*
 - *The design of the internal road as a combined road and walkway will adversely affect the safety and amenity of all residents.*
 - *The development requires excessive fill and alteration to the natural landform and the proposed cantilevered buildings overshadowing the lake which demonstrates that the proposal is an overdevelopment of the site.*

Council has been served notice of a Class 1 Appeal against the Joint Regional Planning Panels determination in the NSW Land and Environment Court. A telephone direction's hearing has been set down for 22 November 2010.

The Legal Services Branch of the Department of Planning have provided the following advice:

"In the Department's view, the usual course for appeals against Panel determinations is that the Council has responsibility for these appeals (including financial responsibility). However, we note that this appeal has been brought in the circumstances where the Council officer's recommendation was wholly not adopted by the Panel. (The Council recommendation for approval of the proposal subject to deferred commencement and other conditions, and the Panel refused the proposal subject to the reasons for refusal as detailed in minutes of the Panel's 20 August 2010 meeting).

In these limited circumstances, the Department's position is that the Panel ought to appear in the proceedings under s64 of the LEC Act to defend its determination. The

Council will still be a necessary party to the proceedings to provide assistance to the Court in relation to such matters as conditions, etc. To the extent that the Council is required to participate in the proceedings, it will be entirely responsible for its own legal costs of the appeal."

From the above advice and further contact by email, it appears that the Department will coordinate legal defence on behalf of the JRPP, and Council is expected to have a lesser role, primarily to provide directions on any proposed conditions of development consent. The full extent of Council's role in this matter has yet to be clarified. It is expected that these details will be clarified at the upcoming telephone directions hearing.

The purpose of this report is to establish Council's position on defending the Appeal to enable engagement of solicitors and consultants where needed.

OPTIONS:

1. Defend the Appeal, through the engagement of consultants to be expert witnesses on behalf of Council.
2. Engages solicitors to assist the Court only with the preparation of conditions of development consent.
3. Refuse to take part in the Land and Environment Court proceedings.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council will be required to engage legal representation regarding the Appeal.

As Council staff recommended approval for the application it will also be necessary to engage consultants to be expert witnesses on behalf of Council if it is resolved to defend the Appeal.

Costs will be incurred as a result of the Appeal.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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10 [PR-CM] Development Control Policy

ORIGIN:

Development Assessment

SUMMARY OF REPORT:

The Development Control Policy adopted by Council on 13 November 2007 (see attachment) has become redundant and is recommended to be rescinded. The Policy is a collection of nine items related to development assessment and planning. It is likely that the policies originated up to six years ago and have now become redundant due to changes in legislation, procedure and standard practice.

RECOMMENDATION:

That the Policy Document Development Control Version 1.1 adopted by Council on 13 November 2007 be rescinded.

REPORT:

BACKGROUND:

The Development Control policy document sets out requirements for the following items:

- Development Application – Late Provision of Information
- Development Application Fees- Council Works
- Directional Signage for New Residential Estates
- Headworks Policy
- Hydraulic Filling of Land
- Road Development Contribution- Multiple Occupancy Development
- Rezoning submissions- Administrative Procedure
- Strategic Planning- Illegal Actions within Environmental Protection Zones
- Application Determination Policy

Reasons for redundancy

Development Application- Late Provision of Information

The staff deadline for finalisation of reports is 13 days prior to the Council meeting date. The agenda is finalised eight days prior to the Council meeting date. Given the rigorous assessment that applications undergo prior to finalisation for the agenda it is unlikely that further information will be required at that stage in the process. Withdrawing applications from the agenda on the basis that information has been tendered by the applicant is not appropriate or efficient. The Environmental Planning and Assessment Act Regulations sets out the following procedure for amending or varying a development application:

- (1) *A development application may be amended or varied by the applicant (but only with the agreement of the consent authority) at any time before the application is determined.*
- (2) *If an amendment or variation results in a change to the proposed development, the application to amend or vary the development application must have annexed to it written particulars sufficient to indicate the nature of the changed development.*
- (3) *If the development application is for:*
 - (a) *development for which concurrence is required, as referred to in section 79B of the Act, or*

(b) *integrated development,*

the consent authority must immediately forward a copy of the amended or varied application to the concurrence authority or approval body.

There may be circumstances where it is or is not appropriate to withdraw applications from the agenda. Having a Policy that says the application will be withdrawn from the agenda whenever the applicant tenders late information is not conducive to efficient decision making.

The Environmental Planning and Assessment Act has mechanisms to deal with dissatisfaction of applicants regarding decisions from the consent authority such as section 96 amendments, section 82A Reviews or appeals to the NSW Land and Environment Court.

Development Application Fees -Council Works

The policy does not cover Part 5 applications, construction certificates or other ancillary fees such as advertising. Whilst there should be some policy position it would be better suited to an internal Executive Direction and carried out as a standard operating procedure that was more easily reviewable and adapted to changing circumstances.

Directional Signage for New Residential Estates

Use of road reserves for commercial real estate purposes is not an appropriate use of public land. Driver safety is also at risk with additional signage in the road reserve. There is no justifiable reason for this policy.

Headworks Policies

Parts of this Policy will be retained in a separate Water and Sewerage Policy however the deferment of headworks charges is recommended to be rescinded given it is not clear when deferment should be applied, the additional administration costs incurred by Council, the charges have to be underwritten by a Bank Guarantee anyway and the difficulties of tracking and monitoring of fee payment at diffuse points in the process.

Requiring payment at subdivision certificate release or construction certificate release is the most efficient and reliable process for collection of contributions.

Hydraulic Filling of Land

The details of this policy would be included in the application for filling and covered by conditions of consent. A stand alone policy for this rare activity is superfluous.

Road Development Contribution- Multiple Occupancy Development

It is not appropriate to for Council to defer contributions for five years nor is it appropriate to secure contributions via a mortgage over the property. The S.94 plan for roads contains requirements for deferred payments and this is the only place that permits lawful payments and conditions for contributions.

Rezoning submissions- Administrative Procedure

Part 3 of the NSW Environmental Planning and Assessment Act 1979 as amended sets out the process for rezonings in NSW. The Planning Reforms Unit has developed a procedural framework in line with the recent Department of Planning requirements such as the gateway process. The policy is superfluous to the current procedures.

Strategic Planning- Illegal Actions within Environmental Protection zones

As above.

Application Determination Policy

The process for lodgement, assessment and determination of a development application is set out in the NSW Environmental Planning and assessment Act and Regulation. The Policy is superfluous to the statutory requirements. In addition changes to the Regulations are proposed that will render the Policy out of date.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

The Policy document has become redundant and the items have been superseded by legislation or improved internal administration and practices. Elements of the Policy that should be retained are contained in other more appropriate procedural documents.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Development Control Policy Version 1.1 (ECM 23601811)
-

11 [PR-CM] Visitor Carparking at Lot 1 DP 525502 No. 4 Second Avenue, Tweed Heads

ORIGIN:

Development Assessment

FILE NO: PF4980/130 Pt2

SUMMARY OF REPORT:

Council considered a report on 17 August 2010 regarding visitor carparking at Lot 1 DP 525502, No. 4 Second Avenue, Tweed Heads. The visitor carparking location for the units has been altered and complaints were received from some of the occupants of the units requesting Council take action for non compliance with the approvals for the site.

RECOMMENDATION:

That Council seeks advice from its Solicitors regarding options for appropriate action for the car parking issue at Lot 1 DP 525502 No. 4 Second Avenue, Tweed Heads (SP35133).

REPORT:

Council considered a report on 17 August 2010 regarding visitor carparking at Lot 1DP 525502, No. 4 Second Avenue, Tweed Heads. The visitor carparking location for the units has been altered and complaints were received from some of the occupants of the units requesting Council take action for non compliance with the approvals for the site.

Council resolved as follows:

“RESOLVED 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.”*

The following response has been received from the strata managers on behalf of the owners:

“With reference to the above letter dated 20 August 2010, the Owners Corporation have resolved that we forward the following response:

The Owners Corporation cannot come to an agreement with regards to the requirements stated in the letter.

At the Extraordinary General Meeting held 10 September 2010 the following motion was lost:

- 2. THAT by ordinary resolution the owners corporation instructs the secretary to notify Council that the configuration of the common area will be returned to that shown on the approved plan as soon as possible but in any case, not later than 22 October 2010 in accordance with the requirements of Council’s letter of 20 August 2010.”*

MOTION LOST Lots 1, 2 & 5 NO Lots 3 & 4 YES”

The body corporate has not agreed to comply with Council’s request accordingly it is recommended that legal advice be sought regarding the options available for Council action.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Costs will be incurred for legal advice.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Legal advice is required to provide options for further Council action.

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. 17 August 2010 Council report and resolution (ECM 23643382)
-

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12 [PR-CM] Vegetation Removal Complaints

ORIGIN:

Development Assessment

SUMMARY OF REPORT:

Council resolved on 21 September 2010 that:

“Council brings forward a report to consider adopting a reward system, similar to the reward for graffiti reports, for community members that report tree clearing incidents, where such a report results in a fine or prosecution.”

The issue with vegetation removal is not the lack of vigilance by the community in alerting Council to possible breaches but the complexity of the legislation that relates to Native Vegetation, the roles that Council and the Department of Environment, Climate Change and Water (DECCW) have in administering the applicable legislation and the resource intensive nature of investigative and regulatory action.

RECOMMENDATION:

That Council does not support the proposal to reward community members who advise Council of vegetation removal that results in a prosecution.

REPORT:

Council does not administer the Native Vegetation Act or the Threatened Species Conservation Act. DECCW are the responsible authority for these two Acts. Council's role rests with the environmental planning instruments that apply to the Tweed being firstly the Local Environmental Plan that contains controls for vegetation in environmental protection zones and provisions for tree preservation orders and secondly State Environmental Planning Policies No.14 Coastal Wetlands and No. 26 Littoral Rainforests.

Another mechanism under the NSW Environmental Planning and Assessment Act that Council has jurisdiction over is existing and continuing use rights. These rights are statutory provisions that can influence the legality of vegetation removal.

The exemptions (Routine Agricultural Management Activities) under the Native Vegetation Act are broad and seem to be interpreted widely by DECCW.

In light of the above the following procedure for responding to unauthorised vegetation removal complaints is in operation:

- *Person receiving call will first check whether any approvals exist in Proclaim for the site that may allow vegetation clearing or whether a Camphor management plan is registered in ECM.*
- *If the site is within the area covered by either of Council's Tree Preservation Order (TPO) areas the DAU Compliance Officer (DAUCO) will inspect the site and advise the person responsible to stop work if that person can be located alternatively contact will be made with the owner firstly by telephone if able and then in writing to stop work. Assistance from the DAU Town Planner – Ecologist (DAUTPE) may be sought by the DAUCO regarding biodiversity issues.*
- *If the site is within an environmental protection zone (including SEPP 14 and SEPP26) the DAUCO will inspect the site and advise the person responsible to stop work if that person can be located alternatively contact will be made with the owner firstly by telephone if able and then in writing to stop work. Assistance from the DAU Town Planner – Ecologist (DAUTPE) may be sought by the DAUCO regarding biodiversity issues*
- *If the site is not within the area covered by Council's TPO or an Environmental Protection zone the DAUCO will inspect the site to determine if the work carried out requires development consent eg. earthworks, roads, drainage, existing use rights. If native vegetation has been removed the DAUCO will advise the Department of Environment, Climate Change and Water's (DECCW) hotline for action under the Native Vegetation Act or the Threatened Species Conservation Act.*
- *If the vegetation removal is for camphor laurel removal for the Condong Sugar Mill and the number of trees exceeds twenty the person responsible will be advised to stop work and submit a development application for works or be requested to produce a management plan approved by North Coast Weeds.*

- *Unauthorised clearing on Coastal Lot 500 will be carried out in accordance with the Executive Management Team decision of 21 November 2007 which is as follows-*

Management of unauthorised clearing on Coastal Lot 500 be carried out in the following manner:

1. *Natural Resource Management Unit as vegetation managers:*
 - (a) *Monitor Lot 500 for unauthorised clearing and follow up any reported incidents*
 - (b) *Liaise with Council's Regulatory Services Unit to determine appropriate action*
2. *Director Planning and Regulation be responsible for investigating and initiating prosecutions and other legal action as may be appropriate.*
3. *Recreation Services Unit be engaged by the Natural Resource Management Unit to erect required screens or signage.*
4. *Natural Resource Management Unit to make budget submissions to enable (2) and (3) above to be actioned.*

The key issue is resourcing vegetation removal complaints not the vigilance of the community to raise complaints. Resourcing and responding to complaints is not solely the responsibility of Council as DECCW administer two key statutes that regulate vegetation.

Investigation of vegetation removal is resource intensive as the sites are usually remote, contacting owners or the person responsible for the work is mostly difficult, and untangling the applicable legislation that relates to the site and the work is highly technical and legalistic. In addition to this all of this investigation may result in Council not been the regulatory authority.

It should also be noted that Council treats complaints confidentially and does not reveal the identity of the complainant publicly. Rewarding complainants may run counter to this procedure and discourage the bringing forward of information to Council by the public. It is assumed a reward system would need to be publicly accountable and therefore accessible by the public.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

As discussed above there are significant legal, resource and financial issues regarding regulation activities including responding to vegetation removal complaints.

POLICY IMPLICATIONS:

Singling out rewards for vegetation removal complainants from other complainants for unauthorised or illegal activity is a preferential policy position that is difficult to clearly and broadly justify.

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.

13 [PR-CM] Planning Reform Unit - Tweed Development Control Plan Section B23 - Hastings Point Locality Based Development Code

ORIGIN:

Planning Reforms

FILE NO: GT1/DCP/B23

SUMMARY OF REPORT:

Preparation of the draft Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code began in April 2009. The draft Plan has been the subject of an extensive, staged community consultation program and has been prepared for adoption following a review of public submissions received during the draft Plan's public exhibition.

The project team for the plan comprised of the consultant Ruker Urban Design and staff from the Planning Reform Unit (PRU). Ruker was engaged in the capacity of an 'extension officer' to the PRU enabling the collaboration of ideas, skills and experiences through a co-authoring process of the draft plan; this was designed to ensure that the plan was the work of the Council as much it was Ruker, and that any copyright or intellectual property rights would ultimately vest in the Council, rather than an external party.

The issues raised through public submissions on the draft plan and an initial response from Council officers and the consultant was reported to the Council Meeting of 19 October 2010. An updated schedule of response to the public submissions is provided within the final Code document. Further detail on specific, post-exhibition amendments made to the Plan is detailed in the body of this report.

The report further highlights the response to concerns raised by the community through amendments to the draft Plan and provides a chronology of events in the production of the Plan and the community consultation processes.

Ultimately, the report and the corresponding amended draft Plan recognises the unique qualities of the locality that distinguish it to other small coastal villages in the Tweed. Distilling the characteristics and developing them in line with the expectations of the local community, landowners, and residents in a document which projects a desired future character consistent with these expectations has been the overriding objective of the placed based planning process, which was greatly assisted by local community participation by way of feedback and input.

The key post exhibition amendments which have been made to the document include:

1. Removal of residential flat building type and reduction of the maximum number of storeys from 3 to 2 for residential developments in the South Hastings Point and Centre Precincts;
2. Removal of requirement for trees in front and rear setbacks;

3. Variation of setbacks in Northern Entry and Peninsula Street Precinct (rear setback) and Creek Streets (north side front setback);
4. Revising diagrams removing reference to indicative development footprints over Lot 156 and The Point;
5. Additional resource material;
6. Removal of duplication text, predominantly reproduced from DCP A1;
7. General document revisions improving readability, maps and graphics.

The consultant for this project is supportive of the final draft Code amendments.

Based on the extent and nature of the amendments, and the extensive investigations underpinning these changes, the report concludes that a re-exhibition of the draft Plan is not warranted.

This report recommends the adoption of the draft Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code.

RECOMMENDATION:

That Council:

1. **Receives and notes the amendments to the publicly exhibited Draft Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code, arising from the review of public consultation submissions.**
2. **Adopts the exhibited Draft Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code, as amended, and provided as an attachment to this report, and resolves to give public notice of the Plan's adoption in accordance with Clause 21(2) of the Environmental Planning and Assessment Regulation 2000.**
3. **That a notice be placed in the Tweed Link notifying Councils intention to repeal the Hastings Point Interim Development Controls within the Tweed Development Control Plan Section A1 – Residential & Tourist Development Code. The publication of the notice of intention to take place 14 days before publication of the notice of repeal and commencement of Tweed Development Control Plan Section – B23 Hastings Point Locality Based Development Code.**
4. **Forwards a copy of the adopted Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code, to the Director-General of the NSW Department of Planning in accordance with Clause 25AB of the Environmental Planning and Assessment Regulation 2000.**

REPORT:

Preparation of the draft Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code began in April 2009 and comprised of several public (community based) workshops, councillor workshops, general information sessions, site inspections, on-site meetings, and a statutory public exhibition. A chronology of the key dates and activities associated with and leading to this project is provided at **Attachment 3**.

The information gathered from the various consultations was collated and used to inform decisions leading to and in the preparation of the draft Plan. The project team for the plan comprised of Ruker Urban Design and staff from the Planning Reform Unit (PRU). Ruker was engaged in the capacity of an 'extension officer' to the PRU enabling the collaboration of ideas, skills and experiences through a coauthoring process of the draft plan. The intent behind the designed team collaboration was to ensure that Council staff had at its disposal the best means of ensuring that contemporary industry practice, and a diverse range of views, skills and experiences were available to draw upon beyond that of the council and the community. The appointment of Ruker was invaluable to the overall process as their role was multidisciplinary acting both in the capacity of expert urban design advisor, umpire and workshop facilitator.

The overriding vision of the locality is to reinforce Hastings Point's role as a low key holiday destination for temporary residents and visitors and a small coastal settlement for permanent residents where buildings are to reflect coastal architectural styles and the integrity of the natural landscape including Cudgera and Christies Creek, ocean beaches and headland is carefully managed.

The methodology employed throughout the locality plan process included:

- extensive community consultation including workshops, questionnaires and stakeholder meetings;
- a comprehensive mapping and constraints overlay exercise to establish a baseline level of locality information and data including environmental protection areas and flooding;
- a locality wide visual analysis to determine the defining view corridors within the locality;
- identification of four precincts within the locality derived from existing built form character coupled with precinct specific environmental constraints, topographic and geographic features criteria;
- the identification of the existing character within each of the precincts including built form and natural features;
- the establishment of vision statements and desired future character for each of the precincts;
- the formulation of precinct specific development controls which provides certainty to future development within them including appropriate building types, building heights, setbacks, floor space ratio and landscaping requirements.

The key characteristics and exhibited development controls as they relate to the four identified precincts has been discussed below. The four precincts include; Peninsula Street and the Northern Entry Precinct; Creek Street Precinct, The Centre Precinct; and South Hastings Point Precinct.

Peninsula Street and the Northern Entry Precinct

The north hill component of this precinct has a number of existing residential flat buildings as well as a mix of single and two-storey dwellings and multi-unit dwellings. The draft plan identified this part of the precinct as being suitable for small residential flat buildings with a height limit of 10 metre (3 storeys).

The draft plan identified that future development will need to be setback from the dunes, step with the topography and screened by vegetation along the Tweed Coast Road. The exhibited plan also established a 5.0 metre rear setback of the potential 3rd storey building element to reduce the visual bulk of future development when viewed from the beach, headland, bridge and Tweed Coast Road. Houses, dual occupancies and townhouses are also appropriate forms of development within this precinct and would have an 8.0 metre building height limit.

Lots around the bridge and estuary (western side of Peninsula Street) are predominantly double storey multi-unit dwellings. Given the potential of future development to have a significant impact on views, character and natural amenity, the draft plan limited future development to houses, dual occupancies, villas and townhouses, which have an 8.0 metre building height limit.

Creek Street Precinct (including Lot 156)

Creek Street is a low scale, single and two-storey residential precinct. The draft plan identified that future buildings must complement the low scale, well landscaped residential qualities which currently exist. Appropriate building types identified by the draft plan include houses and dual occupancies only with a maximum 8.0 metre building height.

Lot 156 has been identified as being part of the Creek Street Precinct. The draft plan identified that any future development which may occur over this site would need to reflect the low scale residential character of Creek Street. The draft plan therefore identified houses and dual occupancies, with a maximum 8.0 metre height limit, as the appropriate building types over Lot 156.

The Centre Precinct

In the Centre Precinct the draft plan identified opportunity for shop-top housing and expansion of retail uses of the existing shop site into the immediately adjoining lots, with a maximum height limit of 10.0m.

Apart from the existing retail corner the balance of the precinct is predominantly low scale single and two storey dwellings and dual occupancies. Given the proximity to the Cudgera Creek and the high visual and environmental sensitivity of this precinct, the draft plan identified houses, dual occupancies, villas and townhouses which will have an 8.0 metre building height limit as the predominant building type. The draft plan also provided opportunity for Council to consider small residential flat buildings where key design and visual setting criteria combined with character objectives could be satisfied.

South Hastings Point Precinct

South Hastings Point Precinct consists predominantly of single and two storey houses and dual occupancies. Given the environmental constraints and coastal sensitivity of the precinct, and potential of future development to impact on views, as well as the inability of many of the allotments to adequately accommodate larger developments, development is limited to houses, dual occupancies, villas and townhouses, a maximum 8.0 metre building height limit. The exhibited draft plan also provided the opportunity for Council to consider small residential flat buildings where key design and visual setting criteria combined with character objectives could be satisfied.

The post exhibition review of the Draft Code has resulted in a series of amended development controls, which are further discussed in the next section of this report.

Figure 1: Hastings Point Building Types and Precinct Boundaries

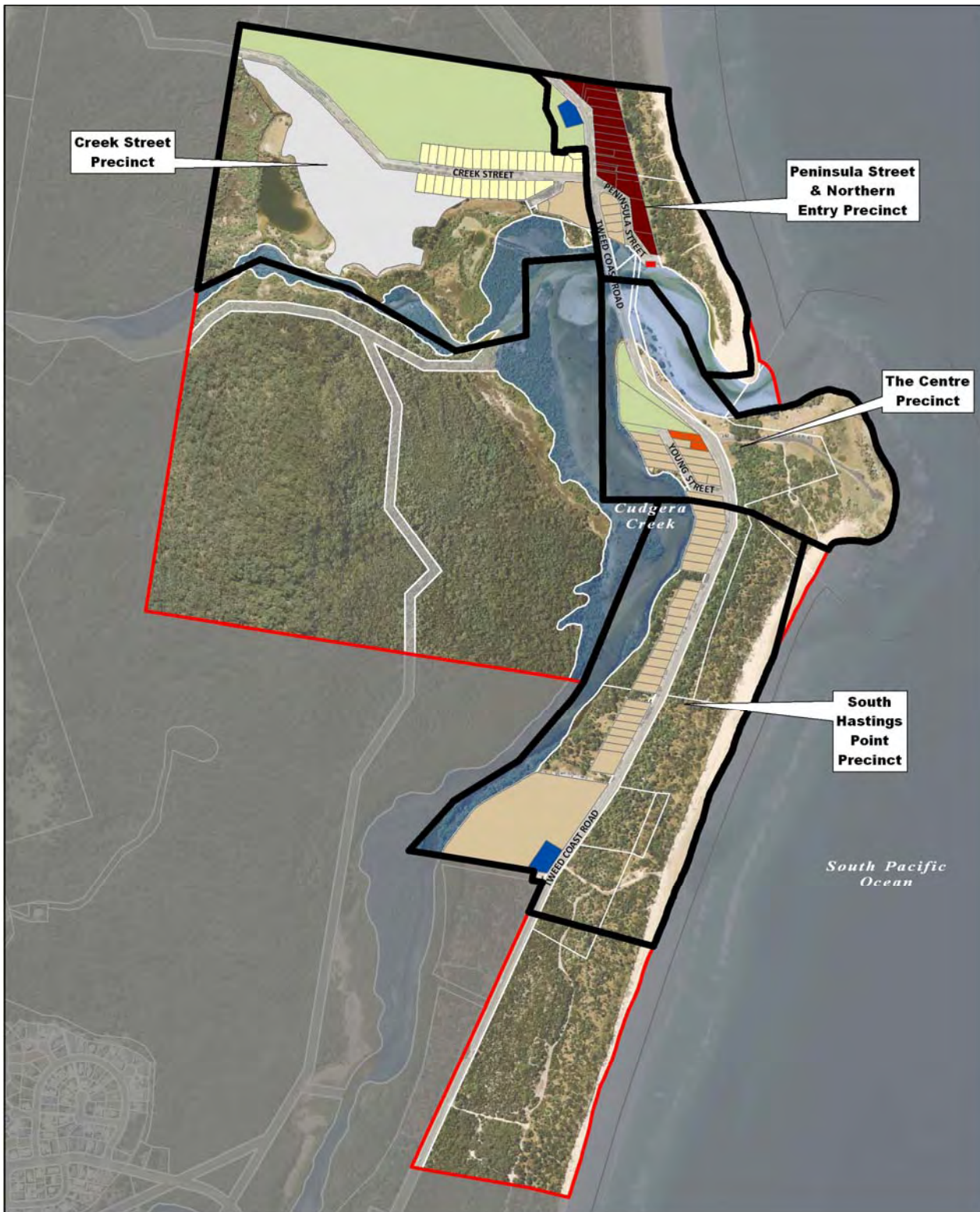


Figure 3.9 - Building Types & Precinct Plan
Tweed Development Control Plan - Section B23

Hasting Point Locality Boundary	Caravan Parks	Houses / Dual Occupancies	Houses / Dual Occupancies / Town Houses / Residential Flat Buildings	Subdivision - Houses / Dual Occupancies	Commercial
Public Buildings	Houses / Dual Occupancies / Town Houses			Commercial / Shop-top	

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Map Projection: Universal Transverse Mercator
 Horizontal Datum: Geodetic Datum of Australia 1954
 Grid: Grid of Australia, Zone 55

Civic and Cultural Centre
 3 Tumbulgum Road
 Murwillumbah NSW 2484
 PO Box 816
 Murwillumbah NSW 2484
 T | (02) 6670 2400 | 1300 292 872
 F | (02) 6670 2429
 W | www.tweed.nsw.gov.au
 E | planning@tweed.nsw.gov.au

TWEED SHIRE COUNCIL

Public Exhibition

The Draft Code was placed on public exhibition during the period 28 April 2010 to 2 July 2010, and concluded with 113 submissions received. During the exhibition period a special workshop was held for local landowners on 25 May 2010. Submissions received during the public exhibition period covered a broad range of issues including:

- Acid Sulfate Soils
- Building height
- Deep soil zones
- Building Type
- Building Materials
- Camping
- Beach and Dunal System
- Buffers
- Character
- Cudgera Creek bridge
- Car parking
- Cudgera Creek
- Cycle and foot paths
- Caravan Park
- Christies Creek
- Development Approvals
- Drainage
- Eastern foreshore
- Design Controls
- Education Signage
- Fill
- Estuary
- Foreshore
- Flooding
- FSR
- Floodwater
- Compliance
- Property Value
- Headland
- Park facilities
- Landscape
- Littoral Rainforest
- Precincts
- Northern dunes
- Sea level rise
- The Point
- Residential Flat Buildings
- Setback
- Visual Setting
- Retail
- Southern Planting
- Service Station
- Signage
- Sewerage system
- Traffic
- Tree canopy height
- Tidal wetlands
- Wildlife Corridor
- Vegetative Escarpment
- Views
- Water Quality

Tabulation, collation and an initial response from the Council officers and the consultant to the public submissions were reported to Council at the Ordinary Meeting of 19 October 2010. An updated schedule of response to the public submissions is provided within an attachment of the final draft Code document.

Post Exhibition Amendments

The Project Team, consisting of both Council officers and the consultant, Ruker Urban Design, worked together to review and respond to the public submissions on the draft Code. The consultant submitted a final draft Code document to Council on 30 September 2010, thereby finalising her main contracted services.

Council officers have since conducted further, post-exhibition analysis of the issues raised by the public submissions, and have recommended a series of further amendments to the final draft Code.

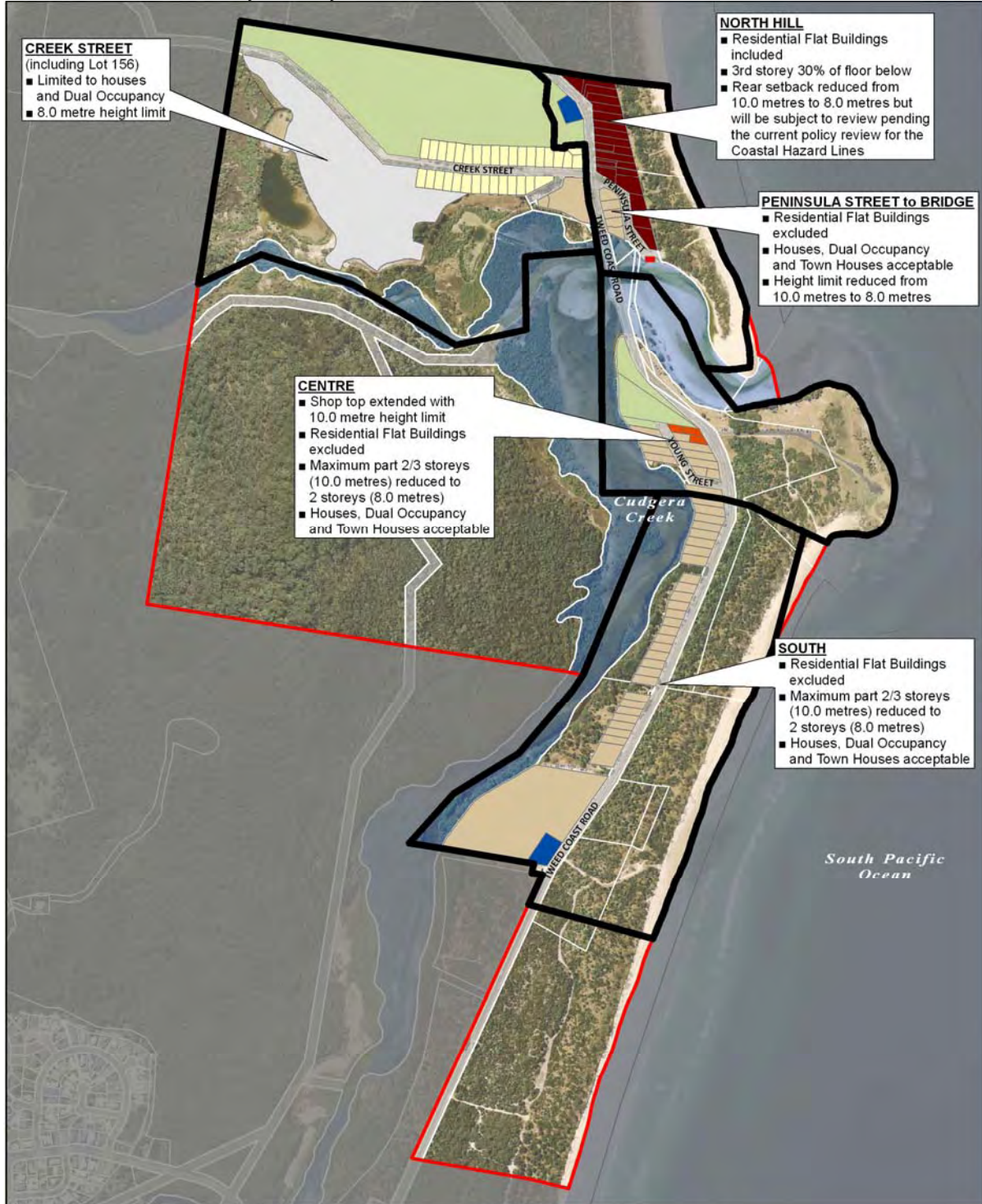
These further changes were communicated to the consultant, who acknowledged the rationale of these further investigations, and raised no objection to the final draft Code amendments.

Whilst the format of the document has been changed to be consistent with the layout of the recently adopted Pottsville Locality Based Development Code, the content of the document remains substantially unchanged, except for those amendments which include:

1. Removal of residential flat building type and reduction in maximum number of storeys from 3 to 2 for residential developments in the South Hastings Point and Centre Precincts;
2. Removal of requirement for trees in front and rear setbacks;
3. Variation of setbacks in Peninsula and Creek Streets;
4. Revising diagrams removing reference to indicative development footprints over Lot 156;
5. Additional resource material;
6. Removal of duplication text, predominantly reproduced from DCP A1;
7. General document revisions improving readability, maps and graphics.

These amendments are further discussed below and graphically represented in Figure 2 which provides a summary of key post exhibition amendments to the Plan. A detailed comparison of development controls between DCP A1 and the Hastings Point Locality Based Development Code is provided at **Attachment 3**.

FIGURE 2: Summary of Key Post Exhibition Amendments



SOURCE:
Aerial imagery taken
October 2009 by
Fugro Spatial Pty Ltd

**Figure 3.91 - Summary of Key Post Exhibition Amendments
Tweed Development Control Plan - Section B23**

Hasting Point Locality Boundary	Caravan Parks	Houses / Dual Occupancies	Houses / Dual Occupancies / Town Houses / Residential Flat Buildings	Subdivision - Houses / Dual Occupancies	Commercial
Public Buildings	Houses / Dual Occupancies / Town Houses	Houses / Dual Occupancies / Town Houses	Houses / Dual Occupancies / Town Houses / Residential Flat Buildings	Subdivision - Houses / Dual Occupancies	Commercial / Shop-top

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Horizontal Datum: Geoidic Datum of Australia 1984
Grid: Map Grid of Australia, Zone 56

Civic and Cultural Centre
3 Tumbulgum Road
Murwillumbah NSW 2484

PO Box 816
Murwillumbah NSW 2484

T | (02) 6670 2400 | 1300 292 872
F | (02) 6670 2429
W | www.tweed.nsw.gov.au
E | planning@tweed.nsw.gov.au



Variation to certain building type and height provisions in the South Hastings Point and Centre Precincts

Under the definitions of coastal settlements within NSW North Coast Design Guidelines 2008 and the Coastal Design Guidelines 2003, Hastings Point is a small coastal village which defines residential buildings as being typically low rise, one to two storeys in height with opportunity for a village centre (retail hub) to be 3 storeys in height commensurate with the limited level of retail, commercial and social infrastructure services. Height limits and building typologies as identified within each of the Hastings Point Precincts have been applied consistent with these guiding documents.

Following community responses expressing concern about the potential impact of increased residential densities, further design investigations were undertaken, which revealed that:

- the majority of sites within both the South Hastings Point and Centre Precincts would have difficulty providing adequate basement car parking and car manoeuvring room within the setback defined building envelope (6 metre front, and 8 metre rear). This was particularly evident on blocks which had relatively modest lot dimensions typically having a 20 metre street frontage and depths of as little as 36 metres.
- the predominant existing building types within the South Hastings Point Precinct and Centre Precincts are single and two storey detached dwellings and dual occupancies, and that
- the existing and desired future character as expressed by the residents of these precincts is consistent with the definitions in the NSW North Coast Design Guidelines 2008 and the Coastal Design Guidelines 2003.

During public exhibition, and throughout the public consultation process, considerable concern was expressed about the potential adverse impact of 10 metre, 3 storey residential flat buildings (RFBs) development on the character of these precincts and Hastings Point generally, and as such, the Draft Code was amended post-exhibition to remove the provisions relating to RFBs from South Hastings Point and the Centre Precinct.

Whilst it is possible that a range of RFB configurations may have resulted in a greater variety of housing options, it was considered that the cumulative impact of three-storey (10 metre high) development and the potential for a significant change in the urban subdivision pattern through consolidation would ultimately undermine both the existing and future character of the precinct.

The project team formed the view that the design provisions that were being developed to enable this building type were becoming increasingly complex and inflexible and that they would be difficult for the Council's Development Assessment Unit to both regulate and implement. The complexity of the controls and the limited area of their potential application was a positive indicator supporting the view that RFBs are generally not appropriate for the southern side of Hastings Point, south of Cudgera Creek Bridge.

The removal of RFBs as a building type from both the South Hastings Point Precinct and Centre Precincts ensures redevelopment of these precincts will provide a better balance of single detached dwellings and low rise multi-dwelling housing types (townhouses) that will

maintain an adequate level of diversity while responding to concerns about protection of the natural environment, which is an essential feature of the character of the locality.

As such the plan identifies appropriate building types within both the South Hastings Point and Centre Precincts being houses, dual occupancies and townhouses, with a maximum 8.0 metre height limit.

It is proposed to retain the proposed maximum 10 metre height limit for the retail/commercial properties of the Centre Precinct.

Should a landowner wish to pursue an alternative development to that permitted under the Plan no less than two options are available. This can occur as a result of a planning proposal, a combined development application and planning proposal, a development control plan amendment or a combination of one or more. These processes increase the Council's and the community's ability to participate and direct an appropriate outcome and is seen as the better practice for managing larger developments.

Removal of requirement for trees in front and rear setbacks

Council has recently received advice relating to the potential liability it may face were it to apply specific requirements for the inclusion of trees within setbacks surrounding a development. While it is considered highly desirable and consistent with the maintenance of the character of the locality, it is not advisable to maintain specific design control requirements which place Council at risk of litigation. As such, all reference to provision of trees in front and rear setbacks have been removed from the Code. This does not however preclude a landowner from planting trees by their own decision.

This is consistent with Council's resolution of 15 July 2008 in relation to Tweed DCP section A1, which stated:

2. *That the controls in Tweed DCP section A1 relating to the retention and planting of trees be suspended from application pending the final determination and adoption of the draft Tweed DCP A1*

It should be noted for reference that the DCP was adopted on 22 April 2008 and that resolution was actually aimed at providing direction on how the adopted plan should be implemented in respect of the tree clause. It was based on community and industry concern that the planting or retention of trees in close proximity to a building could undermine or affect the structural integrity of a building.

Variation of setbacks in Peninsula and Creek Streets

Allotments located on the rear of the northern dune system off Tweed Coast Road and Peninsula Streets were, in the draft DCP, to apply a rear setback (that is the setback which faces the South Pacific Ocean) of 10 metres. When coupled with a front setback of 10 metres, it reduced the potential development envelope by 20 metres which, given the narrowness of some of those allotments was considered unreasonable. As an alternative, a rear setback, that is the setback from the coastal reserve facing the ocean, is proposed at a minimum of 8 metres, consistent with the general setback for RFBs throughout the locality.

It is material to note that this rear setback may need to be co-ordinated with the any relevant adopted outcomes of the Tweed Coastal Hazards Lines DCP which is currently being drafted.

Revised Lot 156 and 'The Point' Diagrams

The draft exhibited document included as part of the Creek Street Precinct Plan a diagrammatic representation of building envelopes over the site known as Lot 156. These illustrated building envelopes however were done without the benefit of a full site master plan or detailed consideration of the significant flooding and environmental constraints over the site. For this reason, and in consideration of the current Part 3A application over the site, the building envelopes have been removed from the plan to avoid misrepresenting what may realistically be achieved over the site.

As Lot 156 has been identified as part of the Creek Street Precinct, any future development would need to be carried out consistently with the stated objectives and development controls of that precinct plan. The plan identifies that appropriate building types within this plan are houses and dual occupancies, with a maximum building height of 8.0 meters.

Similarly, diagrammatic representations of South Hasting Point illustrate smaller development footprints over the Point site. Given that 'The Point' is a relatively new development, the diagrams within the plan have now been revised to represent the existing building envelopes.

Additional resource material

Apart from the detailed built form and landscape design ideas provided, a comprehensive suite of native vegetation species representative of the vegetation communities in the locality have been provided to allow for the consideration of indigenous plant species as part of landscaping and revegetation plans.

An additional section has been added which provides sample responses to the questionnaire forwarded to all landowners in the Hastings Point, along with a summary of responses to the public exhibition of the document. These sample responses have previously been reported to Council and are now incorporated into the DCP to provide background to the development of the Plan.

The Summary of responses to the public exhibition is substantially the same as the one reported to the Council Meeting of 19 October 2010, with the addition of comments relating to the removal of RFBs from the South Hastings Point and Centre Precincts, as discussed above.

Removal of duplication, predominantly from DCP A1

While comprehensive in its coverage of design controls, much of the information provided was a duplication of controls current in the Tweed DCP A1. As such, and given the intention of this DCP to only refer to controls in addition to those in DCP A1, all duplication has been removed. This has made the document more concise and improved the ability to clearly identify where variations from the standard requirements of A1 occur.

General document revisions improving readability, maps and graphics

Editorial corrections were undertaken to ensure that the intent of the document was as clear as possible and ambiguity or misunderstandings were minimised. A number of maps were reformatted to improve presentation and ensure consistency with Council's editorial requirements.

A comparison of the development controls between each of the precincts and DCP A1 has been appended to this report at Attachment 2 – Document Structure and Comparison of Development Controls.

Implementation of the Hastings Point Locality Based Development Code

Implementation of the DCP involves several steps that both give effect to the DCP and facilitate amendments to the Tweed LEP.

Following a Council resolution to adopt the Plan, notice of the resolution will need to be published; this is done through the Tweed Link and typically occurs within two weeks.

In addition, because this new plan is intended to provide the locality specific development provisions for the Hastings Point locality, the 'interim' development controls incorporated into Tweed DCP Section A1 following Council's resolution of 22 April 2008 will need to be repealed. This will also occur through a public notice in the Tweed Link at the same time that the new DCP takes effect.

The 'interim' development controls, which were further amended following a Council resolution of 30 October 2008, are in the following terms:

INTRODUCTION

This section of the Plan provides development provisions that have been formulated in response to an identified specific need of a particular site(s) or locality. This section is to prevail to the extent of inconsistency with any other development provision in this Plan.

Area of Application

Hastings Point – all land within the boundaries of the locality of Hastings Point.

Objectives

- To implement the recommendations of the Hastings Point “*Review of height, FSR and Setback Controls*” Report, prepared by Ruker and Associates dated 26 March 2008, as resolved by Council on 22 April 2008.
- To limit the impact of new development on the existing character and amenity of this coastal settlement prior to any further locality based planning by:
 - Implementing interim restricting height and density provisions for new development until provisions appropriately tailored to larger and more dense development (where appropriate) is adopted following community consultation, that will;
 - Provide greater certainty to the protection and preservation of the areas natural and built environment.

Controls

- a. The maximum building height is 2-storeys and 8 metres.
- b. The maximum density on any lot or combination of lots comprising a development site is two dwellings (dual occupancy).

Review Period

The review period for interim development controls outlined above for Hastings Point is 12 months from the adoption of this Plan, except where a locality or structure plan, or area specific planning controls are in preparation in which case it will be the adoption date of that body of work and the concurrent or subsequent repeal of the interim provisions.

The interim development controls relating to the Hastings Point locality shall take effect on the giving of public notice of the Council's adoption of the amended Tweed Shire Development Control Plan in accordance with clauses 21 & 22 of the Environmental Planning and Assessment Regulation 2000. There is no saving provision in respect of the area specific development controls herein above.

The new DCP was prepared in response to the Hastings Point “*Review of height, FSR and Setback Controls*,” prepared by Ruker and Associates and satisfies the requirements of that report by providing a comprehensive character and design analysis and suit of locality based development provisions. Following adoption of the new DCP the interim provisions (*Review Period*) will have been satisfied and no longer necessary.

As such the existing Hastings Point interim controls within the Tweed DCP A1 will need to be repealed. In order to repeal these interim controls, Council will need to notify of its intention to repeal at least 14 days before publication of the notice of repeal. The repeal of a development control plan is facilitated by public notice in a local newspaper (Tweed Link) and takes effect on the date of publication of the notice which will correspond with the commencement date of the Hastings Point Locality based Development Code.

Following those processes discussed above the DCP will take full effect and will provide the necessary development guidance on any new or existing development application lodged.

The implementation of the new DCP will also facilitate changes to the Tweed LEP, which are likely to occur through the Draft Tweed LEP 2010 rather than as a separate planning proposal. Those amendments would reflect the new locality specific provisions and would include:

- Amendment to the 'Height of Buildings Map' to reflect the new building heights.
- Amendment to the 'Zoning Map' to reflect any necessary changes in permissible land-use, including;
 - Minor extension of the existing commercial area.
 - Reclassification of Lot 156 from 2(e) Residential Tourism to low-density residential development.
 - Potential reclassification of some Residential 2(b) Medium Density and 2(c) Urban Expansion to low density residential (permitting villa & townhouses), south of Cudegera Creek Bridge and south-side of Creek Street.
- Amendment to the 'FSR Map' to reflect FSR provisions across the study area.

The amendments to the Tweed LEP are not required in order to give effect to any element of the DCP. It is best practice that requires that the amendments be made so as to avoid any confusion or ambiguity arising between the two planning documents.

The Council's Web-site will be updated accordingly to reflect the Council's adoption of the new DCP and any subsequent amendments arising through the Tweed LEP.

Conclusion

The Hastings Point Locality Based Development Code has been drafted taking into account extensive community consultation, physical constraints analysis within the locality and design investigations into what can be realistically achieved within each of the defined precincts. It has also been developed as collaboration between council staff, consultant Ruker Urban Design and the community. It is based on current practice of urban planning and has taken into account relevant NSW Land and Environmental Court decisions and the provisions of the North Coast Urban Design Guidelines 2008 and the Coastal Design Guidelines for NSW 2003.

Hastings Point possesses unique qualities which made it identifiably different to other small coastal villages in the Tweed. Distilling these characteristics, and developing them in line with the expectations of the local community, landowners, and residents in a document which projects a desired future character consistent with these expectations has been the over-riding objective of this locality planning process. This requires careful planning about what uses and building typologies are appropriate within given precincts which collectively contribute to the localities overall urban structure and character.

The draft plan has taken all of these factors into account and has been design to foster Hastings Point as small coastal village whilst allowing opportunity for careful growth commensurate with its sensitive coastal location and limited level of retail and social infrastructure services available. The co-ordinated nature of the document provides strategic direction to the ongoing management of precinct specific built form, the public

domain including the estuary, beach, headland and abundant surrounding natural and environmental protection areas.

Principally, the draft plan is about identifying key settlement principles which underpin the character of the locality and seeking to accommodate growth in a contemporary coastal format embedded within the built form controls. The planning process has also reaffirmed the communities right to contribute to local planning is preserved and made easier by way of clear intentions and legible provisions, and to ensure that new development is not ahead of its time or incompatible with its context. Future generations will have the ability to have their say about the development and direction of growth within the village as the Plan is scheduled for review every 5 years.

Based on the issues raised in this report and those by way of the public submission the re-exhibition of the draft Plan is not considered warranted.

The most significant amendment is arguably the removal of the exceptional circumstances enabling provisions relating to part three-storey RFBs south of Cudgera Creek Bridge. It is note worthy that a high percentage of the submissions raised concern with these provisions. The majority of those submissions were opposed to RFB development and particularly development over 8 metres in height. The remainder of those submission objected on the basis that the provisions were too onerous and in effect would render RFB development unattainable or uneconomical. There was seemingly a perception amongst those wanting to retain the current controls under the Tweed LEP that anything less would be unreasonable and unlawful. On the balance of the strong planning and environmental grounds identified in this report, the latter view is not supported.

Based on the extent and nature of the amendments, and the extensive investigations underpinning these changes, the report concludes that a re-exhibition of the draft Plan is not warranted.

In light of the above the draft Plan is considered suitable for adoption, as amended.

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 Tweed Development Control Plan, Section B23 - Hastings Point Locality Based Development Code:
 - Part 1 - Introduction (ECM 23756257)
 - Part 2 - Hastings Point in Context (ECM 23757259)
 - Part 3 - Vision for Hastings Point (ECM 23757262)
 - Part 4 - Precinct Specific Strategies (ECM 23757263)
 - Part 5 - Visual Settings (ECM 23757264)
 - Part 6 - Building Type Controls (ECM 23757265)
 - Part 7 - Appendices (ECM 23936749)
 2. Document Structure and Comparison of Development Controls (ECM 23754164)
 3. Chronology of Key project dates (ECM 23755171)
-

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14 [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 October 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, no Development Applications have been supported where a variation in standards under SEPP1 has occurred.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES

15 [CNR-CM] Community Preschools

ORIGIN:

Director Community and Natural Resources

SUMMARY OF REPORT:

Council has been approached by three community preschools to provide land on which they could extend or build their current operations. These community based organisations are funded through the NSW Government Department of Human Services - Community Services. The land on which they are currently established is a mixture of Crown Land under the control of Council and Council owned community land. Council has historically provided support to these organisations.

The NSW Government has capital funding available to these organisations for the expansion of these facilities through the Preschool Growth Program. Henceforth the approach by the community preschool groups to Council for the provision of additional Land.

The Pottsville Community Pre-School Inc. is requesting Council advocate on the preschool's behalf to the NSW Land and Property Management Authority for the acquisition of one acre of Crown Land adjoining the preschool to the north or for Council to provide other suitable land in the Pottsville area for the expansion. The current building is located on Crown Land under the control of Council in Centennial Drive, Pottsville.

The Tweed Heads Community Pre-School Inc. is seeking assistance to secure a piece of land to accommodate a two unit community preschool and playground area. The current facility is incorporated within the existing PCYC building which is located on Council land classified as community on the corner of Florence and Recreation Street, Tweed Heads.

The Kingscliff Mini School Inc. is seeking a minimum of 1800 sq metres of land to construct an additional facility. They are currently located on Crown Land under the control of Council on the corner of Ozone and Kingscliff Streets, Kingscliff.

RECOMMENDATION:

That Council advises:

- 1. The Pottsville Community Pre-School Inc. that Council supports its proposal to request from the NSW Land and Property Management Authority to expand its preschool on the Crown Land to the north of the existing building namely Lot 7021 on DP 1113041.**
- 2. The Tweed Heads Community Pre-School Inc. that:**
 - a. in principle Council supports its request for additional land.**

- b. that Council proposes the use of the area to the west of the existing Northern Rivers Family Day Care Administration Building.**
 - c. its proposal is subject to the Tweed Heads Community Pre-School providing a satisfactory proposal for the building and construction of the facility.**
- 3. The Kingscliff Mini School Inc. that until the completion of a land audit of Council owned land within the Shire that Council is unable to provide any indication of the availability of suitable land.**
- 4. That the management of the building process is the responsibility of the individual preschools and that Council's involvement is limited to assisting in or providing the necessary land.**

REPORT:

Council has been approached by three community preschools to provide land on which they could extend or build their current operations. These community based organisations are funded through the NSW Government Department of Human Services - Community Services. The land on which they are currently established is a mixture of Crown Land under the control of Council and Council owned community land. Council has historically provided support to these organisations.

The NSW government has capital funding available to these organisations for the expansion of these facilities through the Preschool Growth Program. Henceforth the approach by the community preschool groups to Council for the provision of additional land.

The Pottsville Community Pre-School Inc. is requesting Council advocate on the preschool's behalf to the Land and Property Management Authority for the acquisition of one acre of Crown Land adjoining the preschool to the north or for Council to provide other suitable land in the Pottsville area for the expansion. The current building is located on Crown Land under the control of Council in Centennial Drive, Pottsville. There are no known issues with the request to locate on the crown land to the north namely lot 7021 on DP 1113041. Expansion to the north of the existing facility provides obvious benefits in terms of proximity to current operations.

The Tweed Heads Community Pre-School Inc. is seeking assistance to secure a piece of land to accommodate a two unit community preschool and playground area. The current facility is incorporated within the existing PCYC building which is located on Council land classified as community on the corner of Florence and Recreation Streets, Tweed Heads. There are a number of child related care and educational services provided in this location on Council land. There is the potential for this preschool to be relocated to a new purpose built facility adjoining the existing Council owned building currently leased by the Northern Rivers Family Day Care. For this to occur the preschool will need to develop and prepare a building proposal including the necessary funding arrangements to ensure the necessary completion of the facility.

This land has a Council adopted Plan of Management (2004) which allows the proposed facility.

The Kingscliff Mini School Inc. is seeking a minimum of 1800 sq metres of land to construct an additional facility. They are currently located on Crown Land under the control of Council on the corner of Ozone and Kingscliff Streets, Kingscliff. There are some available land parcels owned by Council within this locality however as they are predominantly classed as operational and potentially have various long term uses, it would not be appropriate to dedicate any of them until such time as the Council Land audit is completed.

As with many community groups, there is a high expectation on being able to achieve their ambition with little resources. The proposed new facilities will require specialised expertise from within each group to manage the process. In the past Council has not provided this resource and the expectation of Council is that the community groups are their primary drivers of the process.



Kingscliff Mini School

To Mike Rainer,
General Manager
Tweed Shire Council
PO Box 816
Murwillumbah NSW 2484

EDUCATION MATTERS.
PRE SCHOOL - KCLIFF MINI 02/08/2010

TWEED SHIRE COUNCIL
FILE NO: LAND-ACQUISITION
DOC. NO:
DATE: - 6 SEP 2010
SENT TO: RAINIER, M
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Dear Mr. Rainer,

Kingscliff Mini School is a non-profit community preschool that has served the community of Kingscliff for over 35 years.

Due to the rapid growth of the Kingscliff area, including the development of Salt, Casuarina and now Kings Forrest at Cudgen, Kingscliff Mini School is unable to meet the communities demand for our preschool service.

As you may be aware, the 'Tweed, Kingscliff & Pottsville Alliance of Community Preschools' approached council regarding the possibility of acquiring some council owned land on which to expand our community preschools. This council meeting was held on the 15th of July 2010.

The situation for Kingscliff Mini School is unique however as we have over 300 preschool aged children on our waiting list for 2011 with only 47 places to offer. This is extremely frustrating for our community who truly value community preschool education and want this for their children.

We are asking to be allocated some council land on which to build a second Kingscliff Mini School. Kingscliff Mini School will build and operate the new service as an extension of our existing high quality preschool.

In August 2010 we collected over 1100 'signatures of support' from our community who are behind our efforts to provide community facilities for their children. We also have the support of the Kingscliff TAFE and all of our local primary schools.

We need a block of land somewhere in our 2487 area code. We would be happy to go Cudgen or further south down to Cotton Beach (North of Cabarita).

The block of land will need to be a minimum of 1800sq meters and will need to be fully serviced with power/gas and water.

Please consider the rapid growth of our Kingscliff community both current and future, and provide us with some land on which we can build a second Kingscliff community preschool. This facility is a necessity for our community, to ensure that our children have access to quality preschool education within the Tweed Shire.

Yours Truly,

Sharon Martin – Director of Kingscliff Mini School

Tweed Heads Community Pre-School Inc.

ABN 681 3705 0348

FLORENCE STREET, TWEED HEADS NSW 2485 *Comm Access.*
(rear of PCYC) *PRE SCHOOL - POTTSVILLE*
Correspondence: P.O. Box 6187, Tweed Heads South NSW 2486
Phone/Fax: (07) 5536 1221 *LAND - PURCHASE*

PRE SCHOOL - TWEED HEADS COMMUNITY

TWEED SHIRE COUNCIL
FILE No: <i>CROWN LAND</i>
DOC. No:
REC'D: -4 AUG 2010
ASSIGNED TO: <i>RAYNER</i>
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August 2, 2010

General Manager

Mr Mike Raynor

Tweed Shire Council

Land Submission for the purpose of Building a Community Preschool

I am writing on behalf of the Parent Committee of Tweed Heads Community Preschool Inc. Following the presentation by the 'Tweed, Kingscliff and Pottsville Alliance of Community Preschools' to Tweed Shire Council Community Access meeting on Thursday July 15, 2010, our service has put together the following submission.

Overview of Tweed Heads Community Preschool Inc.

Tweed Heads Community Preschool Inc is a non-profit early childhood educational organisation which has been operating in the Tweed district since 1984. It is situated in a non-purpose built building, (the rear section of the Tweed Heads PCYC), where it was relocated in 1995.

The service is funded and licensed through Community Services.

The Preschool is licensed to enroll 20 children per day aged 3 to under 6 years. It operates 5 days per week, 8 a.m. till 4 p.m. for 41 weeks per year. The service runs inline with the N.S.W. school holidays.

Our preschool has developed strong relationships with other services in the Tweed district to benefit children and families of the community. These include collaboration with Tweed Valley Early Intervention, Community Health, local schools, TAFE, Southern Cross University and networking closely with other local Community Preschools and Children's Services.

Our service is a member of Community Connections Solutions Australia (CCSA) and Early Childhood Australia (ECA) of which our Authorised Supervisor is an Executive Committee member. These services are both advocates for children's services in N.S.W. and Australia.

Comm Access. 15/7
Record of Proceedings = 19330726.

What we need:

We have been approached by Phillipa Maher from the Preschool Growth programme with the possibility of accessing funding to enable our existing service to build a purpose built preschool in the Tweed area.

Our request to you is the assistance to secure a piece of crown land that would accommodate a two unit community preschool and playground area (approximately 900 square metres). We request land for two units, as part of the funding conditions is to 'grow places' and this will also allow for future growth of our service.

At the moment we are situated next to the Recreation Street oval and service families ranging from Coolangatta through to Banora Point and Terranora.

Children of the nurses, doctors and workers of Tweed Hospital and students of Southern Cross University make up a percentage of our enrollments.

Our time restraint for this project ends in June 2011, but we need to have concrete evidence to put to Community Services by the end of 2010.

Phillipa has indicated that we would be able to gain barrier funding to start the architectural process to Council.

The success of this project would be an asset to the Tweed community and would provide a purpose built facility for an organisation that has provided an essential service to the local community for the past 25 years.

It would also allow us to grow places and diversify our service to further accommodate families of the Tweed Community.

Thank you for taking the time to read this letter and we look forward to receiving a positive outcome to our request.

Yours Sincerely



Lesley Baker
Authorised Supervisor



35 Coast Rd, POTTSVILLE NSW 2489

P: 0266761448 F: 0266761484

E: pottsvillepreschool@bigpond.com

ABN: 42645460513

PROJ.
 GOVT GRANT - LOCAL
 LAND - ACQUISITION.
 PRE SCHOOL - POTTSVILLE

TWEED SHIRE COUNCIL
FILE No: LU: 24911, 73809
DOC. No:
RECEIVED - 3 SEP 2010
ASSIGNED TO: RAYNER, M
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Mike Rayner
 General Manager
 Tweed Shire Council
 Po Box 816
 MURWILLUMBAH NSW 2484

TWEED COAST RD PVILLE
 LOT 7021 OF 1113041

Monday, 30 August 2010

Submission for Land to extend Pottsville Community Preschool Inc

Dear Mr Rayner

Re: Follow up action from Council Forum presentation and phone conversation with you July 2010.

I am writing to you on behalf of Pottsville Community Preschool and the families of Pottsville.

Pottsville Community Preschool was established by the local community in 1989 to meet the educational and care needs of the community's children in their year before school. Our preschool is staffed with qualified university trained Early Childhood Teachers, TAFE Diploma trained Group Leaders and Certificate level trained assistants, ensuring positive educational outcomes for children.

We network with: local primary schools, TAFE and local neighbourhood centres as well community support agencies including community health. We cater to the diversity of families in the Tweed including children from culturally and linguistically diverse backgrounds, children with additional needs as well as children, who are referred to us from the Department of Community Services.

Pottsville Community is a one unit preschool licensed for 25 children per day and caters to 63 families per week. We are funded by the Department of Human Services / Community Services. Due to the rapid growth in population of Pottsville and its surrounds we are unable to meet the community's need for preschool education for young 3 - 5 year old children.

+
 PETITION.
 +
 PVILLE COMM ASSN.

1

Currently there are 133 eligible children on our waiting list for 2011 these numbers are from the 2489 postcode inclusively to cater to the needs of the immediate community we have had to exclude families from nearby Cabarita Beach who are also in need of preschool places. To add to this dilemma we have families coming in daily to add their children to our list. Families in the community are expressing their increasing dissatisfaction with this situation and our staff are constantly having to apologise for the unavailability of places.

Funding for growing preschool places is currently available from the NSW State Government through the Preschool Growth Program. This is a window of opportunity for us as funding applications close on 31st of July 2011. To see this project through we will need additional land. Our preschool has identified that the vacant block (crown land) which adjoins the preschool's northern boundary is highly suitable for this purpose. Details of this block are:

Lot no: 7021/DP 1113041 *TWO COAST RD POTTVILLE.*

Reserve no: 52373

Designated for: Purpose Infrastructure or Government Services.

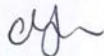
We ask that :

1. Council advocate on our behalf to the Dept of Lands for the acquisition of one acre of this land for the purpose of extending our preschool. OR/
2. Council provides other suitable land in the Pottsville area for this expansion.

This submission for land is supported by 1900 signatures from community members (attached).

Thank you for your time and we look forward to your response.

Yours Sincerely



Michele Howell

Coordinator

Attachments:

1. Petition of support
2. Information poster.
3. Letter of support from Pottsville Community Assoc.

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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16 [CNR-CM] Cultural Program

ORIGIN:

Director Community and Natural Resources

SUMMARY OF REPORT:

Council's Cultural program has undergone considerable development and growth over the past 15 years. There now exists an opportunity to review the resources required to deliver this program. The Cultural program has reached a point of maturity and it is important to ensure the Cultural development role is sustained and that the established programs are resourced appropriately.

There is a need to provide an Educational role with the Art Gallery to improve the appreciation of the visual arts and to increase capacity to access a greater proportion of the community.

To balance these needs it is proposed to reduce Cultural Development program by \$37,000 and provide a corresponding increase to the Art Gallery program. The outcome of this will be a reduction in the Cultural Development Officer position to a three day per week part time role and the provision of a three day per week part time Education Officer role at the Art Gallery.

RECOMMENDATION:

That Council:

- 1. Endorses the proposed changes to the Cultural program as defined in this report.**
- 2. Votes the required budget change of \$37,000 from the Cultural Development program to the Art Gallery program in the December 2010 quarterly budget review.**

REPORT:

Council's Cultural program has undergone considerable development and growth over the past 15 years. There now exists an opportunity to review the resources required to deliver this program. The Cultural program has reached a point of maturity and it is important to ensure the Cultural development role is sustained and that the established programs are resourced appropriately.

Summary of Cultural Achievements

Across the Far North Coast Tweed Shire Council has been a leader in cultural development. Some of the key achievements are summarised below:

- Cultural Policy adopted 1999 and revised in 2004, 2007. The Cultural Policy was developed in collaboration with Local Government and Shires Association via active community consultation
- "Stretching Cultural Dimensions" Five Year Cultural Program adopted 2001 and now in the process of review.
- Council successfully applied for \$300,000 funding from NSW Ministry for the Arts over a 2 year period 2003-2005 as the Fifth City of the Arts. The program designed under the banner of Local Distinctiveness and Sense of Place comprised three innovative areas being a Cultural Diversity Program, Place Making and Policy Program and Festivals and Events program
- Placemaking and Public Art Policy adopted 2007
- New Art Gallery opened 2004 and extended 2006
 - facility attracts over 60,000 visitors annually
 - Award-winning architectural facility
 - a professionally managed art collection of over 800 works
 - presents 30 exhibitions and over 300 public events each year
 - has attracted a gradual increase in State funding in the last three years
- Museum Strategic Plan Adopted 2004 along with establishment of program including Senior Museum Curator.

Cultural Development Role

The primary objective of the Cultural Development Officer is to initiate strategic programs for Shire wide Cultural Development. The position is instrumental to ensuring the relevance of Council's Cultural Policy and Plan and implementation thereof. It facilitates Community Cultural Development which essentially involves all facets of the community with a range of arts ideas, practices and experiences. Through community cultural development the following outcomes are realised:

- new communities relationships are born
- existing relationships and identities are strengthened
- community discussion is stimulated
- ideas exchanged
- partnerships created

- social isolation diminished

Art Gallery Education and Audience Development Role

The provision of an Education and Audience Development Officer at Tweed River Art Gallery will significantly enhance the Gallery's opportunities to meet the important criteria regarding education and lifelong learning as outlined in the NSW Government State Plan and the Arts NSW Strategic Plan 2007-2010. Addressing these criteria will therefore increase the Gallery's opportunities in receiving grant funding for the professional delivery of programs, and also enable the Gallery to be eligible to apply to the ConnectED Arts program. ConnectED Arts is a funding stream offered by Arts NSW which specifically links the arts and education through directed, programmed and targeted educational activities.

The primary role of the new Education and Audience Development Officer will be to coordinate the development and implementation of high quality education and audience development programs that will build the Tweed River Art Gallery's various audiences. The Officer will also be responsible for the evaluation of education activities for the Gallery. The position will also further develop a strong community network through the training of volunteers.

The addition of an Education and Audience Development Officer to the existing Art Gallery staff will also provide the Council's facility with a qualified arts professional who will be able to respond to changing modes and methods of arts delivery and participation by a variety of audiences. The new Officer will also offer an opportunity for the Gallery to work directly in consultation with teachers in order to meet the specific needs of students, and the outcomes of the New South Wales Creative and Visual Arts Syllabus Documents. Most importantly the role will also strengthen the Gallery's networks with school teachers and community groups, whilst continuing to attract audiences through stimulating and informative programming. The position will also allow the Gallery to charge a small fee-for-service stipend, thus generating additional income for the delivery of programs.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

There is no net budgetary implication however it is proposed to transfer \$37,000 from the Cultural Development Program to the Art Gallery Program to fund the educational role.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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17 [CNR-CM] Sewerage Options for Urban Land Release Strategy Areas Burringbar (Area 8) and Mooball (Area 9)

ORIGIN:

Water

SUMMARY OF REPORT:

This report follows from a Council resolution of 16 February 2010 relating to a request for Council officers to bring forward a report on sewer servicing options for lands in Burringbar and Mooball.

The planned infrastructure (sewer) serviceability for the locality is discussed and raises the issue in respect of the future urban investigation areas that insufficient planned capacity exists to service new 'greenfield' release areas over that of existing urban zoned land. The report concludes that a new standalone and separately located wastewater treatment plant would be required to sewer any future proposed development of Areas 8 and 9.

These future investigation areas are not currently zoned for urban development and as such they are not within the planned infrastructure (sewer) service provision for this locality. With the Council's resources being committed to existing urban zoned land the only feasible option for these areas to be sewered in the medium-term is for the developer to provide an independent service.

These facilities and services can now be provided under an IPART Licence approved under the Water Industry Competition Act 2006 (WIC Act), noting this Act became fully operational with regulations in August 2008. This mechanism is robust and provides councils with considerable assurance that the scheme will be well managed in an ongoing way.

The developer Heritage Pacific Pty Ltd is currently investing a development scenario based on a 242 lot residential subdivision over the future investigation area (Area 9) and has engaged a private water utility company, SIREX, to develop a proposal to provide water and wastewater infrastructure and services for the site under WIC Act.

The proposal provided by the developer meets in principle many of the Governments water conservation and environmental objectives. Based on preliminary assessment, and the constraints posed within the locality, the concept proposal would likely provide a very good water cycle management outcome for the site.

It is therefore recommended that Council in principle support for a standalone water and wastewater utility scheme as discussed within this report for Area 9 be supported.

This should be contingent upon the entering into an agreement with the utility service provider under an IPART licence to provide retail services to them as the preferred option of providing water and waste water services to Area 9 and a future option for Area 8.

RECOMMENDATION:

That:

- 1. Council not delay further the construction of Burringbar Mooball Sewerage Scheme on account of the possible future development of Urban Land Release Areas 8 and 9.**
- 2. Council:**
 - a. supports, in principle, the proposed stand alone private water and wastewater utility scheme under the Water Industry Competition Act 2006 (WIC Act) and Independent Pricing and Regulatory Tribunal (IPART) Licensing regime for Urban Land Release Area 9.**
 - b. advises the proponent in principle it supports the proposal to enter into an agreement with the utility service provider under an IPART licence to provide retail services.**
- 3. The proposed stand alone private water and wastewater utility scheme referred to in recommendation 2 above is to include at a minimum:**
 - The establishment of a private utility company which would gain and hold the IPART network operational and retail licenses for both water supply and wastewater services including the advanced Wastewater Treatment Plant (WWTP) and scheme within the Area 9 development.**
 - A private WWTP within Area 9 producing non-potable residential reuse standard effluent and a third pipe distribution and reticulation system to all residential lots within the development, maximising reuse of this effluent within Area 9 and providing the opportunity for reuse in and around the existing villages.**
 - The developer / private utility company is open to considering the future option for servicing Area 8.**
 - The treatment processes are to be robust in respect to achieving the non-potable residential reuse effluent standard proposed and include Membrane Bio Reactor, Ultra Filtration, Reverse Osmosis, Ultra Violet and Chlorination disinfection processes.**
 - The pressure sewer system proposed is to achieve low infiltration and inflow ensuring significant reductions in peak flows and the volume of effluent to be treated and reused and hence the associated size of pipes, pumps and the WWTP.**
 - The development is to achieve significantly reduced per person potable demand from Council's water supply.**
 - The development is to achieve significantly reduced effluent discharge to waterways.**

REPORT:

Background

At the Council Meeting of 16 February 2010, Council resolved at item 27 that:

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.

The Urban Land Release Strategy (ULRS) Areas at Burringbar (Area 8) and Mooball (Area 9) are depicted on the Figure 1 at the end of this report, (URLS Figure 18).

Area 8 is identified as having an area of 11 ha with a net usable area of 5.5 ha with a net density of 7 - 13 dwellings per ha. On this basis, the yield will be in the range of 39 - 72 dwellings or 109 - 215 persons.

Area 9 is identified as having an area of 46 ha with a net usable area of 37 ha and a net density of 7 - 13 dwellings per ha. On this basis, the yield will be in the range of 257 - 481 dwellings or 725 - 1347 persons.

Council is currently in the process of providing sewerage to the existing villages of Burringbar and Mooball initiated under the NSW Government Country Towns and Villages Backlog Scheme whereby the project is eligible for a subsidy where it provides sewerage to an existing community. The subsidy reduces on the basis of the amount of future capacity provided in the scheme. The proposed treatment plant has a capacity of 750 ep, adequate to service the existing population of 571 persons and an allowance for development of the existing zoned land. The treatment plant site acquired for this scheme in 2003 was suitable for a plant sized on this basis. Since acquisition, Council has developed a flood model and DCP which restricts the building footprint on this site to no more than 80 square metres. Construction of a 750 EP (equivalent person) treatment plant can still proceed, however any expansion would not be allowed under the recently adopted DCP Part A3.

The site was acquired prior to the development of the Urban Land Release Strategy hence no provision was made in the planning for such future expansion. The provision for a large future expansion would have resulted in the scheme becoming ineligible for subsidy.

Rural residential areas were also not included as sewer is not a prerequisite for rural residential development and again its inclusion would have also resulted in the scheme becoming ineligible for subsidy.

The 750 EP WWTP design allows for development and densification within the already zoned 2(d) Village lands under the Tweed LEP.

The restrictions on the site are such that even development of the treatment plant design for the proposed population has proved difficult.

Consequently, the current position is Council has acquired a site that can be used for the treatment of sewage from the existing development including a moderate allowance for growth within the area already zoned 2(d) Village under the Tweed LEP. The proposed treatment plant cannot be augmented to include any additional development relating to Areas 8 and 9 of the Urban Land Release Strategy.

Options

To service Areas 8 and 9 therefore requires the construction of separate wastewater treatment plant in a different location.

The following issues will constrain the development of a future Wastewater Treatment Plant (WWTP) in this locality.

- Obtaining approval for a further discharge of effluent into Burringbar Creek.
- Quantity of suitable land in the vicinity for land based irrigation.
- Heavy local soils further limiting irrigation potential.
- Size of effluent storages to cater for extended periods of wet weather particularly February to May each year where irrigation may not be possible.
- Government Policy to promote effluent reuse.
- Government policy to reduce water demand from the environment.
- Community acceptance of both additional discharge of effluent into Burringbar Creek and its location.
- Community acceptance of the location of a WWTP.

Therefore the only approach likely to adequately address these constraints will need to maximise effluent reuse by treating to a very high standard to permit non-potable residential reuse. Offsite irrigation and some discharge to Burringbar Creek may still be required, however by treating to this high standard, many of the approval requirements will be either removed or significantly reduced.

These areas are not currently zoned for residential development and are considered out of sequence in respect to Council providing sewerage infrastructure for them. As a result the only feasible option for these areas to be seweraged in the short to medium-term is for the developer to provide such services.

These facilities and services can now be provided under an IPART Licence approved under the Water Industry Competition ACT 2006 (WIC Act), which became fully operational with regulations in August 2008.

A site within Area 9 could potentially be suitable for an advanced WWTP.

Area 8 could then be serviced at some later date by allowing it to connect to Council's scheme and redirecting the Mooball sub catchment of Council's scheme to the Area 9 WWTP. The developer of Area 8 would fund both the redirection works and the modular upgrade of the Area 9 WWTP at that stage.

Developer Proposal

It is understood that the developer (Heritage Pacific Pty Ltd) has acquired purchasing options on the parcels of land that represent Area 9, as identified in the Urban Land Release Strategy. They propose a concept for a 242 lot residential development and have engaged a private water utility company, SIREX, to provide water and wastewater infrastructure and services for this proposed development under the WIC Act.

Heritage Pacific and SIREX enquired whether if a joint approach with Council could be considered as there appeared to be obvious advantages to both parties. This approach included a private advanced WWTP in place of Council's, producing non-potable residential reuse standard effluent and a 3rd pipe system for their development. Due to Council being at the point of calling tenders for the Burringbar Mooball Sewerage scheme and the potential of further delays, this approach is not recommended.

In lieu of the joint approach they have proposed a private standalone option which includes a private Advanced WWTP and non-potable residential reuse 3rd pipe system.

SIREX subsequently submitted a draft proposal for Council's consideration primarily comprising:

- The establishment by SIREX of a private company "Mooball Water Utility Pty Ltd" which would gain and hold network operational and retail licences for both water supply and wastewater services including the advanced WWTP and scheme within the Area 9 development.
- A private WWTP (on Area 9) producing non-potable residential reuse standard effluent and a 3rd pipe system for their development.
- Possible discharge required via Council's proposed WWTP discharge point.
- A pressure sewer collection and transfer system to their design.
- Council provided retail services under license to the Area 9 development.
- Potable water sourced from Council's water supply system with a bulk meter provided at the development boundary.
- The developer / private utility provider to consider the future option for servicing Area 8.

The approach proposed by Heritage Pacific and SIREX has the following advantages:

- The non-potable residential reuse standard effluent maximises opportunity for reuse of effluent within Area 9 and in and around the existing villages.
- The treatment process offered is robust in respect to achieving the effluent standard proposed, i.e. MBR, UF, RO, UV & Chlorination.
- The pressure sewer system proposed has the potential to achieve lower infiltration and inflow reducing peak flows and the volume of effluent to be treated and reused and hence the size of pipes, pumps and the WWTP.
- Reduced per person potable demand on water supply.
- Reduced effluent discharge to the environment.
- It is potentially a very good water cycle management outcome.

The disadvantages associated with this approach are:

- Large number of small pumping stations, one for every four dwellings, located on the footpath adjacent.
- It is an energy intensive solution with significantly increased pumping and treatment requirements, partly reduced by lower potential flows.
- Increased cost and frequency of maintenance of the pump stations and treatment facilities as a result of significantly more equipment.

- Likely problems with under sizing collection systems related to receiving backwash from swimming pool filters.
- System surge flows after an extended power interruption delivering a very high flow to the treatment plant. (SIREX Control system may resolve this).
- High tech solutions can be problematic, i.e. more things to go wrong.
- Council will be the "retailer of last resort".
- Council will be considered by the community as the owner operator of the system due to the retail role and will receive any complaints.
- Approval to avoid existing NSW sanitary drainage requirements for the removal of the overflow relief gully (ORG) to achieve the low inflow rates stated, on which components sizing will be based, may not be achieved.

Conclusions

The sewerage of Areas 8 and 9 is one of the major items which need's to be addressed to permit further consideration for rezoning.

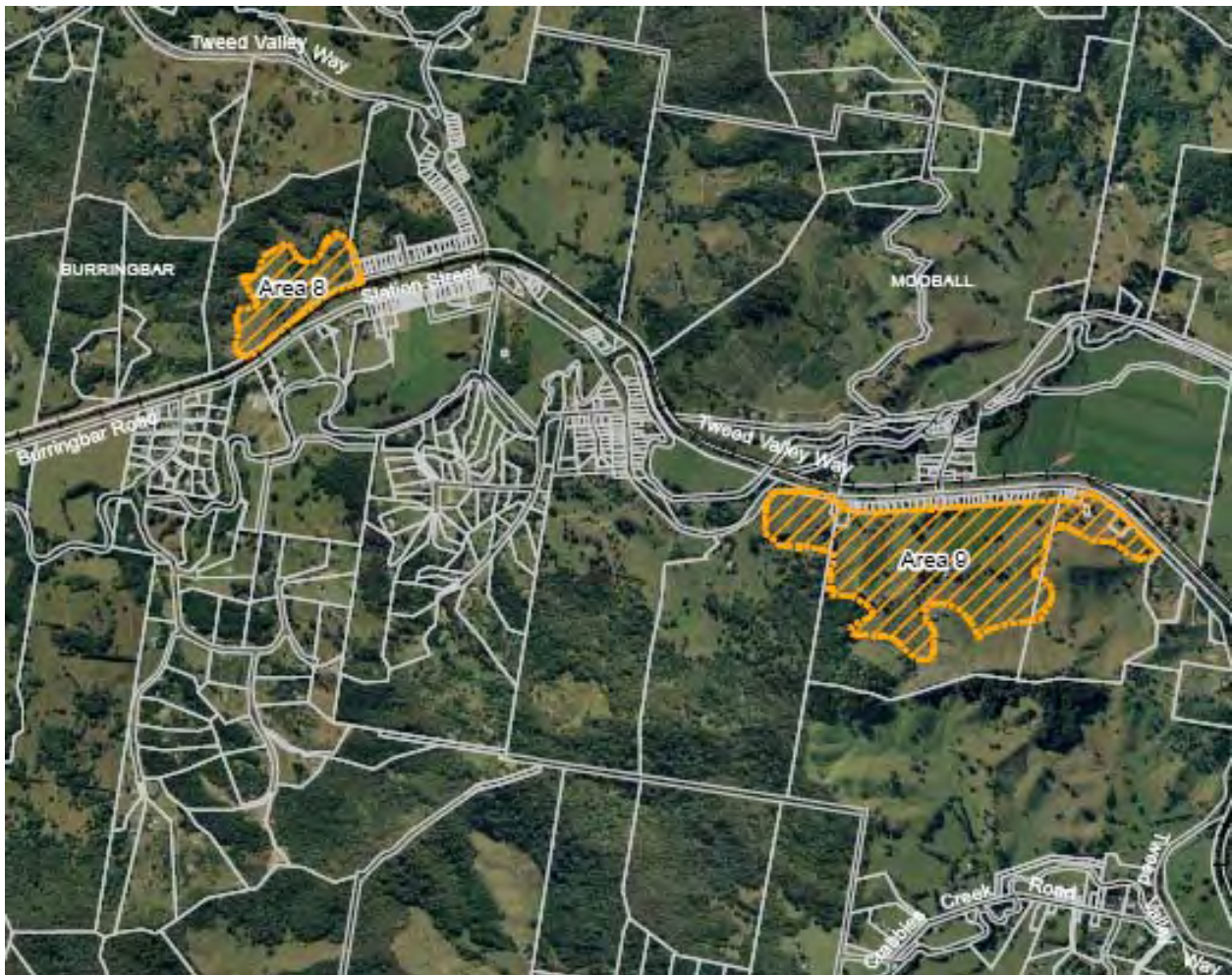
The proposal provided by the developer meets in principle many of the Governments water conservation objectives and the constraints posed by the locality and would likely be a very good water cycle management outcome. It is also realistically the only feasible option for effectively sewerage these areas in the short to medium-term as Council's resources are committed to existing zoned areas.

The mechanism provided under WIC Act 2006 and IPART Licences is robust and provides councils considerable assurance that the scheme will be well managed in an ongoing way.

It is therefore recommended that Council's in principle supports for standalone water and wastewater utility scheme as described with in this report for the Area 9 be provided.

This should be contingent upon the entering into an agreement with the utility service provider under an IPART licence to provide retail services to them as the preferred option of providing water and waster water services to Area 9 and a future option for Area 8.

Figure 1: Burringbar (Area 8) and Mooball (Area 9)



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Adoption of the service delivery model using a private water utility would relieve Council of the responsibilities associated with development of a sewerage treatment plant in anticipation of development. The licensed network operator would be responsible for compliance with environmental and other considerations and the licensed retailer would be responsible for collection of charges and paying the network operator for its facilities. This proposal however includes an agreement for Council to provide the retail services to the licensed retailer.

POLICY IMPLICATIONS:

Use of a private water utility to provide services in an area where Council is not in a position to provide those services may be considered a precedent although with its approval of the Nightcap Village Concept Plan, Council has already moved in this direction.

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.

18 [CNR-CM] Tweed District Water Supply Augmentation - Subsequent Issues

ORIGIN:

Water

SUMMARY OF REPORT:

Council resolved in its meeting of 1 November 2010 to adopt Byrrill Creek Dam as the preferred water supply augmentation option.

This report seeks to clarify matters relating to the previous Council resolution.

RECOMMENDATION:

That Council:

- 1. Writes to inform the NSW Minister for Water of Council's resolution to adopt Byrrill Creek as the preferred water supply augmentation option for the Tweed Shire, and request from the Minister that when the Water Sharing Plan is gazetted it will exclude prohibition of a water storage on Byrrill Creek.**
- 2. Proceeds with development of a Land Acquisition Plan to determine processes, timing, costs and other factors which will facilitate acquisition of properties or parts thereof as required.**
- 3. Proceeds with investigative and design works to upgrade the spillway of the existing Clarrie Hall Dam and that a detailed separate report on this matter be presented to Council at a later date.**
- 4. Retains ownership of land at Doon Doon Creek, and incorporates a possible future 77.0m AHD buffer into planning instruments to enable consideration of future water supply augmentations at Clarrie Hall Dam beyond the current planning horizon.**
- 5. Proceeds with planning approval investigations for Preliminary Geological / Geotech Studies, Seismic Studies and Hydrology Studies; a Legal and Planning Advice Study; a Land Acquisitions Plan; and liaising with Government Agencies regarding Planning Approval Requirements (EIS requirements, Adaptive Management requirements, Water Sharing Plan, Fisheries requirements).**

REPORT:

Council resolved in its meeting of 1 November 2010, to adopt Byrrill Creek Dam as the preferred water supply augmentation option.

This report seeks to clarify matters which have arisen during, or were not resolved at, that meeting.

Water Sharing Plan

Over the past decade, since the introduction of the Water Management Act 2000, Water Sharing Plans (WSPs) have been developed for rivers and groundwater systems across the State with priority given to the more highly stressed and or over allocated systems.

Under the Water Management Act 2000, the sharing of water must protect the water source and its dependent ecosystems and basic landholder rights. Amongst licensed water users, priority is then given to water utilities and licensed stock and domestic use, ahead of commercial purposes such as irrigation and industry.

Council was first invited to respond to the Tweed WSP process in March 2006 by providing comment on what was referred to as a "Report Cards" which had been developed for each sub-catchment (water source) in the Tweed. The Mid-Tweed and the Upper Oxley were the two Report Cards relevant to public water supply extraction.

Council's 2006 submission generally focused on the impacts on the secure yield of the public water supply system and the operational mechanisms proposed. The possibility of providing water to adjacent authorities was also canvassed.

The NSW Office of Water again invited Council to comment on the updated Report Cards and for the first time on the draft WSP document, in September 2009.

Council's 2009 submission was noted by Council in its meeting of 20 April 2010. The submission focused on secure yield impacts and operational issues, but also requested that:

- the Draft Water Sharing Plan be amended to continue to permit the option of a future dam for town water supply at Byrrill Creek (thereby maintain the existing situation). The submission stated "Council is not in agreement with Clause 36 which prohibits in-river dams on third order streams or higher in the Byrrill Creek water source. Council has purchased the majority of property likely to be inundated by a future dam since the mid 1980's. This proposal for a future dam site has been public knowledge since that time and is incorporated into the Current Local Environmental Plan (LEP) 2000 as Clause 52 Existing and Future Dam Areas. Council requests that the Draft Water Sharing Plan be amended to permit the option of a future dam for town water supply at Byrrill Creek".
- the Draft Water Sharing Plan be amended to permit options for the transfer of water to and from adjacent Water Utilities/Authorities in NSW and QLD for town water supply purposes within the share component of the Mid-Tweed Access Licence.

Since its submission, Council has not received any information to confirm that its concerns have been incorporated into the final WSP.

The Water Sharing Plan was originally anticipated to be gazetted by April 2010, but the latest indications from the Office of Water are that gazettal is expected in December 2010.

Given Council resolved in its meeting of 1 November 2010, to adopt Byrrill Creek Dam as the preferred water supply augmentation option, it is recommended that Council immediately writes to inform the NSW Minister for Water of Council's resolution to adopt Byrrill Creek as the preferred water supply augmentation option for the Tweed Shire, and:

- i) requests from the Minister that when the Water Sharing Plan is gazetted it will exclude prohibition of a water storage on Byrrill Creek.
- ii) suggests to the Minister that a Water Sharing Palm is an inappropriate instrument to prohibit a water storage on a particular local stream.

It should be noted that while Council was considered as a stakeholder within the State Government's consultation process and therefore was specifically invited to comment on the two occasions public input was sought, Council's input into this process is limited to the public submission opportunities provided.

Implications for Byrrill Creek Landholders

For the Byrrill Creek Dam to proceed, subsequent project phases will involve significant planning, investigations and approvals steps which have a long timeframe (+7 years) depending on the studies and requirements from government agencies.

Byrrill Creek Dam has been identified in Tweed Shire Council planning instruments for many years.

For the dam to proceed, several properties or parts of properties at Byrrill Creek will need to be acquired.

It is recommended that Council proceeds with development of a Land Acquisition Plan to determine processes, timing, costs and other factors which will facilitate acquisition of properties or parts thereof as required.

Clarrie Hall Dam Spillway

Given Byrrill Creek Dam has been adopted as the preferred option, work to upgrade the spillway on the existing Clarrie Hall Dam will now need to commence. It is recommended that the details of this matter be presented to Council in a separate report.

Future Clarrie Hall Dam Augmentation and Doon Doon Creek

The results of the Water Supply Augmentation Options Fine Screen Study highlighted that raising the existing Clarrie Hall Dam is a viable method of augmenting the water supply system. Preliminary studies suggest that an enlarged dam with a Full Supply Level (FSL) at 70m AHD (Australian Height Datum) and a flood buffer at 77m AHD.

It is recommended that:

- Council planning procedures incorporate the future possibility of raising the Clarrie Hall Dam to these levels to satisfy water augmentation requirements for planning horizons beyond those satisfied by the Byrrell Creek Dam augmentation.
- Council retains ownership of land at Doon Doon Creek to enable consideration of future water supply augmentations at Clarrie Hall Dam beyond the current planning horizon, and to maintain catchment management capabilities.
- Council considers the uncertainty that will be faced by landholders at Doon Doon Creek as to the long term land use for the area and liaises with landholders to reduce inconvenience to them.
- Council considers the possibility for acquisition of properties at Doon Doon Creek within the Land Acquisition Plan.

Byrrell Creek Dam - Project Planning

Attached is a Preliminary Pre-Approvals Program giving a general sense of the scope of works and draft cost estimates for investigations required for planning approval.

Items considered for immediate start are outlined in the attachment and include:

- Preliminary Geological / Geotech Studies.
- Seismic Studies.
- Hydrology Studies.
- Legal & Planning Advice.
- Land Acquisitions Plan.
- Liaise with Government Agencies regarding Planning Approval Requirements (EIS requirements, Adaptive Management requirements, Water Sharing Plan, Fisheries requirements).

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Significant resources are required to carry out the pre-approvals program.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Preliminary Pre-Approvals Program (ECM 23739458)
-

19 [CNR-CM] Continued River Health Grant Program Implementation 2010 - 2011 Financial Year

ORIGIN:

Natural Resource Management

SUMMARY OF REPORT:

This report provides Council with details of proposed investment in river and riparian management, through implementation of the River Health Grants Program. The goal of this project is to improve the quality of Tweed Waterways by subsidising works on private stream banks, for example by revegetation and provision of off stream water for cattle. The source of funding for this program is the Water Unit mandatory dividend for water and sewerage.

Projects included for endorsement through this report are located at Pumpenbil, Cobaki, Piggabeen and Kunghur.

RECOMMENDATION:

That Council endorses the proposed River Health Grant Program as included within this report.

REPORT:

Since June 2006 Council's Waterways Program Leader has worked with landholders in the Upper and Mid-Tweed and Oxley River catchments to initiate riparian projects which serve to protect and improve water quality. The program was expanded in 2008 to include properties in the catchment of Cobaki and Terranora Broadwaters. The goal of this program is to enhance the environmental condition of Tweed River and its Catchment, leading to improved water quality and aquatic ecosystem health.

The River Health Grants Program has been successful in attracting a diverse range of landholders, from traditional farmers to rural lifestyle property owners.

Projects included for endorsement through this report will provide positive outcomes in the restoration of Kunghur, Cobaki and Pumpenbil Creeks.

A significant project proposed includes purchase of infrastructure which will result in improved dairy effluent management at a farm in Pumpenbil. This will result in a reduction of nutrients and bacteria reaching Pumpenbil Creek.

A major project is also being initiated in Cobaki Creek to addresses a key site identified for restoration through the Cobaki and Terranora Broadwater Catchment Management Plan.

In each case of funding, an agreement with land holders has been signed which details Council's contribution to a project and the commitments and responsibilities of the land holder. Each grant is based on the agreement that the landholder will contribute significantly to the project, in most cases by undertaking agreed works, with materials supplied by Council.

The River Health Grants program has been very well received by the community and has made an immediate improvement in the riparian conditions of some areas by removing cattle from waterways.

It is proposed to support landholders with additional River Health Grants as detailed below.

Owner	Waterway	Objective	Council Contribution	Cost
Jewry	Pumpenbil Creek	Riparian vegetation rehabilitation	Fencing material	\$13,040
Kennaugh	Pumpenbil Creek	Dairy Effluent management System Upgrade	Irrigation equipment	\$20,000
Harrington	Cobaki Creek	Riparian vegetation rehabilitation	Fencing, revegetation and maintenance	\$29,902
Garven & Douglas	Kunghur Creek	Riparian vegetation rehabilitation	Fencing	\$3,082
Total				\$66,024

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding for this project is to be sourced from the existing Water Unit mandatory dividend for water and sewerage.

POLICY IMPLICATIONS:

This program is supported by the Water Supply Catchment Stream Bank Protection Policy.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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20 [CNR-CM] Acceptance of Grant - Youth Week 2011

ORIGIN:

Community and Cultural Services

SUMMARY OF REPORT:

Council's Community and Cultural Services Unit has received a grant offer from Communities NSW of \$1,845 for Youth Week 2011 to be held from 1 to 10 April 2011.

RECOMMENDATION:

That Council:

- 1. Accepts the Youth Week 2011 grant of \$1,845 from Communities NSW.**
- 2. Completes the relevant documentation and votes the expenditure.**

REPORT:

Council's Community and Cultural Services Unit has received a grant offer from Communities NSW of \$1,845 for Youth Week 2011 to be held from 1 to 10 April 2011. The funding from Communities NSW will be used towards the cost of staging activities and events for young people during Youth Week.

Council is required to match the funding on a 1:1 ratio. Council has been receiving funding for Youth Week for many years.

A copy of the letter of offer is reproduced below.



An Australian, State, Territory and Local Government Initiative



Mr Mike Rayner
General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

COURT GRANT - GENERAL

TWEED SHIRE COUNCIL
FILE No: <u>YOUTH MATTERS</u>
DCC No:
RECEIVED 13 OCT 2010
ASSIGNED TO: <u>A. McLEOD</u>
HARD COPY <input type="checkbox"/> IMAGE <input checked="" type="checkbox"/>

(A,mcgcs)

Dear Mr Rayner

I am writing to invite your council to participate in Youth Week 2011 being held from Friday 1 to Sunday 10 April 2011. Funding is available on a dollar for dollar basis as a contribution towards the cost of staging local Youth Week activities and events. The level of funding is based on the number of young people in your local government area.

Youth Week celebrates young people and their contribution to their local communities. It is now the largest annual youth participation event in Australia. In 2010, Councils in NSW supported more than 1,500 Youth Week events. Over 172,000 young people participated in these events.

\$1,845 is available to your Council towards the cost of staging Youth Week 2011 in the Tweed Shire Council local government area.

To receive Youth Week funding, please:

1. Read and sign the attached Funding Agreement
2. Complete the attached form providing contact details of the relevant Council Officer.
3. Return the signed agreement and contact form by **Friday, 5 November 2010 to:**

Helen Ahern
NSW Youth Week Coordinator
Communities NSW
Level 2, 407 Elizabeth Street
Surry Hills 2010 NSW
youthweek@youthweek.nsw.gov.au or
Fax: (02) 9286 7203

Please contact Helen if you have any questions about funding for Youth Week 2011 on 02 9286 7243.

Yours sincerely

Tony Wiseheart
A/Director, Corporate Strategy, Policy and Reporting
Communities, NSW
6 October 2010

Encl: Funding Agreement 2011 Youth Week in NSW

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council is required to match funding from Communities NSW at a 1:1 ratio. Funds have been committed from the Youth program in the 2010/2011 budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (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.

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

ORIGIN:

Community & Cultural Services

SUMMARY OF REPORT:

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

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

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

RECOMMENDATION:

That Council, with reference to the request from NSW Department of Education and Training, provides the Murwillumbah Civic Centre Auditorium for \$98 being 50% of the full fee of \$196 for the Public Education Awards Ceremony on 16 September 2010, and that Council's support is recognised with the following acknowledgement "This program has been supported by Tweed Shire Council".

REPORT:

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

Organisation Name	Request	Est \$ Amount of Waiver	Recommendation	Meet Guidelines?
NSW Department of Education & Training	Request waiver of fees for hire of Murwillumbah Civic Centre on 16 September 2010 for the Public Education Awards Ceremony.	\$98	That the fee be reduced to \$98 being 50% of the full fee of \$196.	Yes

A copy of the request is reproduced below.



Education
& Training

Mr David Oxenham
Director
Community & Natural Resources
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

DONATIONS.
EDUCATION MATTERS.
AWARDS - GENERAL

TWEED SHIRE COUNCIL
FILE No. CIVIC CENTRE - MURWILLUMBAH - HIRE
DOC. No.
RECD: - 5 OCT 2010
ASSIGNED TO: MCLEAN, A
HARD COPY <input type="checkbox"/> IMAGE <input checked="" type="checkbox"/>

Dear David

The Tweed Heads/Ballina Public Education Promotions Committee hosted the Public Education Awards Ceremony on Thursday 16 September 2010 at the Civic Centre in Murwillumbah.

The Awards are in recognition of the many outstanding students, staff, community volunteers and programs in our public schools.

We have been fortunate in the past to have the use of the Civic Centre free of charge thanks to the generosity of Council.

The Committee is hoping that Council may once again see its way to provide the Civic Centre free of charge for our Awards function. Could we ask you to act for the committee and approach Council on our behalf?

Thank you for your support

Yours sincerely

Greg Cloak
School Education Director
Murwillumbah Office

24 September 2010

NSW Department of Education & Training – Murwillumbah Office

Level 2, 12 King Street, Murwillumbah NSW 2484 PO Box 828, Murwillumbah NSW 2484 T 02 6670 2300 F 02 6672 5192

DataWorks Document Number: 22349856

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

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

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

POLICY IMPLICATIONS:

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

Festivals Policy.

Donations Policy.

Guidelines for Fee Reduction, Auditoriums, Meeting Rooms and Halls.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any **"non confidential"** attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (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.

22 [CNR-CM] Acceptance of Grant Funding from Department of Community Services for Community Builders

ORIGIN:

Community and Cultural Services

SUMMARY OF REPORT:

Council has been offered a grant of \$18,500 per annum for 3 years by NSW Department of Community Services under the Strengthening Communities Program that is tied to a new service specification managed by the Community and Cultural Services Unit.

Community Builders is a community strengthening and capacity building program. It has funds available on an annual basis for time-limited projects in particular regions of NSW. The program is funded by the NSW Department of Community Services and replaces funding previously provided through the Area Assistance Scheme ("AAS").

RECOMMENDATION:

That Council:

- 1. Accepts the Community Builders grant of \$18,500 per annum for three years from NSW Department of Community Services for the Strengthening Communities Program.**
- 2. Completes all documentation under the Common Seal of Council.**
- 3. Votes the expenditure.**

REPORT:

Community Builders is a community strengthening and capacity building program. It has funds available on an annual basis for time-limited projects in particular regions of NSW. The program is funded by the NSW Department of Community Services.

The Community Builders NSW funds are a wages subsidy to the Community Services Unit to achieve outcomes as per the Service Agreement and Service Specifications. "The Agreement is based on community partnership principles and Community Services' values of fairness, excellence, integrity, openness, respect, teamwork and trust." One of the key tasks for Community Builders in 2010 is the implementation of a planning process that will enable the identification of future priorities for funding. Tweed Shire Council has been receiving this subsidy for nearly 20 years, previously known as the Area Assistance Scheme.

Community Builders funds projects that aim to build strength and capacity within communities. Community Builders projects work within communities to enhance their capacity to deal with issues and respond to change. Direct service delivery to individuals or groups, or services/projects that are part of the work and responsibility of another government department can't be funded.

NSW Department of Community Services has offered Council a grant of \$18,500 per annum for 3 years under the Strengthening Communities Program that is tied to a new service specification managed by the Community and Cultural Services Unit. The funding term is 1 July 2010 to 30 June 2013.

A copy of the letter of offer is reproduced below.



NSW DEPARTMENT OF COMMUNITY SERVICES

Mr M Rayner
Tweed Shire Council
PO Box 816
Murwillumbah 2484

17 August 2010

CHILDREN & FAMILY SERVICES

TWEED SHIRE COUNCIL
FILE No: <i>AGREEMENTS</i>
DOC. No: <i>20468676</i>
RECD: 19 AUG 2010
ASSIGNED TO: <i>CORSETT, G</i>
HARD COPY <input type="checkbox"/> IMAGE <input checked="" type="checkbox"/>

Dear Mr Rayner

As you know approval has been given for fixed term funds of \$18,500 per annum for CBTweed001. This is a new service specification managed by your organisation and funded under the Strengthening Communities Program. The funding term of the service specification is 36 months, starting on 01/07/2010 and ending 30/06/2013.

Enclosed are two copies of the Department's 2009/10 Service Agreement. It will be necessary for your organisation to ensure that both copies of the Service Agreement are signed by duly authorised representatives of the organisation and forwarded to the office as specified on page one of the Agreement. The Agreement must be signed before funds can be advanced.

If you have any queries regarding this matter please contact Ruth Bohill at the Communities Division - Northern Office on 02 66835617.

Yours sincerely

Pauline Johnson
Administrative Officer
Funding Administration Unit

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.

23 [CNR-CM] Entomological Control Report for Period August to October 2010

ORIGIN:

Entomology

SUMMARY OF REPORT:

The following report outlines insect/vermin management and associated research carried out between August and October 2010.

RECOMMENDATION:

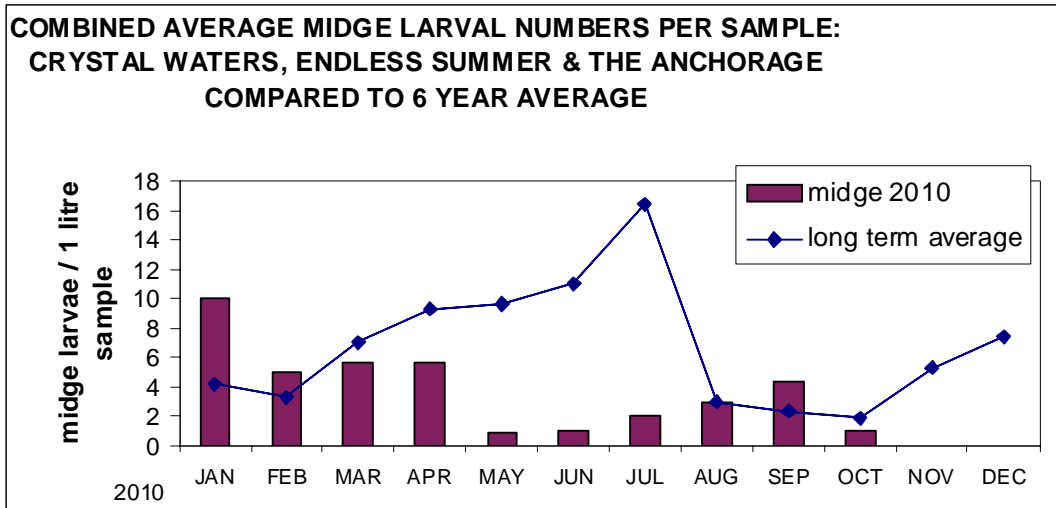
That Council receives and notes the Entomological Control Report for the period August to October 2010.

REPORT:

BITING MIDGE

Seasonal activity

Biting midge nuisance activity remained below the seasonal average over the report period 1 August to 31 October. There were 13 enquiries related to biting midges over the report period. Canal breeding midge larval numbers at test sites remained low due to canal beach replenishment works carried out over the winter and spring.



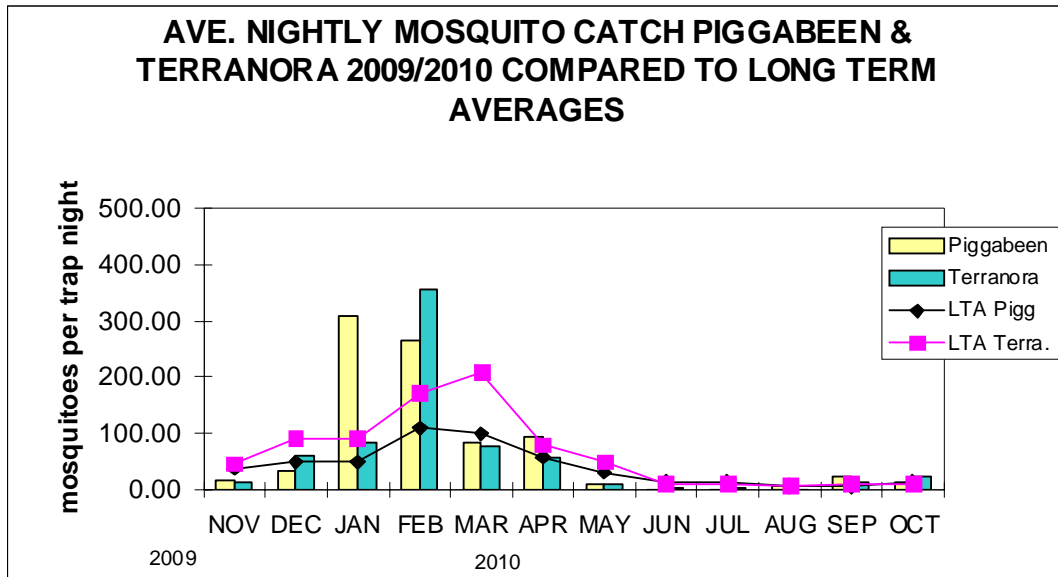
MOSQUITOES

Seasonal abundance

Mosquito nuisance activity was generally low over the report period despite major rain events in October and several large spring tide events well above predicted heights. There were six complaints related to mosquitoes over the report period.

Mosquito trap monitoring indicated average mosquito numbers during the report period. The most frequently caught mosquitoes in carbon dioxide baited mosquito traps were the brackish water breeding species *Culex sitiens*, the saltmarsh mosquito *Aedes vigilax* and *Verrallina funerea*.

The following graph outlines monthly average mosquito catches in carbon dioxide baited traps at long term trapping sites this season.



Control

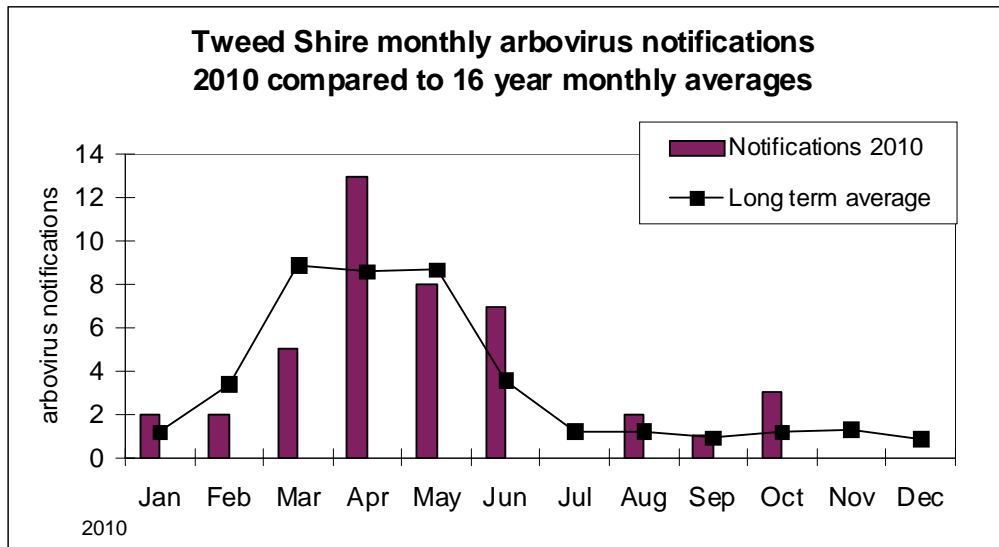
Following heavy October rainfall, aerial biological larvicide treatment of extensive mosquito breeding habitat was carried out adjacent to Terranora Broadwater. The treatment was carried out during a small window of opportunity with perfect spray conditions. Treatment efficacy by 24 hrs post spray was excellent at the 3 sites treated which avoided the likelihood of mosquito plagues in surrounding areas. Ground based mosquito larval control in problem areas was carried out with sustained release biological larvicide. Areas treated included Cobaki, Tweed Heads West, Tweed Heads South, Terranora, Fingal Head, Chinderah, Banora Point and Pottsville.

Terranora Mangrove breeding mosquito research project

A research project within Terranora mangroves, funded by the Australian Mosquito and Arbovirus Research Committee, with subsequent additional funding from the NSW Recreational Fishing Trust has continued to yield interesting results. Monitoring of this 18 ha site undertaken by Griffith University’s School of Environmental Science and Australian Rivers Institute, collaborating with Council’s Entomology Unit, has highlighted the very acidic and iron rich water chronically affecting the Mangrove backwaters this season and the paucity of marine life and high mosquito numbers in the backwaters. The very poor backwater conditions have eased in recent months due to flushing by heavy rain and some very large tidal events. Habitat modification approvals have been sought by the research team from relevant NSW Government Authorities to increase tidal flushing into parts of the study area. This poorly flushed wetland is one of the Tweed’s most chronic and prolific mosquito breeding areas. The extended research will focus on potential habitat modifications to the wetland that may improve the site’s water quality and biodiversity as well as decrease mosquito breeding potential.

Arbovirus

There were six arbovirus notifications for the Shire over the report period comprising three Ross River virus and three Barmah Forest virus cases.



OTHER PESTS

Miscellaneous

There were 65 miscellaneous enquiries/service requests over the quarter. The most common enquiries related to ants, bee swarms, and rabbits.

Rodents

Rodent baiting was carried out over the report period around coastal holiday parks, sewer treatment plants, adjacent to several drainage reserves and infested sections of Tweed River rock walls.

Pandanus plant hoppers

Continued monitoring of Pandanus trees for plant hopper related dieback has been carried out in coastal areas. Monitoring has shown a decline in the number of Pandanus trees succumbing to plant hopper related dieback. This is likely due to egg parasitic wasp activity and improved growing conditions following good rains.

Termites

Inspection of 253 in-ground termite bait stations was carried out around Council owned buildings. No termites were detected in monitoring stations.

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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24 [CNR-CM] EC2010-167 Manufacture, Supply and Delivery of DN 300mm Pressure Pipe

ORIGIN:

Contracts

FILE NO: EC2010-167

SUMMARY OF REPORT:

Tenders closing 3 November 2010 have been called for the Manufacture, Supply and Delivery of DN 300 mm Diameter Pressure Pipe. The 3500 metres of pipe material will be used for the upgrade of the water main that runs along North Arm Road from Old Lismore Road to the Glencoe Road Reservoir.

The report detailing the evaluation and recommendation for the outcome of this tender will be tabled at the meeting as a late report.

RECOMMENDATION:

For Council's information.

REPORT:

Tenders closing 3 November 2010 have been called for the Manufacture, Supply and Delivery of DN 300 mm Diameter Pressure Pipe. The 3500 metres of pipe material will be used for the upgrade of the water main that runs along North Arm Road from Old Lismore Road to the Glencoe Road Reservoir.

Due to the tender closing date clashing with the deadline for the preparation of reports for inclusion in the meeting of the 19 November 2010 business paper the tender evaluation was unable to be completed and reported.

The pipeline project is scheduled to commence mid November 2010 and to enable orders to be placed to secure sufficient quantities of pipe to commence the project a late report detailing the tender evaluation and supplier recommendation will be tabled at the meeting.

A delay in reporting the tender to the 21 December 2010 meeting would lead to a possible postponement of the project as pipe manufacturing plants historically close down over the Christmas to mid January period to enable plant maintenance and upgrades to be carried out.

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 THE DIRECTOR ENGINEERING AND OPERATIONS

25 [EO-CM] Land Acquisition - Terranora Road, Bungalora

ORIGIN:

Design

SUMMARY OF REPORT:

A report was submitted to Council at its meeting of 13 May 2008 where it was resolved that Council approves the acquisition of Lot 2 in DP 1124429 at Terranora Road Bungalora for road widening purposes without the land owners agreement under the Land Acquisition (Just Terms Compensation) Act 1991.

An application was made to the Division of Local Government seeking the Governors approval under Section 19 of the Act to the gazettal of Lot 2 in DP 1124429 being an acquisition of land for road purposes under the Roads Act 1993.

The Governors approval to the gazettal of the acquisition was provided on 14 August 2008. As per Section 12 of the Land Acquisition (Just Terms Compensation) Act 1991 a proposed acquisition notice was sent to the land owner and other relevant authorities which provided a period of 90 days to return a claim for compensation for the acquisition. After the 90 day period expired Council were to have published the acquisition notice in the Government Gazette. Unfortunately due to a clerical oversight the acquisition notice was not published.

Due to this oversight Council is now required to make an application to the Minister for Local Government seeking approval to reissue a Proposed Acquisition Notice in respect of the acquisition of Lot 2 in DP 1124429 in accordance with Section 14(3) of the Land Acquisition (Just Terms Compensation) Act 1991.

RECOMMENDATION:

That:

1. Council approves the making of an application to the Minister for Local Government seeking approval to reissue a Proposed Acquisition Notice in respect of the acquisition of Lot 2 in DP 1124429 in accordance with Section 14(3) of the Land Acquisition (Just Terms Compensation) Act 1991; and
2. All necessary documentation be executed under the Common Seal of Council.
3. The ATTACHMENT be treated as CONFIDENTIAL in accordance with Section 10A(2)(c) of the Local Government Act, 1993.

REPORT:

A report was submitted to Council at its meeting of 13 May 2008 where it was resolved that Council approves the acquisition of Lot 2 in DP 1124429 at Terranora Road Bungalora for road widening purposes without the land owners agreement under the Land Acquisition (Just Terms Compensation) Act 1991.

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Due to this oversight Council is now required to make an application to the Minister for Local Government seeking approval to reissue a Proposed Acquisition Notice in respect of the acquisition of Lot 2 in DP 1124429 in accordance with Section 14(3) of the Land Acquisition (Just Terms Compensation) Act 1991.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. **Confidential Attachment** – Council Confidential report dated 13 May 2008 (ECM 23355685).
-

26 [EO-CM] Flood Mitigation Program Grant Funding**ORIGIN:****Planning and Infrastructure****SUMMARY OF REPORT:**

Council has received an offer for grant funding to undertake maintenance of flood mitigation assets in the 2010-2011 financial year.

RECOMMENDATION:

That Council formally accepts the following grant offer and provides the necessary amount to match the Government grant for maintenance from its 2010/11 allocation for Flood Mitigation Maintenance:

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

REPORT:

Council is in receipt of a letter of offer for a flood mitigation maintenance grant for 2010-2011. The offer is in accordance with the standard conditions for financial assistance and is summarised as follows:

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

Project Details

Maintenance of Flood Mitigation Works

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

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funds are available in the current 2010/2011 budget for Flood Mitigation Maintenance to match the grant offer.

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.

27 [EO-CM] EC2010-139 Tender for the Supply of Three (3) 60 HP Self Propelled Triple Deck Mower Units

ORIGIN:

Works

FILE NO: EC2010-139

SUMMARY OF REPORT:

This report outlines the tender for the supply of a three (3) 60 HP self propelled triple Deck Mower Units for Council operations. Recommendations have been formulated based on the Selection Criteria which is contained in the Tender Evaluation, Pricing Report included in **CONFIDENTIAL ATTACHMENT A**. It is recommended that Council accepts the tender of Farm Moto for the supply of three (3) 60 HP self propelled triple Deck Mower Units.

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 EC2010-139 for the supply of three (3) 60 HP self propelled triple deck mower units from Farm Moto be accepted to the value of \$250,101.81 exclusive of GST.
2. **ATTACHMENT A** be treated as **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

REPORT:

Background

Council Tender EC2010-139 invited responses for the supply of three (3) 60 HP self propelled triple Deck Mower Units:

The following assessment criteria were determined prior to the issuing of the Tender:

1. Net Present Value (NPV)
2. Delivery
3. Operator evaluation
4. Emissions Compliance
5. Maintenance evaluation
6. Safety

Tenders Received

A total of four (4) responses were received for tender EC2010-139 Supply of three (3) 60 HP self propelled triple Deck Mower Units for Council operations:

1. Farm-Moto
2. Chesterfield Australia Pty Ltd
3. KC Farm Equipment
4. Alveco Stocker Crew

Tender Evaluation

The Tender Evaluation was conducted by Council's Tender Panel, consisting of Maintenance Technician, Equipment Operator, Operation Supervisor and Plant and Materials Coordinator. 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.

Based on all assessment categories, lengthy research and evaluations, it is recommended that:-

Farm Moto be nominated for EC2010-139 for the supply of Three (3) 60 hp Self Propelled Triple Deck Mower Units.

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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding is provided within the 2010/2011 Budget for the supply of Three (3) 60 hp Self Propelled Triple Deck Mower Units.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. **Confidential Attachment A** – EC2010-139 for the supply of Three (3) 60 hp Self Propelled Triple Deck Mower Units (ECM 23748877).
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28 [EO-CM] EC2010-134 Drilling and Blasting of Council Quarries

ORIGIN:

Contracts

FILE NO: EC2010-134

SUMMARY OF REPORT:

Council has prepared a tender for Drilling and Blasting of Council Quarries over a 2 year contract period with an optional 1 year extension. The work has been identified as an important component of Council's Quarry Operations.

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 Donnelly Blasting Services Pty Ltd for the Schedule of Rates offered for EC2010-134 Drilling and Blasting of Council Quarries.

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 Schedule of Rates tendered by Donnelly Blasting Services Pty Ltd is accepted for EC2010-134 Drilling and Blasting of Council Quarries.**
2. **ATTACHMENT A is CONFIDENTIAL in accordance with Section 10A(2)(c) or Section 10A(2)(d) of the Local Government Act 1993, because it contains commercial information of a confidential nature that would, if disclosed:-**
 - (c) **information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business**

- (d) commercial information of a confidential nature that would, if disclosed:**
 - (i) prejudice the commercial position of the person who supplied it, or**
 - (ii) confer a commercial advantage on a competitor of the council, or**
 - (iii) reveal a trade secret**

REPORT:

Background

Council Tender EC2010-134 - Drilling and Blasting of Council Quarries invited responses for the provision of all labour, plant and equipment to perform Drilling and Blasting operations at Council's various quarries within the Shire.

Tenders Received

A total of 2 responses were received for tender EC2010-134 - Drilling and Blasting of Council Quarries.

- Donnelly Blasting Services Pty Ltd
- Maxam Australia Pty Ltd

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)	50
	Time Performance	10
	Quality Assurance	20
	OHS and Risk Management	20
	Total	100

Tender Evaluation

The tender evaluation was conducted by Council's Tender Assessment Panel, consisting of the Quarry Technical Officer and Contract Engineer. 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 economic advantage and satisfactory completion of previous contracts, it is recommended that Tenderer Donnelly Blasting Services Pty Ltd be nominated for EC2010-134 - Drilling and Blasting of Council Quarries.

Details of Donnelly Blasting Service 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 2010/2012 Quarry Operations Budget.

Purchase Orders will be raised against the respective Quarry project numbers as work is required throughout the contract period.

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** - EC2010-134 Drilling and Blasting of Council Quarries (ECM 23753109).
-

REPORTS FROM THE DIRECTOR TECHNOLOGY AND CORPORATE SERVICES

29 [TCS-CM] 2009/2010 Statutory Financial Reports/Audit Report

ORIGIN:

Financial Services

SUMMARY OF REPORT:

Council's Statutory General Purpose Financial Reports in accordance with Section 413 of the Local Government Act, 1993 for the financial year ended 30 June 2010 have been completed and audited. The Reports, including significant accounting policies and associated independent Audit Report from Thomas, Noble and Russell (TNR), presents Council with a financial overview of its operations for the year 2009/10.

The financial result for the year reveals that Council's finances are in a stable position and that the internal financial management practices are sound.

The Financial Reports for 2009/10 are now presented to Council for adoption.

RECOMMENDATION:

That Council adopts the 2009/2010 Statutory General Purpose Financial Reports.

REPORT:

BACKGROUND

Council's General Purpose Financial Report, including significant accounting policies for year ended 30 June 2010 have now been completed and the auditor's report received.

A copy of the Financial Reports will be tabled to this meeting.

These reports were completed by Council and audited by Council's auditors, Thomas Noble and Russell.

LEGISLATION REQUIREMENTS:

The Local Government Act, 1993 ("the Act") relating to the preparation of Council's annual financial reports requires that:

1. Section 413 – A council must prepare financial reports for each year, and must refer them for audit as soon as practicable after the end of that year.
2. Section 413 (2) – A council's financial reports must include:
 - (a) a general purpose financial report;
 - (b) any other matter prescribed by the regulations; and
 - (c) a statement in the approved form by the council as to its opinion on the general purpose financial report.
3. Section 413 (3) – The general purpose financial report must be prepared in accordance with the Act and the regulations and the requirements of:
 - (a) the publications issued by the Australian Accounting Standards Board, as in force for the time being, subject to regulations; and
 - (b) such other standards as may be prescribed by the regulations.
4. Section 416 – A council's financial reports for a year must be prepared and audited within the period of 4 months after the end of that year.
5. Section 418 – Upon receiving the Auditor's Report, the Act requires the Council to give at least 7 days public notice of the meeting at which it proposes to present its audited financial reports, together with the Auditor's Report, to the public.
6. Section 420 – Any person may make a submission to the Council with respect to the Council's audited financial reports or with respect to the Auditor's Report.
7. Section 428(4)(a) – The audited financial reports must be included in the Council's annual report.
8. Clause 215 of the Local Government (General) Regulation, 2005 requires that the Statement under Section 413 (2) (c) on the annual financial report must be made by resolution of the Council and signed by the Mayor, at least one (1) other member of Council, the General Manager and the Responsible Accounting Officer.

9. It is a requirement of the Division of Local Government that lodgement of the Audited Financial Statements and the Auditors Report be submitted to the Director General by 7 November of each year.

COUNCIL'S RESPONSIBILITY

Council is responsible for the preparation of the financial reports and adequate disclosures. This includes the maintenance of adequate accounting records and internal controls, the selection and application of accounting policies, and the safeguarding of the assets of Council. As the Responsible Accounting Officer, the Manager Financial Services, Mr Michael Chorlton has stated the accounting records have been maintained in accordance with Section 412 of the Act and in a manner that permitted the preparation of the General and Special Purpose Financial Reports for the year ended 30 June 2010.

Update No. 18 to the Local Government Code of Accounting Practice and Financial Reporting was issued in June of this year and is relevant to accounting periods ending 30 June 2010.

BENEFITS AND PURPOSE OF ANNUAL FINANCIAL REPORTING

The primary benefits of financial reporting are:

- It makes Council accountable to the community for its financial management; and
- It provides the community and other interested parties with access to information about the current financial status of Council and its operational performance for the period in question.

The purpose of financial reporting, or the preparation of annual financial statements, is to communicate information about the financial position and operating results of Council to those who need to know or have an interest in Council operations.

Parties who have an interest in, or need to know financial reporting information include:

- councillors and management;
- residents/ratepayers;
- government departments and public authorities;
- community groups; and
- financial institutions

The users of financial reporting information are varied and financial statements must, therefore, be structured to meet all their respective requirements. This is achieved through conformity with the Australian Accounting Standards, which apply to the majority of business operations in Australia.

ANNUAL FINANCIAL REPORTING SYSTEM

General Purpose Financial Reports

Under the requirements of Australian Accounting Standards, Council is required to prepare the following reports for each financial year.

Income Statement

This shows the operating result and change in net assets from operations for the year.

Statement of Comprehensive Income

Components of the statement of comprehensive income are items of income and expense that are not recognised in profit and loss as required or permitted by other Australian Accounting Standards. These items were previously recorded in the statement of change in equity, but due to the change in AASB101 *Presentation of Financial Statements*, are now recorded in this new statement.

Balance Sheet

This discloses the assets, liabilities and equity of Council.

Statement of Changes in Equity

This reconciles opening and closing balances for each class of equity during the reporting period and gives details of any movement in these classes of equity.

Cash Flow Statement

This shows information about cash flows associated with Council's operating, financing and investing activities.

Notes to the Financial Statements

These disclose the accounting policies adopted by Council and provide additional material necessary for evaluating and interpreting the financial statements.

In addition to the General Purpose Financial Reports, Council must also submit the Auditor's Reports in accordance with Section 417(1) of the Act and Council's Certificate in accordance with Section 413(2)(c) of the Act.

Special Purpose Financial Reports

The National Competition Policy to Local Government requires Special Purpose Financial Reports for all Council's declared business activities:- Tweed Water, Tweed Sewerage, Tweed Coast Holiday Parks and Commercial Waste.

Special Schedules

The Division of Local Government, the Local Government Grants Commission and the NSW Office of Water (Department of Environment, Climate Change and Water) require a series of schedules. These provide additional details on Council's net cost of services; internal and external loans; operating statements and statements of net assets committed for water and sewerage services; and information on water and sewerage rates and charges.

AUDIT MANDATE

Council's Auditors, Thomas Noble and Russell, have completed the audit of Council's general purpose financial reports for the year ended 30 June 2010 under Section 417 of the Local Government Act 1993.

The audit included:

- An examination of the financial information for the purpose of expressing and opinion on financial statements to help establish the credibility of those statements

- An examination of financial information for the purpose of reporting on the legality and control of operations and the probity of those dealing with public funds, and including the expression of an opinion on an entity's compliance with the statutory requirements and regulations that govern the activities of Council.

Council's auditor must prepare two reports to Council (Section 417 (1)):

- A report on the general purpose financial report; and
- A report on the conduct of the audit.

As soon as practicable after receiving the auditor's reports, Council must send a copy of the audited financial reports and the auditor's reports to the NSW Division of Local Government.

MANAGEMENT RESPONSIBILITY - AUDIT

The performance of an audit or the provision of an audit report does not in any way absolve or relieve management of its responsibility in the maintenance of adequate accounting policies and the preparation of financial information such as budget preparation and the quarterly budget reviews submitted to Council each three months. Council has strong internal management reporting practices in place that ensures all costs and income are monitored and acted upon.

Management has the responsibility to safeguard Council assets and prescribe policies and procedures that are consistent with the economic and efficient use of resources.

PERFORMANCE INDICATORS

Council remains in a sound financial position regarding its short-term liquidity. The key financial performance ratios, as shown in the statements and listed in the following table, remain at satisfactory levels.

Performance Indicators	2009/10	2008/09	2007/08	2006/07
Unrestricted Current Ratio	2.650%	2.371%	2.378	2.325
Debt Service Ratio	11.67%	8.94%	7.35%	6.88%
Rates and Annual Charges Coverage Ratio	42.70%	43.01%	41.50%	40.28%
Rates and Annual Charges Outstanding	7.22%	5.82%	4.95%	4.79%

To clarify the meaning and implication, a basic definition of each indicator is listed below.

- Unrestricted Current Ratio – The total current cash or cash convertible assets available, divided by current liabilities, excluding assets and liabilities, which relate to activities that are restricted to specific purposes by legislation. This is a measure of Council's liquidity.
- Debt Service Ratio – The amount used to repay borrowings as a percentage of total operating revenues. The indicator shows the amount of revenue necessary to service annual debt obligations.
- Rates and Annual Charges Coverage Ratio – This percentage is based on rates and annual charges revenues as a percentage of total operating revenues. This is a measure of Council's dependency on rate income.

- d) Rates and Annual Charges Outstanding Percentage – This percentage is based on the amount outstanding as a percentage of the amount to be collected for rates and annual charges. This indicator measures the effectiveness of Council in recovering legally owed debts.

**INCOME STATEMENT
for the year ended 30 June 2010**

Original budget ⁽¹⁾ 2010 \$'000		Notes	Actual 2010 \$'000	Actual 2009 \$'000
	INCOME FROM CONTINUING OPERATIONS			
	<i>Revenue:</i>			
67,698	Rates and annual charges	3a	67,124	61,880
24,610	User charges and fees	3b	29,377	25,310
6,701	Interest and investment revenue	3c	9,085	6,757
1,412	Other revenues	3d	7,581	1,726
15,667	Grants and contributions provided for operating purposes	3e,f	19,560	21,234
26,369	Grants and contributions provided for capital purposes	3e,f	24,484	26,976
	<i>Other Income:</i>			
142,457	TOTAL INCOME FROM CONTINUING OPERATIONS		157,211	143,883
	EXPENSES FROM CONTINUING OPERATIONS			
41,320	Employee benefits and on-costs	4a	43,989	39,373
10,559	Borrowing costs	4b	10,337	7,447
39,331	Materials and contracts	4c	38,526	35,546
36,549	Depreciation and amortisation	4d	38,639	39,584
10,094	Other expenses	4e	11,920	9,048
	Net Loss from the disposal of assets	5	4,779	3,052
	Net share of interests in joint ventures and associates using the equity method	19	16	15
137,853	TOTAL EXPENSES FROM CONTINUING OPERATIONS		148,206	134,050
4,604	OPERATING RESULT FROM CONTINUING OPERATIONS		9,005	9,833
4,604	NET OPERATING RESULT FOR THE YEAR		9,005	9,833
4,604	Attributable to Council		9,005	9,833
	NET OPERATING RESULT FOR THE YEAR BEFORE GRANTS AND CONTRIBUTIONS PROVIDED FOR CAPITAL PURPOSES			
(21,765)			(15,479)	(17,143)

STATEMENT OF COMPREHENSIVE INCOME
for the year ended 30 June 2010

Original budget ⁽¹⁾ 2010 \$'000		Notes	Actual 2010 \$'000	Actual 2009 \$'000
4,604	NET OPERATING RESULT FOR THE YEAR - FROM INCOME STATEMENT		9,005	9,833
	Other comprehensive income			
	Gain (loss) on revaluation of infrastructure, property, plant and equipment	20a	192,154	38,570
	<i>Adjustment to correct prior period depreciation errors</i>	20d	<u>174,754</u>	<u>0</u>
	Total other comprehensive income for the year		<u>366,908</u>	<u>38,570</u>
4,604	TOTAL COMPREHENSIVE INCOME FOR THE YEAR		<u>375,913</u>	<u>48,403</u>
	Attributable to - Council		375,913	48,403

BALANCE SHEET
as at 30 June 2010

	Notes	Actual 2010 \$'000	Actual 2009 \$'000
ASSETS			
Current assets			
Cash and cash equivalents	6a	137,299	117,880
Investments	6b	7,559	0
Receivables	7	17,827	14,241
Inventories	8	1,212	1,019
Other	8	1,358	1,204
Total current assets		<u>165,255</u>	<u>134,344</u>
Non-current assets			
Investments	6b	10,510	23,089
Receivables	7	2,861	2,644
Infrastructure, property, plant and equipment	9	2,342,044	1,971,731
Investment property	14	2,405	2,336
Intangible assets	22	649	901
Total non-current assets		<u>2,358,469</u>	<u>2,000,701</u>
Total assets		<u>2,523,724</u>	<u>2,135,045</u>
LIABILITIES			
Current liabilities			
Payables	10	10,403	14,220
Borrowings	10	4,699	3,232
Provisions	10	17,756	19,685
Total current liabilities		<u>32,858</u>	<u>37,137</u>
Non-current liabilities			
Payables	10	353	240
Borrowings	10	153,630	135,651
Provisions	10	4,184	5,231
Total non-current liabilities		<u>158,167</u>	<u>141,122</u>
Total liabilities		<u>191,025</u>	<u>178,259</u>
Net assets		<u>2,332,699</u>	<u>1,956,786</u>
EQUITY			
Retained earnings	20	1,166,657	982,898
Revaluation reserves	20	1,166,042	973,888
Council equity interest		2,332,699	1,956,786
Total equity		<u>2,332,699</u>	<u>1,956,786</u>

COUNCIL OF TWEED SHIRE
STATEMENT OF CHANGES IN EQUITY
for the year ended 30 June 2010

	Notes Ref	Actual 2010 \$'000						Actual 2009 \$'000					
		Retained Earnings	Asset Revaluation Reserve	Other Reserves	Council equity interest	Total Equity	Retained earnings	Asset Revaluation Reserve	Other reserves	Other Reserves	Council equity interest	Total Equity	
Opening balance	20	982,898	973,888			1,956,786	973,065	935,318			1,908,383		
Correction of errors	20	174,754	0		0	174,754	0	0			0		
Restated opening balance Total	20	1,157,652	973,888			2,131,540	973,065	935,318			1,908,383		
comprehensive income	20	9,005	192,154			201,159	9,833	38,570			48,403		
Closing balance	20	1,166,657	1,166,042			2,332,699	982,898	973,888			1,956,786		

STATEMENT OF CASH FLOWS

for the year ended 30 June 2010

Budget 2010 (\$'000)		Notes	Actual 2010 (\$'000)	Actual 2009 (\$'000)
	Cash flows from operating activities			
	<i>Receipts:</i>			
67,698	Rates and annual charges		65,758	61,054
24,610	User charges and fees		28,196	24,651
6,701	Investment revenue and interest		7,751	6,485
29,356	Grants and contributions		29,308	32,165
1,412	Other		2,200	1,726
	<i>Payments:</i>			
(41,320)	Employee benefits and on-costs		(44,033)	(37,767)
(39,331)	Materials & contracts		(42,300)	(36,650)
(10,559)	Borrowing costs		(9,955)	(7,553)
(10,094)	Other		(16,555)	(8,685)
28,473	Net cash provided (or used) in operating activities	11(b)	20,370	35,426
	Cash flows from investing activities			
	<i>Receipts:</i>			
	Sale of investments		5,919	7,083
1,811	Sale of infrastructure, property, plant & equipment		1,207	1,973
	Payments from deferred debtor		153	205
	Increase of deposits held in trust		424	399
	<i>Payments:</i>			
	Purchase of investments		0	(9,780)
(53,914)	Purchase of infrastructure property, plant & equipment		(33,089)	(86,659)
	Advances to deferred debtors		0	(93)
	Refunds of deposits held in trust		(393)	(622)
(52,103)	Net cash used in investing activities		(25,779)	(87,494)
	Cash flows from financing activities			
	<i>Receipts:</i>			
19,441	Borrowings and advances		28,715	62,245
	<i>Payments:</i>			
(3,466)	Borrowings and advances		(3,887)	(2,899)
15,975	Net cash provided by financing activities		24,828	59,346
(7,655)	Net increase/(decrease) in cash and cash equivalents		19,419	7,278
117,880	Cash and cash equivalents at beginning of reporting period	11(a)	117,880	110,602
110,225	Cash and cash equivalents at end of reporting period	11(a)	137,299	117,880



29 October 2010

The Mayor & Councillors
Tweed Shire Council
Civic and Cultural Centre
MURWILLUMBAH NSW 2484

Dear Mayor and Councillors

We advise that we have completed our audit of the Council's general purpose and special purpose financial statements for the year ended 30th June 2010. In accordance with section 417 of the Local Government Act 1993 we now report on the conduct of the audit.

1. COUNCIL'S FINANCIAL REPORTING REQUIREMENTS

Council is required to prepare two financial reports ready for audit each year:

General Purpose Financial Statements

These financial statements present the financial position and performance of the Council on a consolidated basis. The report includes all controlled Council operations such as general, water and sewer funds as well as commercial waste management and holiday parks activities. Council has prepared the general purpose financial statements in accordance with the Division of Local Government Code of Accounting Practice Manual which adopts applicable Australian Accounting Standards as the framework for financial reporting.

Special Purpose Financial Statements

These financial statements provide an understanding of the financial position and performance of Council's declared business activities as required under National Competition Policy. Council's declared business activities for the 2010 financial year are:

- water fund operations
- sewer fund operations
- Commercial waste management operations
- Tweed Coast Holiday Parks operations

Council is not required to adopt Australian Accounting Standards when preparing these financial statements however the financial position and performance has been calculated by adopting applicable Accounting Standard requirements.



2. AUDITORS' RESPONSIBILITIES

Council's annual financial audit engagement has been conducted in accordance with Australian Auditing Standards.

Our audit involved performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our professional judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Council's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing opinion on the effectiveness of the organisation's internal control. Our audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Council, as well as evaluating the overall presentation of the financial statements.

Forming Our Audit Opinion

Our function as auditors is to examine the general purpose and special purpose financial statements presented to us by the Council to allow us to express an audit opinion. Our audit opinion does not cover:

- i) The original budget information included in:
 - The income statement;
 - The statement of cash flows; and
 - Note 2(a) to the financial statements in the general purpose financial statements;
- ii) Note 16 budget variation explanations in the general purpose financial statements;
- iii) Note 17 forecast information contained in the general purpose financial statements; and
- iv) The best practice disclosures in notes 2 & 3 to the special purpose financial statements.

As auditors of the Council we are not responsible for the preparation of the financial statements or for the maintenance of accounting records or the organisation's systems of internal control. These responsibilities, together with the requirement to present financial statements, which give a true and fair view of the state of the Council's affairs and of its results are imposed on Councillors by the Local Government Act and Regulations 1993.

3. OPERATING RESULT

Council's surplus from all activities for 2010 totalled \$9,005,000. This compares to a surplus in 2009 of \$9,833,000. This result can be summarised as follows:



	2010 \$'000	2009 \$'000	2008 \$'000	2007 \$'000
Income from continuing operations	126,447	117,515	106,055	98,772
Expenses from continuing operations	(104,788)	(91,414)	(85,404)	(74,217)
Result from continuing operations before depreciation	21,659	26,101	20,651	24,555
Less Depreciation expense	(38,639)	(39,584)	(36,563)	(34,771)
Operating result before capital amounts	(16,980)	(13,483)	(15,912)	(10,216)
Capital Revenue & Other Non-Operating Items				
Capital grants and contributions	24,484	26,976	24,882	30,745
Fair value gains and losses on investments	899	(608)	(2,058)	44
Significant items	5,381	0	7,475	0
Loss on disposal of assets	(4,779)	(3,052)	(2,018)	(136)
Surplus from all activities	9,005	9,833	12,369	20,437

3.1 ANALYSIS OF RESULT FROM CONTINUING OPERATIONS BEFORE CAPITAL AMOUNTS

The result from continuing operations before capital amounts, gain/(loss) on disposal of property, plant and equipment and significant items has increased from a deficit of \$13,483,000 for the 2009 year to a deficit of \$16,980,000 in the 2010 financial year. Significant changes in this result include:

Account	Increase / (Decrease) \$'000	Effect on Operating Result \$'000	Reason for Increase / Decrease
Income			
Domestic Waste Management Annual & User Charges	1,382	1,382	Council has controlled the Stott's Island Landfill facility since November 2009 and now receives weighbridge fees directly.
Operating grants	(1,604)	(1,604)	Movement largely due to the timing of Financial Assistance Grant payments.
General rates	3,592	3,592	General rates have increased due to a rate-pegged increment of 3.5% plus a special variation approved by the Minister for Local Government of 6%.
Sewer Annual Charges	950	950	Revenue has increased due to an increment in the annual charge per assessment from \$509 in 2009 to \$527 in 2010.



Account	Increase / (Decrease) \$'000	Effect on Operating Result \$'000	Reason for Increase / Decrease
Water User Charges	2,036	2,036	Consumption charges have increased from \$1.36/kl to \$1.50/kl. There has also been increased water usage throughout the Shire.
Expenses			
Employee Benefits & On-Costs	4,616	(4,616)	Salary and wages increased by \$854,000 and was largely attributed to skill-step and award increases, with a flow-on effect to employee leave balances. Council's superannuation contributions increased by \$1,194,000 largely as a result of additional contributions to the state-wide defined benefit plan. Workers compensation insurance also increased by \$752,000.
Borrowing Costs	2,890	(2,890)	The increase in borrowing costs is reflective of the additional borrowings undertaken throughout Council operations in recent times, particularly in 2009 with total new loans of \$62.245 million.
Materials and Contracts	2,980	(2,980)	Materials and contracts expenses have increased as Council has incurred significant expenditure on asset maintenance as part of the seven year management plan.

3.1.1 SIGNIFICANT REVENUES AND EXPENSES IMPACTING THE CONSOLIDATED OPERATING RESULT

Council's consolidated operating result can be influenced by transactions that may be unique or not related to core service delivery. The 2010 consolidated operating surplus has been impacted by the following significant revenue and expense items.



Fair Value Movement of Investments

Council's investments are recognised in the financial statements at their fair value. Any movements in the fair value of Council's investments are recognised as a revenue or expense in the income statement. Council receives independent valuations for each of its investments so that it may accurately report their fair value in the financial statements. The value of Council's investment portfolio recognised at fair value has increased by \$1,507,000 during the 2010 financial year. Total fair value increments recognised in the income statement for the year were \$899,000. In 2009, Council's investment portfolio decreased by \$608,000.

Gain on Recognition of Interest-Free Loan

During the year Council successfully applied for an interest free loan being offered by the NSW State Government. This loan was used to fund the Banora Point Sewer Treatment Plant upgrade.

A gain of \$5,381,000 has been recognised in Council's financial statements on discounting the loan to its fair value as required by Australian Accounting Standards. This gain represents the value of the benefit received by Council under interest-free terms and conditions.

Loss on Disposal of Assets

The loss on disposal of assets is largely represented by the sale of plant and equipment and disposal of infrastructure during the financial year. Total loss on sale of infrastructure, property, plant and equipment was \$4,779,000 for 2010. (2009: \$3,052,000)

3.2 CAPITAL GRANTS & CONTRIBUTIONS

Council receives capital grants and contributions from various sources each financial year. The extent of revenue received each year is influenced by the nature and extent of Council's capital improvements programme and general economic activity.

Capital Grants

Capital grants received in cash during the year amounted to \$1,848,000 and largely were attributed to road infrastructure improvements under the Roads to Recovery funding programme.

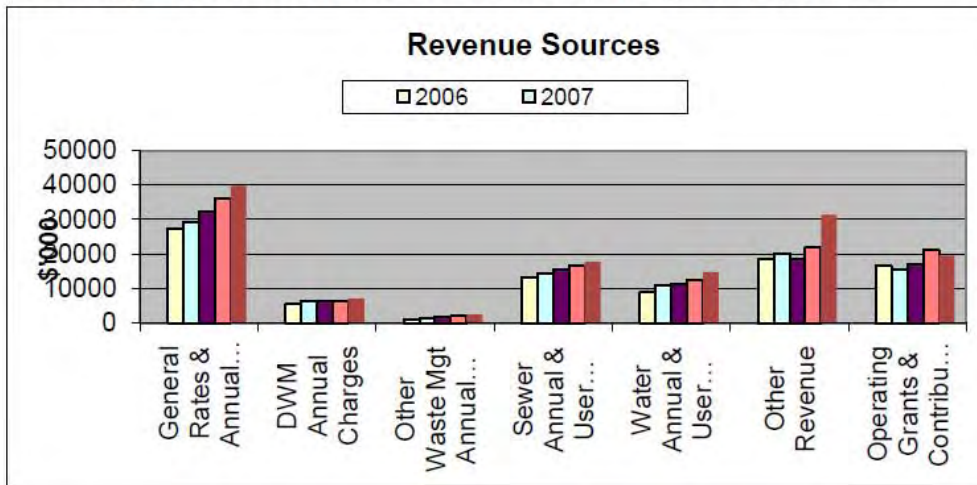
Capital Contributions

Capital contributions received during the period amounted to \$22,636,000. Capital contributions largely comprise section 94 and 64 developer contributions and dedications of infrastructure assets to Council upon the completion of residential and other developments.

	2010 \$'000	2009 \$'000	2008 \$'000
Non-cash developer infrastructure dedications	14,633	15,906	11,267
Section 94 contributions - cash	2,961	2,997	3,953
Section 64 contributions - cash	2,520	2,927	5,637
Other contributions	2,522	2,074	3,107
Total	22,636	23,904	23,964

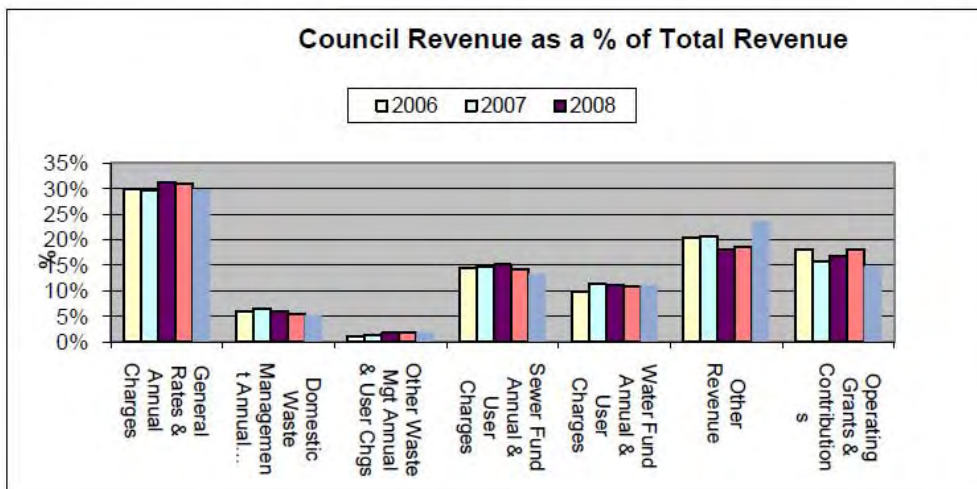


The use of cash contributions received during each year is restricted and accordingly they are not available for use in Council's general operations.



The above graph illustrates the sources of Council revenue streams excluding capital grants and contributions. The revenue from Council's general rates and annual charges continues to trend upwards as a result of special rate variations to fund infrastructure and other special projects. When analysing Council's revenue streams as a proportion to total revenue the following observations can be made:

- general rates and annual charges continues to trend upwards to allow funding of operations and Minister approved special projects throughout the Shire
- water annual and user charges increasing in conjunction with continued population growth and usage of water
- other revenue increased largely as a result of the recognition of the interest free loan and a more favourable return on Council's investment portfolio.



The above graph illustrates that revenues (excluding capital grants and contributions) have largely remained in proportion to one another over the last 5 years excluding other revenues for the reasons discussed above.



Industry averages for 'General rates and annual charges' tends to be in the range of 25-30% for Northern NSW Councils.

4. BUSINESS ACTIVITIES

Under the National Competition guidelines Council is required to apply taxation equivalent principles to each business similar to those that would apply if they were operating in the commercial sector. Council declared business activities have been reported with operating details and assets disclosed on a gross basis in Council's special purpose financial statements.

Each non-core activity (commercial activities other than water and sewer) have a required rate of return on its activities that is calculated as the operating result plus interest expense divided by the written down value of property, plant and equipment. Where the return on investment is below the required rate of return, the difference is disclosed as a notional subsidy from Council's General Fund activities. Dividends represent funds used from the relevant business activity for other functions of Council.

Provided below is a summary of the financial performance of Council's declared business activities:

Activity	Revenue from Continuing Operations	Expenses from Continuing Operations	Result prior to capital amounts	Return on capital	Subsidy	Dividends Paid
	\$'000	\$'000	\$'000	%	\$'000	\$'000
2009/10						
Water	19,230	28,289	(9,059)	(0.9)	N/A	103
Sewer	25,577	30,721	(5,144)	0.8	N/A	97
Commercial						
Waste	4,642	2,598	2,044	62.7	-	-
Holiday Parks	7,714	7,093	621	0.7	13,940	983
2008/09						
Water	15,647	22,061	(6,414)	(0.9)	N/A	101
Sewer	19,183	30,949	(11,766)	(2.1)	N/A	96
Commercial						
Waste	2,302	2,128	174	11.3	-	-
Holiday Parks	6,723	6,403	320	0.4	14,298	954

Water and Sewer Services

Council's water and sewer operations have returned deficits before capital grants and contributions in the 2010 and 2009 financial years.

Depreciation expense remains significant and likely to increase over time in conjunction with the revaluation of water and sewer infrastructure assets. Council has recognized the need to ensure revenue sources are sufficient to fund short and long term infrastructure requirements.

Water and sewer operations are recognised as monopolies under the National Competition Policy guidelines. As a provider of essential services water and sewer funds should generate enough profits to enable it to replace its infrastructure as required.



Waste Management

Council's Waste Management Business Activity comprises commercial waste operations and has returned a profit of \$2,044,000 before capital and taxation equivalents for the 2010 financial year. Council should review their desired rate of return on assets for its waste management operations to ensure that it is within Council expectations. Currently there is no desired rate of return documented for this activity.

Tweed Coast Holiday Parks

Tweed Coast Holiday Parks returned a profit of \$621,000 before capital and taxation equivalents for 2010. Council has historically targeted a 15% return on capital employed for this activity however due to the high value of land assets associated with the operations this is not always achievable. As the actual rate of return for 2010 is lower than the desired rate of return a subsidy totalling \$13,940,000 is disclosed in the financial report. This subsidy is notional in nature and has not physically been paid from Council's General Fund.

5. BALANCE SHEET

5.1 CASH AND INVESTMENTS

At balance date Council had \$155,368,000 in cash and investments. Council's cash and investments consist of:

	2010 \$'000	2009 \$'000
Cash on hand and at bank	5,482	11,944
Deposits at call	119,082	60,910
Floating Rate Notes	18,069	22,179
Managed Funds	10,235	29,336
Short term Money Market	<u>2,500</u>	<u>16,600</u>
	<u>155,368</u>	<u>140,969</u>

Council's cash and investments are largely restricted in their use:

Externally restricted	123,496	115,258
Internally restricted	29,962	24,755
Unrestricted	<u>1,910</u>	<u>956</u>
	<u>155,368</u>	<u>140,969</u>

The above table illustrates that Council has approximately \$1,910,000 unrestricted cash at balance date. This money is used to conduct Council's day-to-day operations. Externally restricted cash consists of unspent monies such as developer contributions, grants and special rates as well as water and sewer funds. These funds are limited in their use under legislation or specific funding agreements and are not available for general Council operations.

Council has increased the level of internally restricted cash reserves. These reserves are tied to specific Council projects under Council resolution and are generally not available to fund day-to-day operations.



5.2 NON-CURRENT ASSETS AND LIABILITIES

Council has a net non-current asset position of \$2,200,302,000 which consists largely of infrastructure, property, plant and equipment, loans and provisions for employee entitlements.

5.2.1 PROPERTY, PLANT AND EQUIPMENT

During the year Council capitalised \$124.736 million on infrastructure and property, plant and equipment. These were attributed to the following classes of assets:

	2010 \$'000	2009 \$'000	2008 \$'000
<i>Developer Infrastructure Dedications</i>			
Open Space	1,814	733	870
Roads and Drainage Network	4,468	5,306	4,969
Water Supply Network	2,395	1,804	2,204
Sewerage Network	5,834	7,577	2,817
<i>Non-cash Grants/contributions</i>			
Works of Art	143	485	407
<i>Council Constructed / Purchased Assets</i>			
Land and Buildings	1,931	10,722	9,674
Plant and Equipment	6,782	4,777	5,867
Roads and Drainage	12,179	18,803	9,029
Water Supply Network*	78,149	3,821	6,097
Sewerage Network	4,131	2,788	48,718
Other Structures	102	5,870	41
Work in Progress	6,808	50,565	33,228
	<u>124,736</u>	<u>113,251</u>	<u>123,921</u>

* Bray Park water filtration plant was commissioned in 2010 and was transferred from work-in-progress to additions to the water supply network.

Asset Revaluations 2010

The Division of Local Government has mandated that all infrastructure assets including land and buildings are to be recognised in Council's financial records at their fair value. Fair value represents the written-down replacement cost of each asset using modern day equivalent materials, design and capacity.

During the year Council revalued its roads and drainage infrastructure assets. The effect of the revaluation process was to increase the written-down replacement cost of roads and drainage assets by \$284,053,000 to \$647,525,000. As at 30 June 2010 Council controls plant, equipment, land, buildings and infrastructure with a written down replacement cost of \$2.342 billion.



Prior Period Error

Council has recognised a prior period error of \$174,754,000 as disclosed at Note 20c of the General Purpose Financial Statements. The error is mainly as a result of over depreciation of Council's roads, drainage, bridges, footpaths and bulk earthworks infrastructure and was identified as part of the revaluation of these assets in 2010. The overall adjustment impacted retained earnings and has been made against the opening balance in the statement of changes in equity and is also reflected as an adjustment in Note 9a of the General Purpose Financial Statements. As a result of the current year revaluation, Council now has more reliable data on these assets which did not previously exist, however, the recalculation of prior year comparatives was considered impractical.

Future Asset Revaluations

The following asset classes are required to be revalued by Council in 2011:

<i>Asset Type</i>	<i>Date of Revaluation</i>
Other Structures and other assets	30 June 2011
Community Land and land improvements	30 June 2011

The valuation of other structures and other assets includes a wide range of assets which may be managed by different Council personnel / departments. It is important that Council adopts a sound project management approach when recognising and valuing these assets so the process is as effective and efficient as possible.

The valuation of community land and land improvements will also be quite complex. We recommend that Council's valuation project team include a review of the "control" concept under Australian Accounting Standards when determining which assets to recognise on the balance sheet.

Integrated Planning and Reporting Framework and Asset Management

The Integrated Planning and Reporting Framework (IPAR) has been developed as part of the Local Government Reform Program and proposes changes to the Local Government Act 1993 to improve council's long term community, financial and asset planning.

Under the IPAR framework each Council is to prepare an Asset Management Strategy to provide a clear direction for asset management. An Asset Management Strategy enables council to illustrate how its asset portfolio supports the service delivery needs of its community into the future.

An Asset Management Policy is being prepared which sets the framework for the preparation of Council's Asset Management Strategy and Asset Management Plan/s. An Asset Management Plan is a long term plan that outlines the asset activities for each service and outlines actions and resources to provide a defined level of service in the most cost efficient way.



Tweed Shire Council has been included in Group 2 and has already prepared comprehensive asset management plans at 30 June 2010. Council will need to complete a Long Term Financial Plan by 30 June 2011 to meet the IPAR requirements.

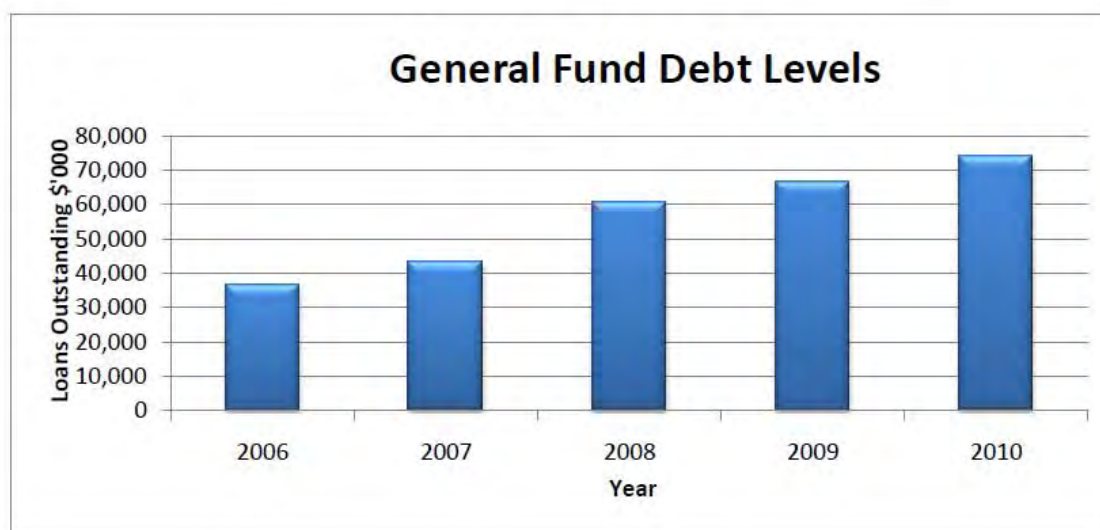
5.3. LOANS LIABILITY

Council has a total loan liability as at 30 June 2010 of \$158,329,000. This loan liability is attributable to:

	\$
General Fund	73,871,000
Water Fund	69,700,000
Sewer Fund	<u>14,758,000</u>
	<u>158,329,000</u>

General Fund Loan Liability

The movement in General Fund borrowings since 2002 is illustrated in the graph below:



General Fund debt levels have increased by \$7,449,000 on 2009. During the 2010 financial year Council's General Fund borrowed \$10,810,000 to fund the following projects:

	2010 \$'000
Community Buildings	167
Cemetery	185
Drainage	1,718
Kerb and Guttering Rehabilitation	70
Masterplans	4,745
Open Space	300
Public Toilets and Boat Ramps	181
Roads, Bridges, Footpaths & Cycleways	<u>3,444</u>
	<u>10,810</u>



6. PERFORMANCE INDICATORS

Council's performance can be measured using selected financial indicators. The local government sector utilises certain key performance indicators to measure some aspects of its financial position and performance. Note 13 to the general purpose financial statements provides details of local government sector key performance indicators. We provide an analysis of some of these key performance indicators on a fund-by-fund basis.

When interpreting the ratios below it is important to recognise that they represent a measure of certain aspects of Council's operations at a particular point in time and do not provide a complete assessment of Council's financial performance or position nor do they consider the plans Council has in place to manage its operations into the future.

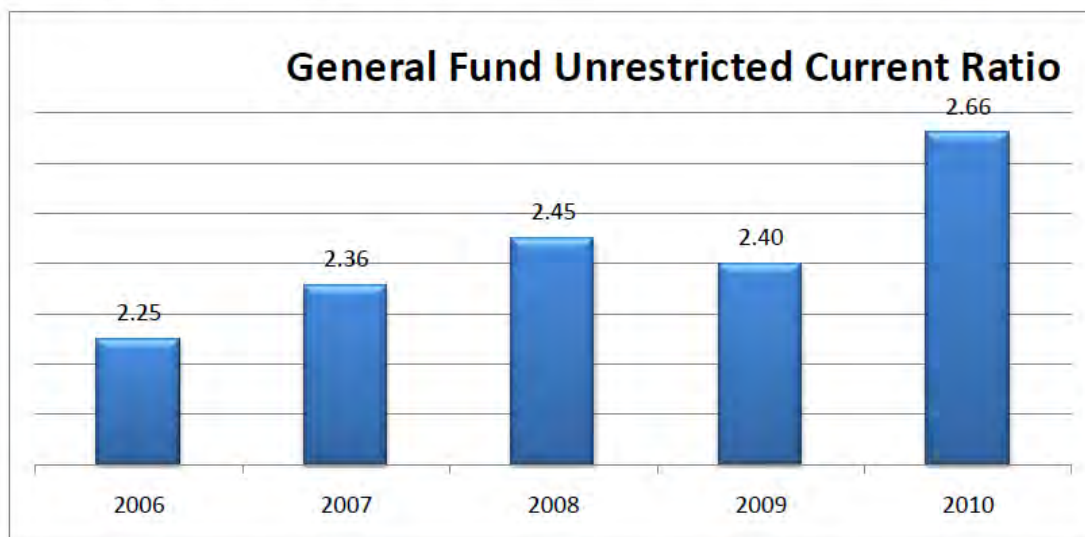
Unrestricted Current Ratio

The unrestricted current ratio represents Council's capacity to meet its commitments from current assets net of externally restricted cash, investments and receivables.

Factors influencing Council's unrestricted current assets ratio include:

- planning and budgetary controls
- cash management and the timing of cash flows
- the level of internally restricted assets
- credit management policies and economic circumstances

General Fund Unrestricted Current Ratio



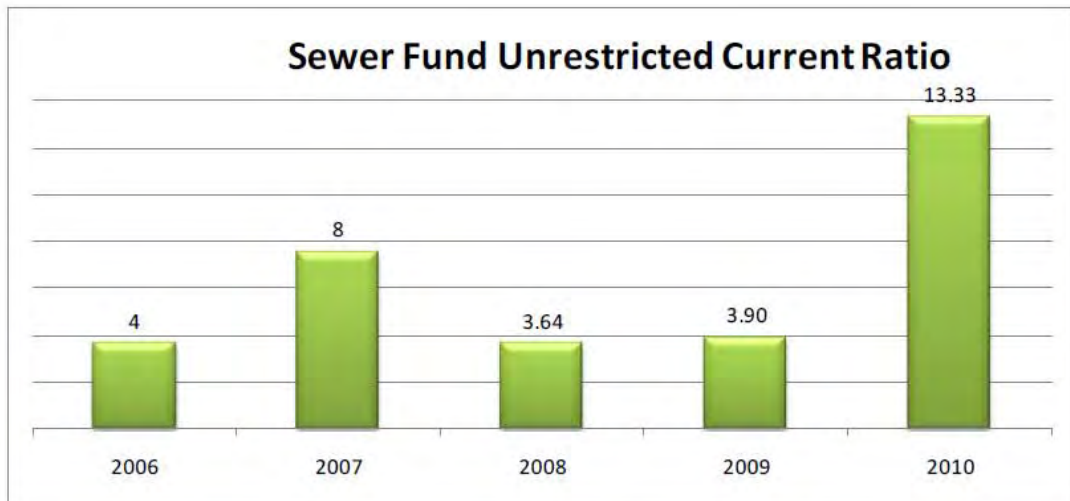
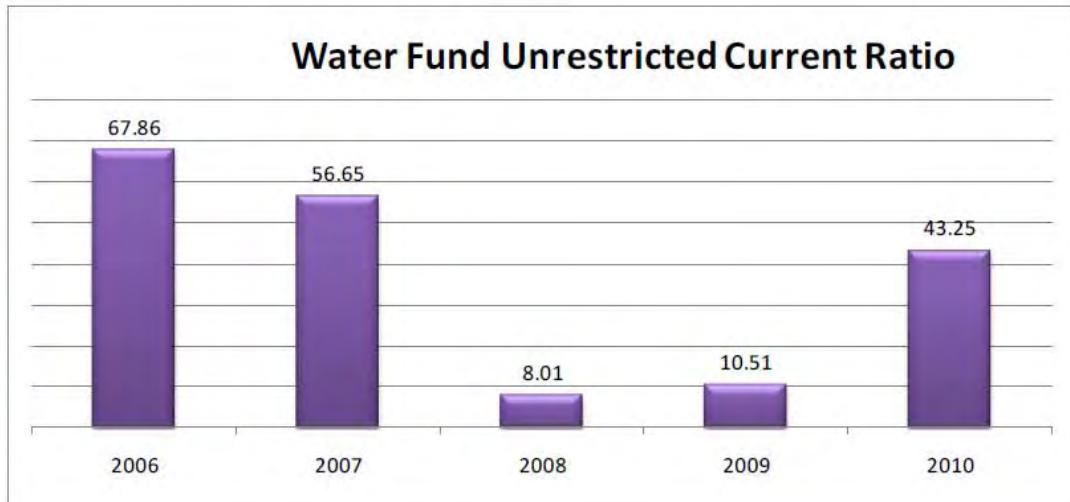
Council's general fund unrestricted current ratio at balance date remains at an acceptable level of 2.66. This means that Council has \$2.66 in liquid assets for every \$1 in current liabilities. The trending of this ratio over the last five years highlights the stability of the general fund unrestricted current ratio and illustrates Council's sound short-term financial position.



General Fund Long-Term Objectives

It is important to note that the unrestricted current ratio does not reflect Council's capacity to fund long term infrastructure needs nor the state of the infrastructure itself. Council needs to assess its infrastructure requirements and develop strategies to ensure the long-term viability (ability to provide services) of its assets.

Sewer and Water Funds Unrestricted Current Ratio



The unrestricted current ratio for water and sewer activities may fluctuate significantly. Yearly variations in the ratio may result from the build up of internal reserves and the impact of lower debt levels and will continue to fluctuate in the future as further funds are collected and expended on infrastructure improvements.

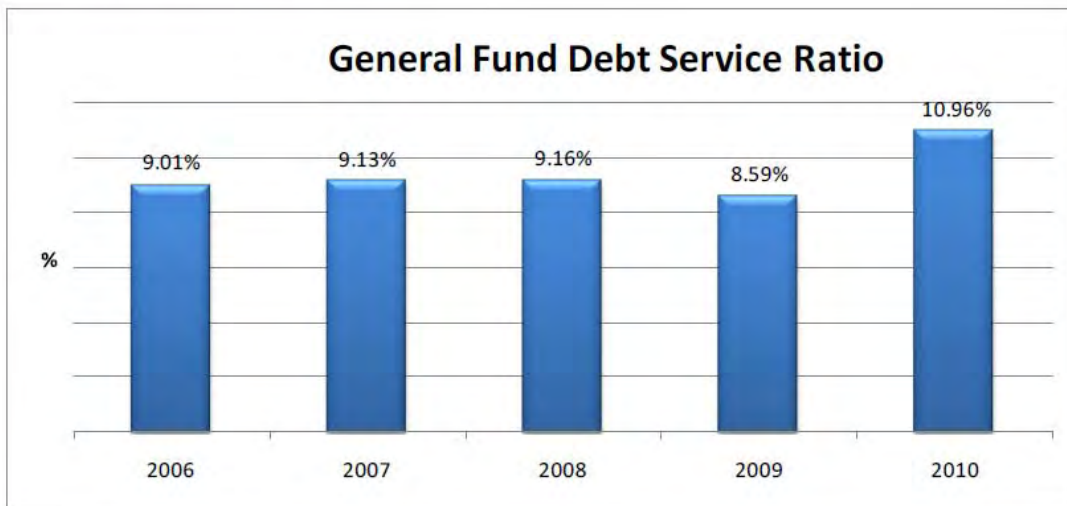


Debt Service Ratio

This indicator assesses the degree to which revenues from continuing operations are committed to the repayment of debt. Factors influencing a council's debt service ratio include:

- the rate of new development in the shire
- Council's debt policy
- interest rate movements and loan terms
- capital investment strategies and capital contributions policies
- the level of cash reserves available to reduce the level of borrowings
- the state of Council's infrastructure/age of assets.

General Fund Debt Service Ratio

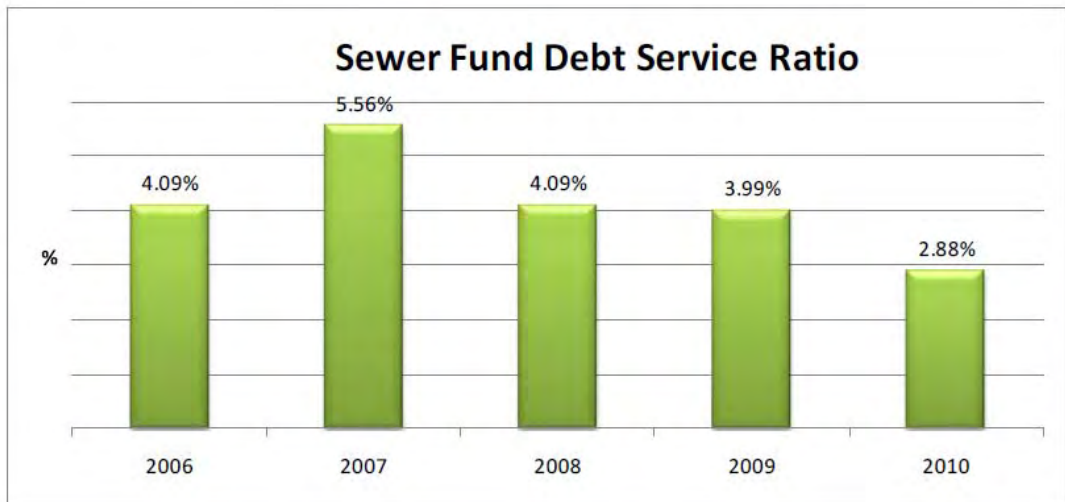
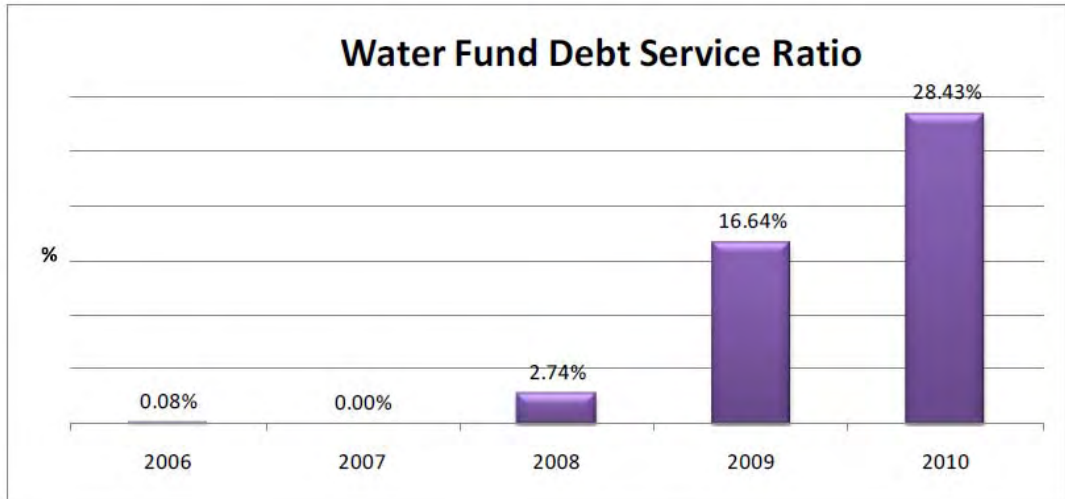


Council's debt service ratio represents total debt service costs as a percentage of revenues (excluding specific purpose grants and contributions as well as capital revenue). The above graph illustrates Council's management of debt service levels over the past five years. Council's general fund debt service ratio remained relatively static at approximately 9% until 2009. The ratio has risen to 11% in 2010 as Council commenced repayment of recent borrowings.

The current general fund debt service ratio is acceptable for a council with high population growth and corresponding infrastructure needs.



Water and Sewer Funds Debt Service Ratios



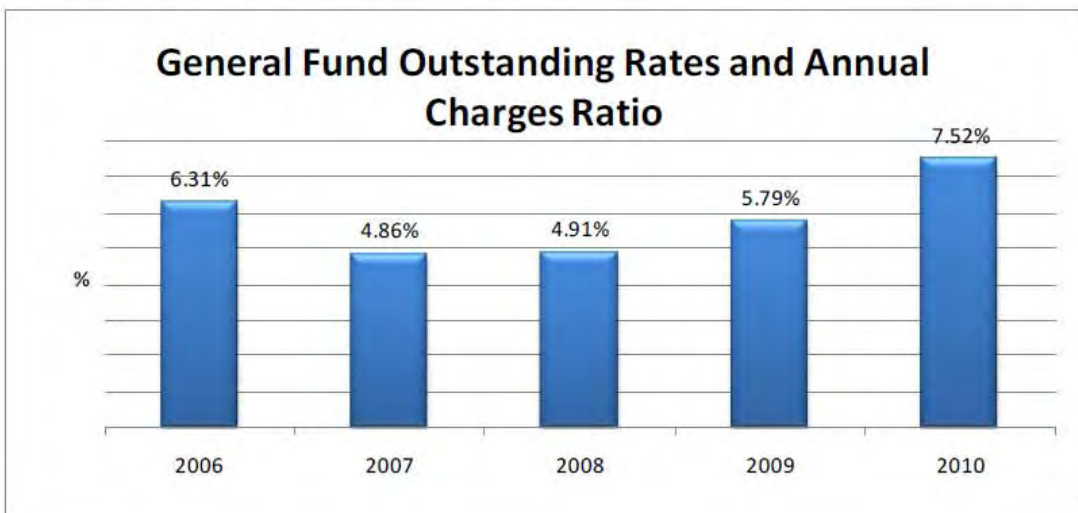
The above graphs illustrate the periodic borrowings to fund Council's capital works programmes for water and sewer funds. Water fund's debt service ratio has increased in conjunction with borrowings in 2009 largely associated with the Bray Park Water treatment plant.



Rates and Annual Charges Outstanding Percentage

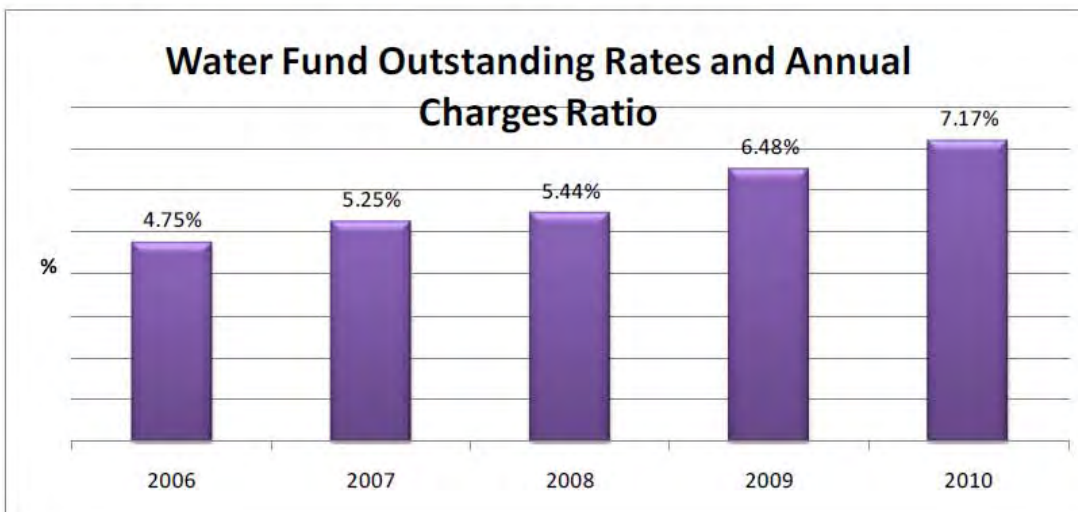
This indicator assesses the effectiveness of Council's revenue collection. Factors influencing Council's rates and annual charges outstanding ratio include:

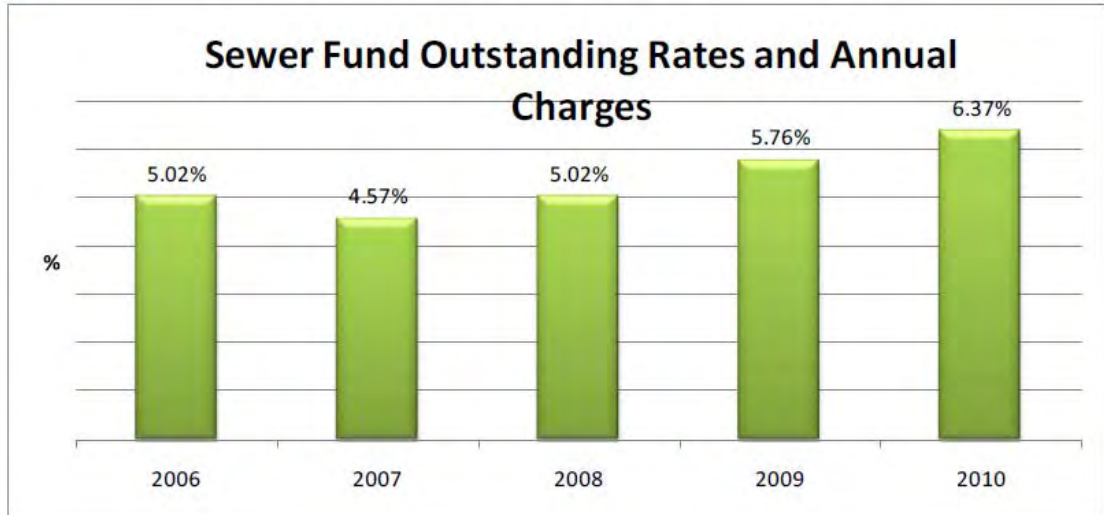
- Council's rating policy
- credit management policies
- the socioeconomic characteristics of the area
- environmental factors influencing ratepayer's ability to satisfy their obligations.



Council's general fund rates and annual charges outstanding percentage is gradually trending upwards and stands at 7.52% as at 30 June 2010. Council may need to review the level of resources allocated to debt collection so that cash flow is improved.

Water and Sewer Funds Rates & Annual Charges Outstanding





The above graphs illustrate that the rates and annual charges outstanding ratio for water and sewer funds are also trending upwards. We recommend that these ratios continue to be monitored and improved where necessary.

7. INTERNAL CONTROL ENVIRONMENT

Results of Testing Council's Financial Reporting Systems

No significant breakdowns of internal control were encountered during the course of our audit nor did we become aware of the existence of items comprising material error, sufficient to cause us to issue a qualified audit opinion. Improvements to the internal control environment have been recommended in our audit management letters.

Subject to the foregoing comments the books of account and records of the Council were maintained in good order and condition and the information and explanations required during the course of our work were readily supplied by the General Manager and his staff.

Yours faithfully

THOMAS NOBLE & RUSSELL

Per:


K R FRANEY (Partner)



**TWEED SHIRE COUNCIL
GENERAL PURPOSE FINANCIAL STATEMENTS
INDEPENDENT AUDIT REPORT**

Report on the Financial Statements

We have audited the accompanying financial statements of Tweed Shire Council (the Council) which comprises the balance sheet as at 30 June 2010, the income statement, the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, a summary of significant accounting policies, other explanatory notes and the statement by Councillors' and Management.

Councils' Responsibility for the Financial Statements

The Council is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the Local Government Act 1993. This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial statements based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Council's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Council's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by Council, as well as evaluating the overall presentation of the financial statements.

Our audit responsibility does not extend to the original budget information included in the income statement, statement of cash flows, Note 2(a), Note 16 budget variation explanations and Note 17 forecast information, and accordingly, we do not express an opinion on such. In addition, our audit did not include an analysis of the prudence of business decisions made by Council or management.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.



Independence

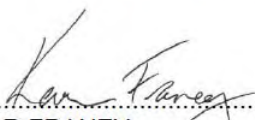
In conducting our audit, we have complied with the independence requirements of the Australian professional accounting bodies.

Audit Opinion

In our opinion:

- (a) The Council's accounting records have been kept in accordance with the requirements of the Local Government Act 1993, Chapter 13 part 3 Division 2; and
- (b) The financial statements:
 - (i) Have been presented in accordance with the requirements of this Division;
 - (ii) Are consistent with the Council's accounting records;
 - (iii) Present fairly the Council's financial position as at 30 June 2010, the results of its operations and its cash flows for the year then ended; and
 - (iv) Are in accordance with applicable Accounting Standards, Interpretations and other mandatory professional reporting requirements in Australia;
- (c) All information relevant to the conduct of the audit has been obtained; and
- (d) There are no material deficiencies in the accounting records or financial statements that have come to light during the course of the audit.

**THOMAS NOBLE & RUSSELL
CHARTERED ACCOUNTANTS**


.....
K R FRANEY (Partner)
Registered Company Auditor

Dated at Lismore this 29th day of October 2010.



**TWEED SHIRE COUNCIL
SPECIAL PURPOSE FINANCIAL STATEMENTS
INDEPENDENT AUDIT REPORT**

Report on the Financial Statements

We have audited the accompanying special purpose financial statements of Tweed Shire Council (the Council), which comprises the balance sheet as at 30 June 2010, the income statement for the year then ended, a summary of significant accounting policies, other explanatory notes and the statement by Councillors' and Management.

Councils' Responsibility for the Financial Statements

The Council is responsible for the preparation and fair presentation of the financial statements in accordance with the Local Government Act 1993 and has determined that the accounting policies described in note 1 to the financial statements, which form part of the financial statements, are appropriate to meet the financial reporting requirements of Division of Local Government. The Council's responsibility also includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial statements based on our audit. No opinion is expressed as to whether the accounting policies used, as described in Note 1, are appropriate to meet the Council's financial reporting obligations. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement. Our audit responsibility does not extend to the best practice management disclosures in note 2 and note 3, and accordingly, we do not express an opinion on such.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Council's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Council's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by Council, as well as evaluating the overall presentation of the financial statements.



The financial statements have been prepared for distribution to the Council and the Division of Local Government for the purpose of fulfilling the requirements of National Competition Policy reporting. We disclaim any assumption of responsibility for any reliance on this report or on the financial statements to which it relates to any person other than the Council or the Division of Local Government, or for any purpose other than that for which it was prepared.

Our audit did not include an analysis of the prudence of business decisions made by Council or management.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

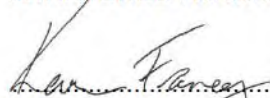
In conducting our audit, we have complied with the independence requirements of the Australian professional accounting bodies.

Audit Opinion

In our opinion, the special purpose financial statements of Tweed Shire Council:

- (a) Have been prepared in accordance with the requirements of those applicable Accounting Standards detailed in note 1 and the Local Government Code of Accounting Practice and Financial Reporting;
- (b) Are consistent with the Council's accounting records; and
- (c) Present fairly, in all material respects, the financial position of Council's nominated Business Activities as at 30 June 2010 and the results of their operations for the year then ended.

**THOMAS NOBLE & RUSSELL
CHARTERED ACCOUNTANTS**


K R FRANEY (Partner)
Registered Company Auditor

Dated at Lismore this 29th day of October 2010.

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.

30 [TCS-CM] 2009/2010 Statutory Annual Report

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

In accordance with Section 428(1) of the Local Government Act 1993, Council must within five months after the end of each financial year prepare a report as to its achievements with respect to the objectives and performance targets set out in its Management Plan for that year.

The Annual report must address a number of requirements, contained within Section 428(2) of the Local Government Act 1993.

Council's Annual Report for 2009/2010 has been prepared in accordance with the provisions of Section 428 of the Local Government Act 1993 and is ready for forwarding to the Division of Local Government as required by Section 428(3).

Information on the Annual Report will be published in the Tweed Link and the document will be displayed on Council's Internet site. Copies of the document will be made available at the libraries and to the public upon request.

RECOMMENDATION:

That Council receives and notes the production of the 2009/2010 Annual 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).*

1. 2009/2010 Statutory Annual Report (ECM 23936776)
 2. State of the Environment 2010 Report (ECM 23937798)
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31 [TCS-CM] Quarterly Budget Review - 30 September 2010

ORIGIN:

Financial Services

SUMMARY OF REPORT:

This is the first quarter statutory budget review for this financial year and summarises the estimated expenditure and income changes to the 2010/11 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 September 2010 in the General, Water and Sewer Funds.

RECOMMENDATION:

That the:

1. Quarterly Budget Review Statement as at 30 September 2010 be 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 2011.

Description	Change to Vote	
	Deficit	Surplus
General Fund		
<u>Expenses</u>		
Operating	0	2,785,786
Interest	0	0
Capital	2,145,094	0
Loan Repayments	0	0
Transfers to Reserves	0	114,462
	<u>2,145,094</u>	<u>2,900,248</u>
<u>Income</u>		
Rates, Charges and other		
Operating	0	74,136
Operating Grants & Conts	0	1,278,921
Capital Grants & Conts	2,600,000	0
Loan Funds	0	40,000
Recoupment's	0	410,894
Transfers from Reserves	0	40,895
Asset Sales	0	0
	<u>2,600,000</u>	<u>1,844,846</u>
Net Surplus/(Deficit)		<u><u>0</u></u>

Water Fund

Expenses

Operating	0	592,205
Interest	0	0
Capital	0	304,000
Loan Repayments	0	0
Transfers to Reserves	0	974,795
	<u>0</u>	<u>1,871,000</u>

Income

Rates, Charges and other		
Operating	0	0
Operating Grants & Conts	0	0
Capital Grants & Conts	0	0
Loan Funds	0	0
Recoupments	731,500	0
Transfers from Reserves	1,139,500	0
	<u>1,871,000</u>	<u>0</u>

Net Surplus/(Deficit)		<u>0</u>
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Sewer Fund

Expenses

Operating	0	4,963
Interest	0	0
Capital	0	14,606,743
Loan Repayments	0	0
Transfers to Reserves	15,144,759	0
	<u>15,144,759</u>	<u>14,611,706</u>

Income

Rates, Charges and other		
Operating	0	0
Operating Grants & Conts	0	0
Capital Grants & Conts	0	0
Loan Funds	0	9,571,378
Recoupments	4,065,979	0
Transfers from Reserves	4,972,346	0
Asset Sales	0	0
	<u>9,038,325</u>	<u>9,571,378</u>

Net Surplus/(Deficit)		<u>0</u>
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REPORT:

Budget Review 30 September 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	\$	Comments
General Fund	Net Effect	
Financial Assistance grant - general	(328,618)	Advice received
Financial Assistance grant - roads	(185,457)	Advice received
FAG road expenditure	63,899	Matching of grant to expenditure
Kingscliff Beach erosion control dredging	50,000	Temporary erosion control works
Water & Food sample testing	5,000	Request to reinstate back to 08/09 level
Rates – Interest Charges	(56,636)	Extra income not in original budget
DA Legal Fees	(36,000)	Estimated reduction in legal fees
Art Gallery electricity	7,874	Increase in line with 09/10 actual costs
Art Gallery rates	4,788	Increase in line with 09/10 actual costs
Art Gallery exhibitions	4,000	Staff salary for Opening events
Art Gallery salaries	17,557	Regrades/point movements
Tweed Link postage	3,600	New contract
Cemetery Expenses	215,000	Relocate heritage house to Cemetery
CP13 recoupment for cemeteries loan repayments	42,000	Insufficient funds in plan to repay loans
Flood Studies Coastal Creeks	(57,767)	Correction of funding for prior expenditure
Flood Risk Floor Level Survey	30,000	Natural Disaster Resilience Grant Scheme project
South Tweed Flood Levee – Investigation & Design Stage 2	35,000	Flood warning improvements
Chinderah Fig Tree - costs	2,160	Legals, arborist, maintenance
Management Development Program	1,000	Budget required for Local Government Management Challenge
Dispose Dead Animal	5,600	Reflect actual costs to date
Companion Animals Act-Advertising	6,000	Required for link adverts
Beach Control - Patrols	3,000	Patrols of Beaches OT
Nightlink Bus Service	15,000	Council contribution
Cabarita streetscaping (7YP)	153,000	Council meeting 20 July 2010
	0	

Full details:

In/Ex	Item	Category	Description	Current Vote	Change to Vote	Details / Comments
1. Proposed Variations						
General						
In	1	In-OG&C	Financial Assistance grant - general	(6,134,450)	(328,618)	Advice received
In	2	In-OG&C	Financial Assistance grant - roads	(2,200,442)	(185,457)	Advice received
Ex	3	Ex-Operating	FAG road expenditure	2,193,162	63,899	Matching of grant to expenditure
Ex	4	Ex-Operating	Kingscliff Beach erosion control dredging	0	50,000	Temporary erosion control works
Ex	5	Ex-Operating	Water & Food sample testing	5,000	5,000	Request to reinstate back to 08/09 level
Ex	6	Ex-Capital	Regional Soccer Facility	0	270,000	New project
In	6	In-Recoup	Regional Soccer Facility - CP 26	0	(270,000)	Funding for above
Ex	7	Ex-Operating	Cadastre upgrade	0	40,000	Update cadastre details in GIS
In	7	In-OG&C	Cadastre upgrade - DoP Grant Funds	0	(40,000)	Funding for above
Ex	8	Ex-Operating	Bilambil Pre-School Car Park	0	75,216	Construction of car park
In	8	In-OG&C	Bilambil Pre-School Car Park - Grant Funds	0	(75,216)	Funding for above
In	9	In-Operating	Rates - Interest Charges	0	(56,636)	Extra income not in original budget
Ex	10	Ex-Operating	DA Legal Fees	347,000	(36,000)	Estimated reduction in legal fees
Ex	11	Ex-Operating	Art Gallery electricity	105,012	7,874	Increase in line with 09/10 actual costs
Ex	12	Ex-Operating	Art Gallery rates	5,292	4,788	Increase in line with 09/10 actual costs
Ex	13	Ex-Operating	Art Gallery exhibitions	59,744	4,000	Staff salary for Opening events
Ex	14	Ex-Operating	Art Gallery salaries	390,532	17,557	Regrades/point movements
Ex	15	Ex-Capital	Murwillumbah Community Centre	1,000,000	1,200,000	\$1.5m Federal grant - \$300k in budget
In	15	In-CG&C	Murwillumbah Comm Centre - Grant Funds	(300,000)	(1,200,000)	\$1.5m Federal grant - \$300k in budget
Ex	16	Ex-Capital	Tyalgum Road – Curve markers/barrier edge	0	80,000	Black Spot program
In	16	In-CG&C	Black Spot grant	0	(80,000)	Funding for above
Ex	17	Ex-Capital	Keith Compton Drive Foreshore Cycleway	0	200,000	New project
Ex	17	Ex-Capital	Kennedy Drive Cycleway	0	40,000	New project
In	17	In-CG&C	RTA contribution	0	(120,000)	Funding for above
Ex	17	Ex-Operating	Cycleway program	92,200	(92,200)	Funding for above
In	17	In-Recoup	Cycleways - CP22	0	(27,800)	Funding for above
Ex	18	Ex-Operating	Tweed Link postage	200,000	3,600	New contract
Ex	19	Ex-Capital	Cemetery Expenses	0	215,000	Relocate heritage house to Cemetery
Ex	20	Ex-Operating	Guppy tour expenses	0	17,500	Gallery exhibition
In	20	In-Operating	Guppy tour income	0	(17,500)	Funding for above
Ex	21	Ex-Operating	Visions MacLeod tour expenses	0	97,610	Gallery exhibition
In	21	In-OG&C	Visions MacLeod tour income	0	(97,610)	Funding for above
In	22	In-Recoup	CP13 recoupment for cemeteries loan repayments	(42,000)	42,000	Insufficient funds in plan to repay loans
Ex	23	Ex-Operating	Flood Studies Coastal Creeks	75,000	(57,767)	Correction of funding for prior expenditure
Ex	24	Ex-Operating	Flood Risk Floor Level Survey	0	210,000	Natural Disaster Resilience Grant Scheme project
In	24	In-OG&C	Emergency Management NSW	0	(140,000)	Funding for above
Ex	24	In-Loan funds	Unexpended Flood Mitigation loans	0	(40,000)	Funding for above
Ex	25	Ex-Operating	South Tweed Flood Levee – Investigation & Design Stage 2	0	105,000	Flood warning improvements

Council Meeting held Tuesday 16 November 2010

In/Ex	Item	Category	Description	Current Vote	Change to Vote	Details / Comments
In	25	In-OG&C	Department of Climate Change and Environment	0	(70,000)	Funding for above
Ex	26	Ex-Operating	Chinderah Fig Tree - costs	0	2,160	Legals, arborist, maintenance
Ex	27	Ex-Operating	Management Development Program	7,000	1,000	Budget required for Local Government Management Challenge
Ex	28	Ex-Operating	Coastline landscape strategy	4,000,000	(4,000,000)	Project not proceeding
In	28	In-CG&C	Contribution from TCHP	(4,000,000)	4,000,000	Funding for above not proceeding
Ex	29	Ex-Capital	Pottsville Beach Community Centre	0	15,094	Consultancy for extensions
In	29	In-Recoup	Community Facilities - CP 15		(15,094)	Funding for above
Ex	30	Ex-Capital	Tweed Skate Park CCTV	0	25,000	Installation costs
In	30	In-Recoup	Open Space - CP5	0	(25,000)	Funding for above
Ex	31	Ex-Operating	Vegetation restoration, Koala Beach - Seabreeze link road	0	15,000	Restoration of plantings & riparian vegetation
In	31	In-Recoup	Tweed Roads Contribution Plan 4	0	(15,000)	Funding for above
Ex	32	Ex-Operating	Dispose Dead Animal	1,949	5,600	Reflect actual costs to date
Ex	33	Ex-Operating	Companion Animals Act-Advertising	4,000	6,000	Required for link adverts
Ex	34	Ex-Operating	Beach Control - Patrols	0	3,000	Patrols of Beaches OT
Ex	35	Ex-Operating	Waste Strategy Delivery	0	72,727	Waste & Sustainability Program
Ex	35	Ex-Operating	Plastic Bag Free Townships	0	22,727	Waste & Sustainability Program
Ex	35	Ex-Operating	Tyre Recycling	0	13,636	Waste & Sustainability Program
Ex	35	Ex-Operating	Back to Basic Recycling Education	0	40,909	Waste & Sustainability Program
Ex	35	Ex-Operating	Electronic Waste Recycling	0	40,909	Waste & Sustainability Program
Ex	35	Ex-Operating	Future Waste Reduction Programs	0	101,112	Waste & Sustainability Program
In	35	In-OG&C	Department of Environment, Climate Change & Water	0	(292,020)	Funding for above
Ex	36	Ex-Operating	Cultural officer	94,100	(10,000)	Saving through vacancy
Ex	36	Ex-Operating	Cultural development fund	28,286	10,000	Reallocate salary savings to engage Cultural Development Advisor for Jack Evans Boat Harbour Indigenous Public Placemaking Project
Ex	37	Ex-Operating	Communications & Marketing	0	40,895	Community engagement officer
In	37	In-TFR	Works carried forward reserve (Org. Development)	0	(40,895)	Funding for above
Ex	38	Ex-Operating	Art grant expenditure	0	50,000	Arts funding program
In	38	In-OG&C	Ministry for the Arts	0	(50,000)	Funding for above
Ex	39	Ex-Operating	Contribution to Nightlink Bus Service	0	15,000	Contribution to Gold Coast Council
					(153,000)	
Water Fund						
Ex	40	Ex-Operating	Various Operating Expenses		(592,205)	Reduction in chemical costs; new item mains condition assessment
Ex	40	Ex-Capital	Various Capital Works		(304,000)	Various adjustments and deferrals
Ex	40	Ex-TTR	Transfers to Asset Replacement Reserve		(974,795)	Funding adjustment for above
In	40	In-TFR	Transfers from Asset Replacement Reserve		1,139,500	Funding adjustment for above
In	40	In-Recoup	Transfers from Capital Contributions Reserve		731,500	Funding adjustment for above
					0	

In/Ex	Item	Category	Description	Current Vote	Change to Vote	Details / Comments
Sewer Fund						
Ex	41	Ex-Operating	Various Operating Expenses		(4,963)	Minor adjustments
Ex	41	Ex-Capital	Various Capital Works		(14,606,743)	Various adjustments and deferrals including Banora and Burringbar treatment plants deferred to 2012
Ex	41	In-Loan funds	Loan funding		(9,571,378)	Loan funds brought forward
Ex	41	Ex-TTR	Transfers to Asset Replacement Reserve		15,144,759	Funding adjustment for above
In	41	In-TFR	Transfers from Asset Replacement Reserve		4,972,346	Funding adjustment for above
In	41	In-Recoup	Transfers from Capital Contributions Reserve		4,065,979	Funding adjustment for above
					0	
2. Variations Arising from Council Resolutions						
Ex	42	Ex-Capital	Lake Kimberley Open Space land purchase	0	100,000	Council meeting 19 December 2001
In	42	In-Recoup	Open Space CP 1	0	(100,000)	Funding for above
Ex	43	Ex-Operating	Cabarita streetscaping (7YP)	417,692	153,000	Council meeting 20 July 2010
Ex	44	Ex-Operating	Cabarita Beach SLSC s64/94 fees deferral	0	113,462	Council meeting 20 July 2010
Ex	44	Ex-Operating	Legals for SLSC arrangements	0	1,000	Preparation of agreement
Ex	44	Ex-TTR	Civic Reserve	130,000	(114,462)	Funding for above
					153,000	
Summary of Votes by Type						
2009/10 Variations					(153,000)	
Council Resolutions					153,000	
Carried forward					0	
Summary of Votes - by Category						
<u>Expenses</u>						
Operating					(3,382,954)	
Interest					0	
Capital					(12,765,649)	
Loan Repayments					0	
Transfers to Reserves					14,055,502	
					(2,093,101)	
<u>Income</u>						
Rates, Charges and other Operating					(74,136)	
Operating Grants & Conts					(1,278,921)	
Capital Grants & Conts					2,600,000	
Loan Funds					(9,611,378)	
Recoupment's					4,386,585	
Transfers from Reserves					6,070,951	
Asset Sales					0	
					2,093,101	
Net					0	
Summary of Votes - by Division						
Technology & Corporate Services					(384,254)	
Planning & Regulation					98,062	
Community & Natural Resources					101,379	
Engineering & Operations					295,675	
General Manager					(110,862)	
					0	

Budget Summary

	General Fund		Water Fund		Sewer Fund		Total
	Original Budget	Revised Budget	Original Budget	Revised Budget	Original Budget	Revised Budget	
Income Statement							
Operating Expenses							
Employee Costs	33,704	34,325	3,172	3,172	4,997	4,997	42,494
Borrowing Charges	5,728	5,728	4,902	4,902	2,037	2,037	12,667
Materials & Contracts	35,556	49,109	4,454	4,454	4,125	4,120	57,091
Depreciation	15,483	15,483	8,288	8,288	16,000	16,000	39,771
Other Operating Expenses	9,417	9,392	1,138	1,138	1,310	1,310	11,840
	99,888	114,037	21,954	21,954	28,469	28,464	163,863
Operating Revenue							
Rates & Annual Charges	52,491	52,547	3,260	3,260	17,657	17,657	73,464
User Charges & Fees	15,378	15,414	12,533	12,533	1,441	1,441	29,388
Interest	4,579	4,579	135	135	333	333	5,047
Other Revenues	1,295	1,295	195	195	19	19	1,509
Grants & Contributions for operating purposes	13,509	19,663	450	450	442	442	20,555
Grants & Contributions for capital purposes	11,067	9,929	2,189	2,189	1,052	1,052	13,170
	98,319	103,427	18,762	18,762	20,944	20,944	143,133
Surplus/(Deficit)	(1,569)	(10,610)	(3,192)	(3,192)	(7,525)	(7,520)	(20,730)

Funding Result Reconciliation

Add Back non-funded items:

Depreciation	15,483	15,483	8,288	8,288	16,000	16,000	39,771
Internal Transfers	6,870	6,870	(3,486)	(3,486)	(3,384)	(3,384)	0
	20,784	11,743	1,610	1,610	5,091	5,096	19,041
Transfers from Externally Restricted Cash	6,571	6,982	7,979	7,979	4,963	897	15,127
Transfers from Internally Restricted Cash	824	9,583	4,462	4,462	20,304	15,332	28,237
Proceeds from sale of assets	2,511	2,511				0	2,511
Loan Funds Utilised	3,847	12,754			20,429	30,000	42,754
Repayments from Deferred Debtors	34,537	43,573	14,051	14,051	50,787	51,325	107,670
Funds were applied to:							
Purchase and construction of assets	(21,403)	(30,553)	(9,510)	(9,510)	(41,511)	(26,904)	(66,663)
Repayment of principal on loans	(2,719)	(2,719)	(682)	(682)	(2,643)	(2,643)	(6,044)
Transfers to Externally Restricted Cash	(3,554)	(3,554)	(2,189)	(2,189)	(1,052)	(1,052)	(6,795)
Transfers to Internally Restricted Cash	(6,861)	(6,747)	(1,670)	(1,670)	(5,581)	(20,726)	(28,168)
Increase/(Decrease) in Available Working Capital	0	0	0	0	0	0	0
Available Working Capital Previous Financial Year	1,910	1,910	2,162	2,162	1,997	1,997	6,069
Available Working Capital as at 30 June 2011	1,910	1,910	2,162	2,162	1,997	1,997	6,069

Summary by Division

	<u>Original Budget</u>	<u>Revised Budget</u>
Surplus/(Deficit)		
Technology & Corporate Services	54,833,893	54,903,314
Planning & Regulation	(7,726,934)	(7,522,238)
Community & Natural Resources	(9,302,338)	(9,569,124)
Engineering & Operations	(37,809,188)	(37,704,931)
General Manager	4,567	(107,021)
	<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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**32 [TCS-CM] Corporate Quarterly Report - 1 July to 30 September 2010
Incorporating the 7 Year Infrastructure and Services Plan**

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

The Corporate Quarterly Report for the period 1 July to 30 September 2010 is presented for consideration by Council.

The report details the progress for the first quarter of the reporting period to 30 September 2010 on activities identified being undertaken during 2010-2011 in the 2010-2013 Management Plan and has been produced utilising the new Performance Planning software that has been acquired to develop the reporting requirements associated with the Integrated Planning Framework.

RECOMMENDATION:

That Council receives and notes the Corporate Quarterly Report including progress on the 7 Year Infrastructure and Services Plan for the period 1 July to 30 September 2010.

REPORT:

As per the 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).*

1. Corporate Quarterly Report - Management Plan 2010-2013 - 1 July to 30 September 2010 (ECM 23896151).
 2. Corporate Quarterly Report - 7 Year Infrastructure and Services Plan - 1 July to 30 September 2010 (ECM 23897203).
-

33 [TCS-CM] Tender EC2010-147 - Design and Construction of an Industrial Building (Records Storage Facility) at Lot 212 DP 1122768 No 24 Honeyeater Circuit, Murwillumbah

ORIGIN:

Design

FILE NO: EC2010-147

SUMMARY OF REPORT:

Council at its meeting of 21 September received a report relating to the purchase of the subject land and the development of that land for industrial units to be used as a records storage facility, it was resolved to enter into an option to purchase the land and to:

1. Call tenders for the design and construction of a three unit building on the subject site.

Tenders were advertised between 21 and 29 September 2010 in the Sydney Morning Herald, Brisbane Courier Mail, Gold Coast Bulletin and the Tweed Link. Tenders closed on 13 October 2010.

Attachments A and B are **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 tenders if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of products offered by each tender. 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. **Council declines to accept any of the Tenders received for EC2010-147 - Design and Construction of an Industrial Building (Records Storage Facility) at Lot 212 DP 1122768 No 24 Honeyeater Circuit, Murwillumbah, as no tender represents value for money.**
2. **Council enters into direct negotiations, in accordance with the Independent Commission Against Corruption (ICAC) Guidelines, with any person, including the two lowest tenderers, for the construction component of the work to ensure project timeframes are met and to provide best value for money.**
3. **ATTACHMENTS A and B be treated as CONFIDENTIAL in accordance with Section 10A(2)(d) of the Local Government Act, 1993, because it contains commercial information in relation to the tenders, the**

disclosure of which would be likely to prejudice the commercial position of the tenderers if it was provided. The information identifies the tenderers in relation to the tender price and the evaluation of the products offered by each tenderer. If disclosed, the information would be likely to prejudice the commercial position of the tenderer in terms of market competitiveness, by giving their competitors an advantage. Accordingly, disclosure of the information is not in the public interest.

REPORT:**Background**

Open tenders were called for the design, development and construction of the new Records Storage Facility (EC2010-147) on 21 September 2010. Tenders closed on 13 October 2010.

A list of the tenders received is as follows:

Tenderer
AJ Lucas Operations Pty Ltd
Alder Constructions Pty Ltd
AMFM Constructions
Benjamin Construction & Development Pty Ltd
Bilas Knight Pty Ltd
Colemans Group Australia Pty Ltd
Condev Construction Pty Ltd
Cullen Group Australia
Glenzeil Pty Ltd
GMW Urban Pty Ltd
Kinsley Constructions Pty Ltd
Mainbrace Constructions (QLD) Pty Ltd
MultiSpan Australia
T & M Buckley Pty Ltd T/A Shailer Constructions
SMJ Projects Pty Ltd
Southern Cross Constructions (S.E QLD) Pty Ltd
Tinlen Pty Ltd
Williams River Steel (QLD) Pty Ltd
Zined Property Services Pty Ltd

The tender prices received were substantially above the estimated budget for the work. Estimated budget funds to complete the work including purchase of the land as detailed in the report to Council of 17 August were below that of the average tender price and all tenders submitted exceeded the estimated design development and construction components detailed in that report.

Assessment of the tenders received has indicated that the range of tenderers quoting for the work represented a broad scale of capable tenderers from the market, however the range of tenders indicated too much variation in cost estimates. Part of the reason may have been the form of the tender being "Design and Construct" which has been successfully used in the past, may not have provided the best price in this instance due to inconsistencies such as geotechnical conditions and Development Approval costs and conditions which are all unknowns. The prices tendered do not represent good value for money, as all tenders exceed the budget.

Breakdown of expenses from tender submissions also indicated that the costs associated with the various components varies widely and did not represent good value for money. Significant savings should be achievable if Council was to complete the same components in house and sub-contract other components such as air conditioning and fit outs.

To endeavour to reduce the estimated costs and potentially bringing them closer to budget, it is proposed that Council investigates through negotiations with the two lowest tenderers and any other persons potential efficiencies of Council undertaking some components of the project and subcontracting other components, including the preparation and lodgement of the development application and geotechnical components of the project in house and enters into direct negotiations with a party or person/s for the remaining components of the project.

Recommendation

On this basis, and consistent with Local Government Regulation 2005 Clause 178, it is recommended that Council declines to accept any of the tenders, that the tendering process for EC2010-147 be closed and tenderers notified of Council's decision.

Clause 178 of the Local Government Regulation 2005 provides the actions available to Council and it is intended to pursue the matter in accordance with Clause 178(1)(b) to decline the tenders and sub-clause (3)(e) to enter into negotiations with any person (whether or not the person was a tenderer) with a view to entering into a contract with that person/s or party/ies to complete the construction and fit outs for the project.

A direct negotiation process has been chosen rather than re-inviting fresh tenders for applications to achieve project timeframes created in the contract and option agreement and to ensure the process produces the best value for money. The option period is for 9 months, within which to obtain development consent and negotiate for construction and fit outs, it is to be noted that the option period commenced on **21 September 2010**. It is imperative that Council finalise negotiations and obtain development consent on or before **20 June 2011** to provide a secure basis to exercise the option on that date.

Direct negotiations shall be undertaken in accordance with Independent Commission Against Corruption (ICAC) guidelines as required by the Local Government Regulation 2005.

It is intended to initiate direct negotiations with the two lowest tenderers, as well as a person who did not tender, in relation to the construction component of the project.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

To bring EC2010-147 to within average budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

1. **Confidential Attachment A** - EC2010-147 - Tender Evaluation Plan, Tender Review and Tender Review Spreadsheet (ECM 23886660).
 2. **Confidential Attachment B** - EC2010-147 - Average estimated costs per item (ECM 23754152).
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34 [TCS-CM] In Kind and Real Donations - July to September 2010

ORIGIN:

Financial Services

SUMMARY OF REPORT:

Details of in kind and real donations for the period July to September 2010 are reproduced in this report for Council's information.

RECOMMENDATION:

That Council notes the total donations of \$129,987.97 for the period July to September 2010.

REPORT:

Council maintains a register of in kind and real donations. Details of these donations for the period July to September 2010 are reproduced as follows:

Financial Assistance			
Amount	Recipient	Donated Item	Date
\$20,000.00	Tweed Kenya Mentoring Program	Budget Allocation	01/07/2010
\$22,949.43	Arts Northern Rivers Inc	Budget Allocation	01/07/2010
\$1,500.00	Regional Companion Animals and Compliance Committee	Donation - Education Programme	01/07/2010
\$11,783.00	Australian Volunteer Coast Guard - Kingscliff Flotilla	Budget Allocation	15/07/2010
\$100.00	Salvation Army	Donation	20/07/2010
\$3,000.00	The Unity Festival	First Round Donations 10/11	17/08/2010
\$7,500.00	Tweed Shire Senior Citizens Week Committee	First Round Donations 10/11	17/08/2010
\$1,500.00	Tweed District Orchid Society	First Round Donations 10/11	17/08/2010
\$3,000.00	Northern Rivers Symphony Orchestra Inc	First Round Donations 10/11	17/08/2010
\$1,500.00	Tweed Heads Croquet Club Inc	First Round Donations 10/11	17/08/2010
\$6,000.00	Twin Towns Services Club	First Round Donations 10/11	17/08/2010
\$7,500.00	Tweed Valley Banana Festival	First Round Donations 10/11	17/08/2010
\$2,000.00	Tweed Valley Jazz Club	First Round Donations 10/11	17/08/2010
\$1,000.00	Kids in Need Association Inc	First Round Donations 10/11	17/08/2010
\$1,500.00	Tweed River Classic Boat Regatta	First Round Donations 10/11	17/08/2010
\$2,000.00	Riding for the Disable Tweed Valley	First Round Donations 10/11	17/08/2010
\$950.00	Tweed Guides	First Round Donations 10/11	17/08/2010
\$1,000.00	Vintage Vehicle Touring Enthusiasts	First Round Donations 10/11	17/08/2010
\$500.00	Wollumbin BUG (Bicycle Users Group)	First Round Donations 10/11	17/08/2010
\$1,500.00	Cooloon Childrens Centre	First Round Donations 10/11	17/08/2010
\$1,200.00	Friends of the Pound (Tweed) Inc	First Round Donations 10/11	17/08/2010
\$280.00	Mary Mckillop Conference (St Vincent De Paul)	First Round Donations 10/11	17/08/2010
\$1,285.00	Tyalgum Community Pre School	First Round Donations 10/11	17/08/2010
\$1,250.00	Chillingham Community Pre School	First Round Donations 10/11	17/08/2010
\$2,000.00	You Have a Friend Inc	First Round Donations 10/11	17/08/2010
\$2,000.00	Sailability New South Wales Inc Tweed Branch	First Round Donations 10/11	17/08/2010
\$100.00	Angel Flight Australia	Donation	25/08/2010
\$104,897.43			

Goods and/or Materials			
Amount	Recipient	Donated Item	Date
\$120.00	Saint Anthony's School Kingscliff	16 Shrubs	28/07/2010
\$120.00	Bogangar Primary School	162 Shrubs	28/07/2010
\$120.00	Stokers Siding School	30 Shrubs	28/07/2010
\$120.00	Dungay School	30 Shrubs	28/07/2010
\$160.00	Kingscliff TAFE	28 Shrubs	28/07/2010
\$640.00			

Provision of Labour and/or Plant & Equipment			
Amount	Recipient	Donated Item	Date
\$227.67	RSL - Opening Sandakan Walk	Provision of Labour & Council Plant	20/08/2010
\$611.51	Tweed Valley Banana Festival	Provision of Labour & Council Plant	August
\$976.26	Life Education Van Relocation	Provision of Labour & Council Plant	July/Sept
\$1,815.44			

Rates			
Amount	Recipient	Donated Item	Date
\$1,358.70	Bilambil Literary Society	Council Rates 2010/2011	31/08/2010
\$1,706.40	The Trustees Literary Institute Tyalgum Hall	Council Rates 2010/2011	31/08/2010
\$1,062.40	The Trustees Kunghur Public Hall	Council Rates 2010/2011	31/08/2010
\$1,760.50	Uki Hall Reserve Trust	Council Rates 2010/2011	31/08/2010
\$1,657.90	Trustees Burringbar School of Arts	Council Rates 2010/2011	31/08/2010
\$1,062.40	Stokers Siding Hall	Council Rates 2010/2011	31/08/2010
\$2,076.40	Twin Towns Police & Community Youth Club	Council Rates 2010/2011	31/08/2010
\$2,640.20	Tweed Coast Community Centre	Council Rates 2010/2011	31/08/2010
\$1,032.40	Crabbes Creek Hall Pty Ltd	Council Rates 2010/2011	31/08/2010
\$14,357.30			

Tweed Link Advertising			
Amount	Recipient	Donated Item	Date
\$67.50	Various Community Notices	Advertising	06/07/2010
\$64.80	Various Community Notices	Advertising	13/07/2010
\$83.70	Various Community Notices	Advertising	20/07/2010
\$207.90	Various Community Notices	Advertising	27/07/2010
\$64.80	Various Community Notices	Advertising	03/08/2010
\$59.40	Various Community Notices	Advertising	10/08/2010
\$94.50	Various Community Notices	Advertising	24/08/2010
\$226.80	Various Community Notices	Advertising	31/08/2010
\$91.80	Various Community Notices	Advertising	07/09/2010
\$91.80	Various Community Notices	Advertising	14/09/2010
\$91.80	Various Community Notices	Advertising	21/09/2010
\$216.00	Various Community Notices	Advertising	28/09/2010
\$1,360.80			

Room Hire			
Amount	Recipient	Donated Item	Date
\$95.00	Byron Bay Writers Festival Schools	Room Hire - Murwillumbah Civic Centre	04/07/2010
\$4,296.00	Banana Festival Fashion Parade Set Up & Rehearsal	Room Hire - Murwillumbah Civic Centre	12/07/2010
\$281.00	Banana Festival Fashion Parade	Room Hire - Murwillumbah Civic Centre	13/07/2010
\$371.00	Banana Festival Battle of Bands	Room Hire - Murwillumbah Civic Centre	14/07/2010
\$105.00	Tweed Heads Hospital Ladies Auxiliary	Room Hire - Tweed Heads Civic Centre	02/07/2010
\$185.00	South Sea Islanders Dinner	Room Hire - Tweed Heads Civic Centre	25/07/2010
\$144.00	Twin Towns Garden Club	Room Hire - Tweed Heads Civic Centre	10/09/2010

Room Hire			
Amount	Recipient	Donated Item	Date
\$18.00	Banora Point Rate Payers Association	Room Hire - Coolamon Room Banora Pt Com Centre	05/07/2010
\$34.00	Blind & Vision Impaired Support Group	Room Hire - Coolamon Room Banora Pt Com Centre	19/07/2010
\$418.00	Banora Point Rate Payers Association	Room Hire - Coolamon Room Banora Pt Com Centre	02/07/2010
\$418.00	Banora Point Rate Payers Association	Room Hire - Coolamon Room Banora Pt Com Centre	09/07/2010
\$34.00	Blind & Vision Impaired Support Group	Room Hire - Coolamon Room Banora Pt Com Centre	16/07/2010
\$18.00	Banora Point Rate Payers Association	Room Hire - Coolamon Room Banora Pt Com Centre	06/09/2010
\$30.00	Twin Towns Friends	Room Hire - South Tweed HACC	08/09/2010
\$84.00	Tweed Heads Hospital Ladies Auxiliary	Room Hire - Tweed Heads Meeting Room	05/07/2010
\$72.00	South Sea Islanders Meeting	Room Hire - Tweed Heads Meeting Room	10/07/2010
\$72.00	South Sea Islanders Meeting	Room Hire - Tweed Heads Meeting Room	14/07/2010
\$74.00	South Sea Islander Open Day Set Up	Room Hire - Tweed Heads Meeting Room	24/07/2010
\$84.00	South Sea Islander Open Day	Room Hire - Tweed Heads Meeting Room	25/07/2010
\$84.00	South Sea Islanders Meeting	Room Hire - Tweed Heads Meeting Room	11/09/2010
\$6,917.00			
\$129,987.97	Total Donations 1st Quarter (July, August, September 2010)		

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

35 [TCS-CM] Review of Council Policy "Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors"

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

In accordance with Section 252 of the Local Government Act 1993, Council is required to adopt each year (by 30 November) a policy, concerning the payment of expenses incurred or to be incurred by, and the provision of facilities for the mayor and councillors in relation to discharging the functions of civic office.

RECOMMENDATION:

That in accordance with:

- 1. Section 252 of the Local Government Act 1993, the Draft Policy Councillors - Payment of Expenses and Provisions of Facilities for Mayor and Councillors Policy – Version 1.5 as amended, be adopted.**
- 2. Section 253 (3) of the Local Government Act 1993, Council is of the opinion that the proposed amendment is not substantial and therefore does not need to give public notice of the proposed amendment to the Councillors - Payment of Expenses and Provisions of Facilities for Mayor and Councillors Policy – Version 1.5.**

REPORT:

Council's Policy, *Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors* - was last reviewed at its meeting of 17 November 2009, where amendments were made.

Version 1.4 of the policy has been reviewed and the following amendment is recommended for approval by Council:

- Insert within clause 1.7 – **Division of Local Government Circulars to Councils**

Circular 09-36 – Release of Revised Councillors Expenses and Facilities Guidelines

This change is to record the above circular as a reference for information contained in the policy. This circular reference is already contained within clause 1.3 – Legislative Compliance, but was not carried forward to the clause referencing specific circulars.

There are no changes being recommended in the policy to monetary limits for any expenses.

In accordance with Section 253 (3) of the Local Government Act 1993, Council is not required to give public notice of its intention to amend this policy, as it is of the opinion that the proposed amendment is not substantial.

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. Councillors - Payment of Expenses and Provision of Facilities for Mayor and Councillors Policy - Version 1.5 (ECM 23694594)
-

36 [TCS-CM] Meeting Dates January to December 2011

ORIGIN:

Corporate Governance

SUMMARY OF REPORT:

Council must meet at least 10 times each year in a separate month as prescribed by Section 365 of the Local Government Act 1993.

Council's Code of Meeting Practice states:

"1.1.1 How often does the council meet?"

Ordinary council meetings are held on a regular basis, as decided by the council. Each council must meet at least ten (10) times a year, with each meeting being in a different month.

The Act Sec 365

1.1.2 Where are council meetings held?

Council meetings are normally held in the Council Chambers Civic and Cultural Centre, Tumbulgum Road, Murwillumbah. It is up to the council to decide when and where to have the meeting.

These meetings are open to the public. Confidential items are considered in closed session, which excludes press and public.

Council Meeting to be held on the third Tuesday of the month from 3.30pm."

13.1 Community Access

- 2. Community Access is held in the Council Chambers, Murwillumbah on the Thursday of the week preceding the Council Meeting, from 4.30pm - 6.30pm. "*

It is worth noting that with the current meeting schedule, the final Statutory Monthly Investment Report, has not been included within the business paper on a regular basis, but rather an interim report, due to Council's investment consultant requiring five (5) working days following the end of the month to provide the information for the report. In view of this situation Council may give consideration to altering the Council meetings to the fourth Tuesday of the month which would also see Community Access moving to the preceding Thursday.

RECOMMENDATION:

That:

- 1. In accordance with the Code of Meeting Practice the Council meetings and Community Access sessions for 2011 be confirmed, as follows:**

Community Access
13 January

Council
18 January

10 February	15 February
10 March	15 March
14 April	19 April
12 May	17 May
16 June	21 June
14 July	19 July
11 August	16 August
15 September	20 September
13 October	18 October
10 November	15 November
15 December	20 December

2. **The Reserves Trust meetings as required to be convened at 3.15pm on the third Tuesday of each month prior to the Council Meeting.**

REPORT:

Council's Code of Meeting Practice states:

"1.1.1 How often does the council meet?"

Ordinary council meetings are held on a regular basis, as decided by the council. Each council must meet at least ten (10) times a year, with each meeting being in a different month.

The Act Sec 365

1.1.2 Where are council meetings held?"

Council meetings are normally held in the Council Chambers Civic and Cultural Centre, Tumbulgum Road, Murwillumbah. It is up to the council to decide when and where to have the meeting.

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Council Meeting to be held on the third Tuesday of the month from 3.30pm."

13.1 Community Access

- 2. Community Access is held in the Council Chambers, Murwillumbah on the Thursday of the week preceding the Council Meeting, from 4.30pm - 6.30pm. "*

It is recommended that the meeting schedule for the 2011 be as follows:

Community Access	Council
13 January	18 January
10 February	15 February
10 March	15 March
14 April	19 April
12 May	17 May
16 June	21 June
14 July	19 July
11 August	16 August
15 September	20 September
13 October	18 October
10 November	15 November
15 December	20 December

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

In accordance with Council's Code of Meeting Practice.

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.

37 [TCS-CM] Monthly Investment Report for Period Ending 31 October 2010

ORIGIN:

Financial Services

SUMMARY OF REPORT:

The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Cl. 212 of the Local Government (General) Regulations and Council policies.

Council had \$148,091,656 invested as at 31 October 2010 and the accrued net return on these funds was \$693,445 or 5.62% annualised for the month.

RECOMMENDATION:

That in accordance with Section 625 of the Local Government Act 1993 the monthly investment report as at 31 October 2010 totalling \$148,091,656 be received and noted.

REPORT:

Report for Period Ending 31 October 2010

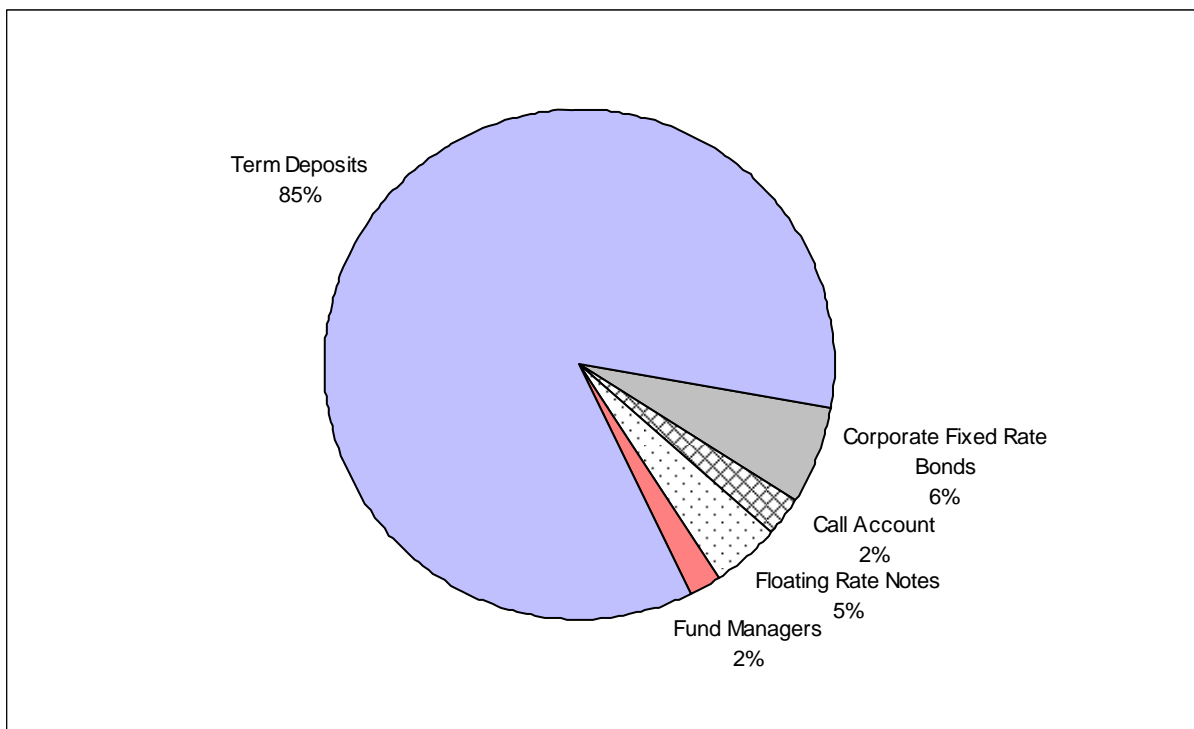
The "Responsible Accounting Officer" must report monthly to Council, setting out details of all the funds Council has invested and certification has been made in accordance with Section 625 of the Local Government Act (1993), Clause 212 of the Local Government (General) Regulations and Council policies.

1. RESTRICTED FUNDS AS AT 1 JULY 2010

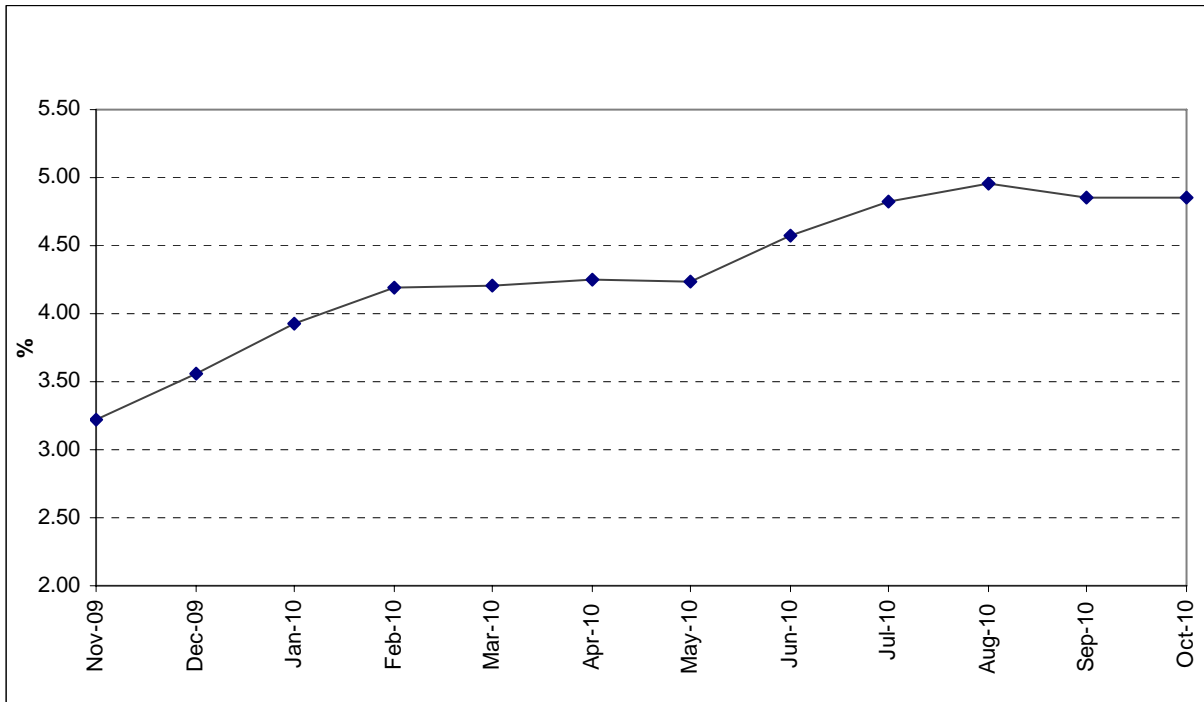
Description	(\$'000)			Total
	General Fund	Water Fund	Sewer Fund	
Externally Restricted	948	14,977	37,039	52,964
Crown Caravan Parks	11,013			11,013
Developer Contributions	30,195	16,801		46,996
Domestic Waste Management	8,262			8,262
Grants	4,261			4,261
Internally Restricted	15,097			15,097
Employee Leave Entitlements	1,833			1,833
Grants	3,185			3,185
Unexpended Loans	9,847			9,847
Total	84,641	31,778	37,039	153,458

Note: Restricted Funds Summary next update September 2011

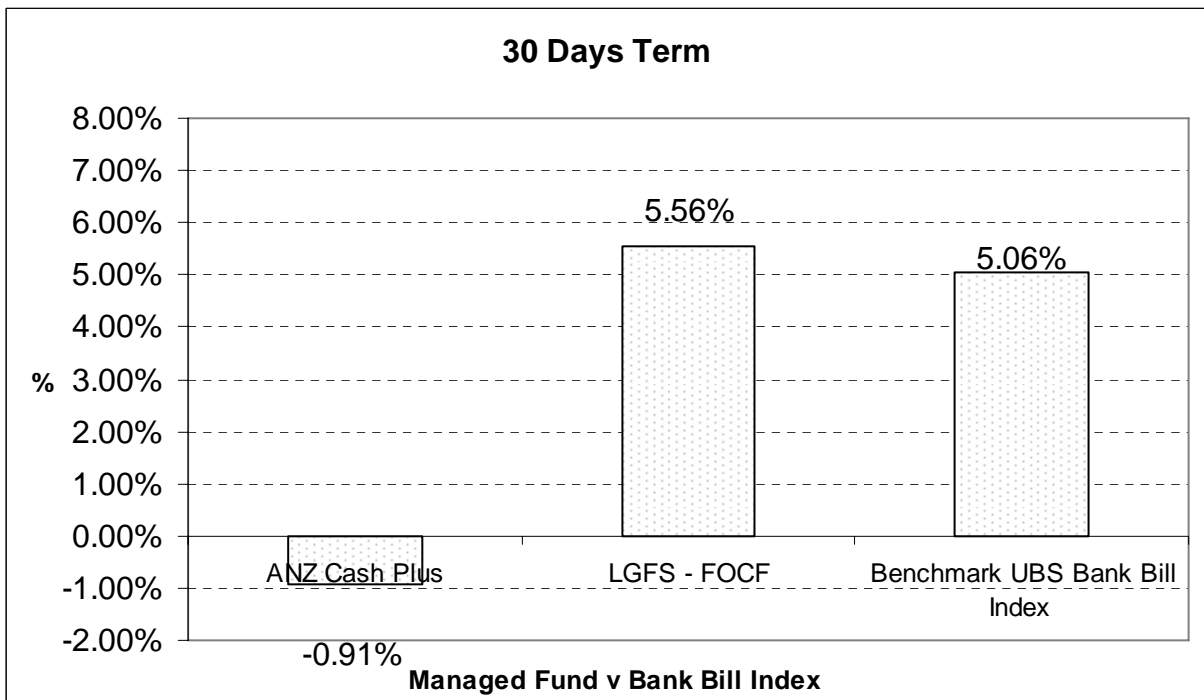
2. CURRENT INVESTMENT PORTFOLIO BY CATEGORY



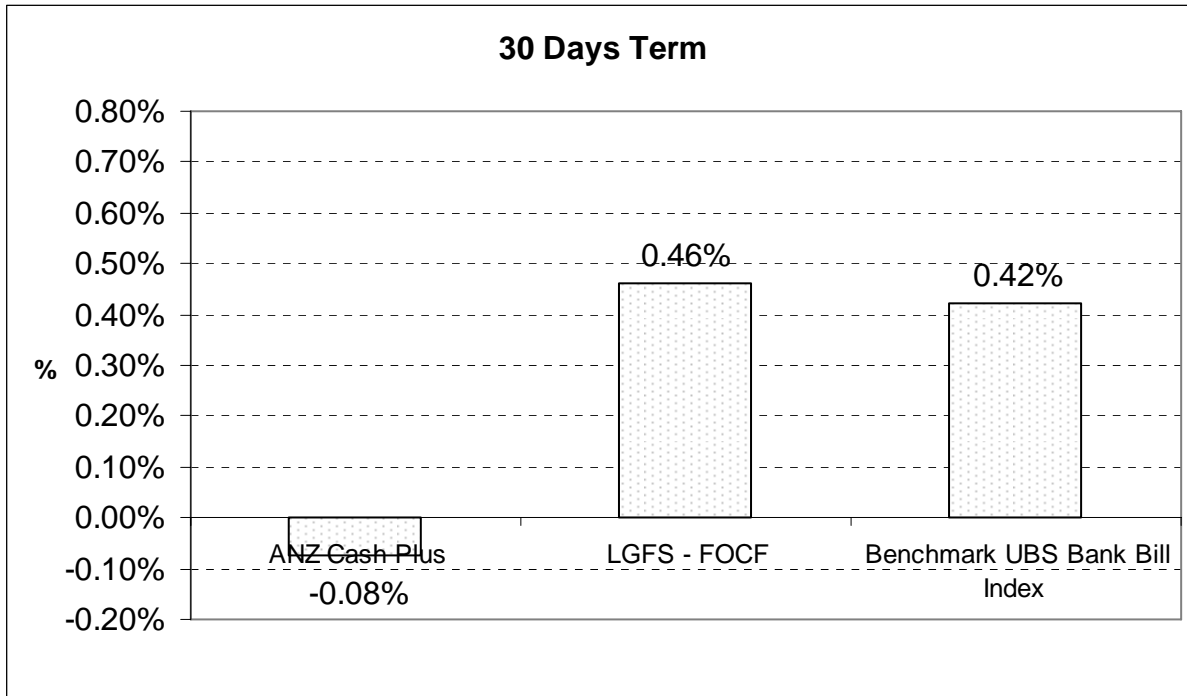
3. INVESTMENT RATES - 90 DAY BANK BILL RATE (%)



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



5. FUNDS MANAGERS PERFORMANCE FOR MONTH - NET OF FEES AND CAPITAL VALUE CHANGES (NOT ANNUALISED)



6. FUND MANAGERS - DETAILED INFORMATION

Fund	Credit Rating	Percentage of Total Fund Managers Current Month	Fund Managers Balance end of Previous month	Fund Managers Balance end of Current month	Distribution for Month/Quarter	Coupon Paid
ANZ Cash Plus	AA	2.10%	\$109,795	57,581	\$205	Monthly Quarterly
LGFS - FOCF	AA-	97.90%	\$2,661,822	\$2,674,077	\$0	
Total		100%	\$2,771,617	\$2,731,658	\$205	

7. DIRECT SECURITIES

Counterparty/ Product Name	Face Value	Market Value	% Return on Face Value	Investment Type	Final Maturity Date	Credit Rating
ANZ Bank	1,000,000.00	1,009,500.00	5.150	Fixed Rate Bond	24/01/2011	AA
ANZ Bank	1,000,000.00	1,061,880.00	8.650	Fixed Rate Bond	24/09/2012	AA
Bank of QLD	1,000,000.00	1,025,596.82	6.000	Fixed Rate Bond	22/04/2013	BBB+
Bank of QLD	1,500,000.00	1,538,395.23	5.550	Fixed Rate Bond	02/12/2010	BBB+
CBA	1,000,000.00	1,014,119.96	6.042	FRN	21/01/2011	AA
CBA	1,000,000.00	1,002,248.30	5.220	FRN	17/04/2012	AA
CBA/Merrill Lynch Zero Coupon Bond	4,000,000.00	2,400,000.00	7.280	Fixed Rate Bond	22/01/2018	AA
Deutsche Bank	1,000,000.00	902,959.00	5.720	FRN	08/11/2011	A+
Macquarie/HSBC Members Equity Bank	2,000,000.00	1,997,718.23	5.387	FRN	23/11/2012	A
Westpac Bank	2,000,000.00	1,939,920.00	5.778	FRN	02/12/2010	BBB-
Westpac Bank	1,000,000.00	1,033,830.00	5.150	Fixed Rate Bond	08/03/2012	AA
Westpac Bank	1,000,000.00	1,033,830.00	4.900	Fixed Rate Bond	24/09/2012	AA
Total	17,500,000.00	15,959,997.54	6.07			
ABS = Asset Backed Security Bond = Fixed Rate Bond CDO = Collateralised Debt Obligation FRN = Floating Rate Note						

8. TERM DEPOSITS

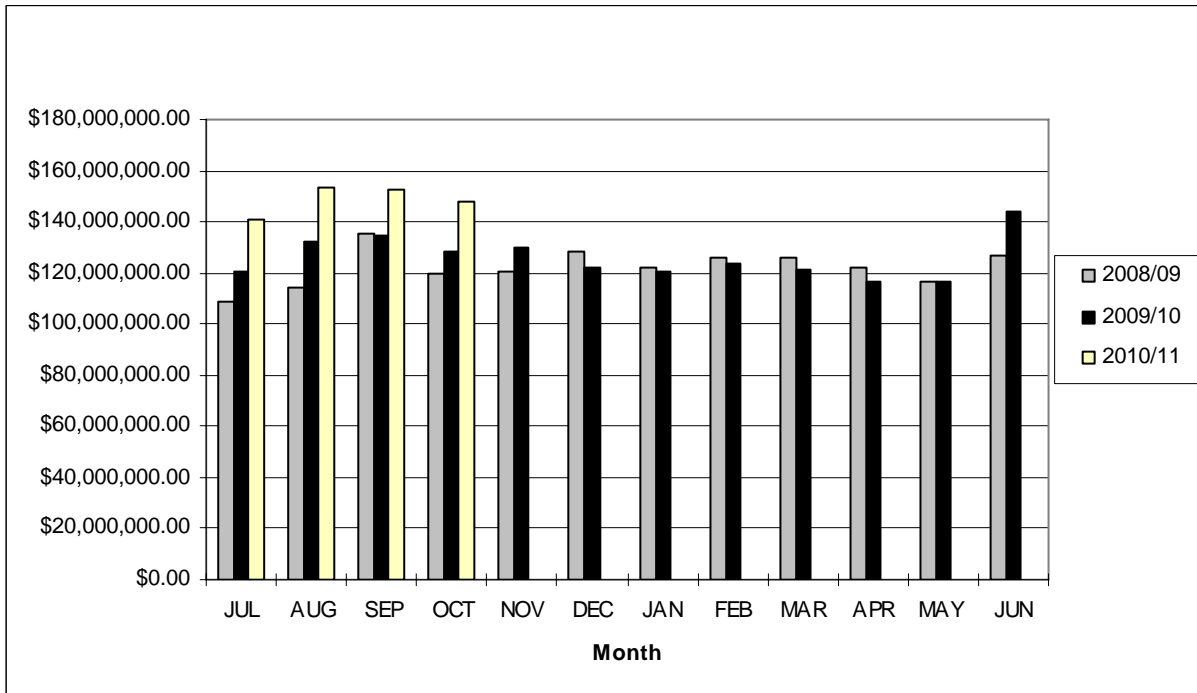
Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE
03-Aug-10	02-Nov-10	Suncorp Metway Newcastle Permanent Building Society	1,000,000.00	91	6.060	15,108.49
03-Aug-10	02-Nov-10	Suncorp Metway Newcastle Permanent Building Society	1,000,000.00	91	5.930	14,784.38
23-Feb-10	09-Nov-10	Bank of QLD	2,000,000.00	259	6.300	89,408.22
02-Mar-10	16-Nov-10	IMB	1,000,000.00	259	6.290	44,633.15
19-May-10	17-Nov-10	Suncorp Metway	1,000,000.00	182	6.320	31,513.42
18-Aug-10	18-Nov-10	IMB CRI	1,000,000.00	93	5.990	15,262.19
02-Mar-10	29-Nov-10	ANZ	3,000,000.00	272	6.250	139,726.03
30-Aug-10	29-Nov-10	LGFS CRI	5,000,000.00	91	5.900	73,547.95
01-Jun-10	30-Nov-10	ADCU	1,000,000.00	182	6.200	30,915.07
04-Mar-10	01-Dec-10	ANZ	4,000,000.00	272	6.300	187,791.78
01-Dec-09	07-Dec-10	Westpac Bank	2,000,000.00	370	6.800	137,863.01
01-Jun-10	07-Dec-10	Members Equity Bank	1,000,000.00	189	6.200	32,104.11
03-Dec-09	14-Dec-10	Westpac Bank	1,000,000.00	376	7.050	72,624.66
10-Dec-09	14-Dec-10	NAB	1,000,000.00	369	6.650	67,228.77
20-Sep-10	20-Dec-10	LGFS CRI	1,000,000.00	91	5.540	13,812.05
16-Dec-09	21-Dec-10	Westpac Bank	1,000,000.00	370	7.000	70,958.90
05-Jan-10	21-Dec-10	Suncorp Metway	1,000,000.00	350	6.900	66,164.38
27-Sep-10	29-Dec-10	LGFS CRI	4,000,000.00	93	6.000	61,150.68
06-Jul-10	04-Jan-11	Bankwest	2,000,000.00	182	6.050	60,334.25
25-Jun-10	05-Jan-11	Suncorp Metway	5,000,000.00	194	6.300	167,424.66
29-Jun-10	05-Jan-11	Suncorp Metway	2,000,000.00	190	6.500	67,671.23

Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE
28-Jun-10	11-Jan-11	LGFS	5,000,000.00	197	6.300	170,013.70
28-Jun-10	11-Jan-11	Suncorp Metway	5,000,000.00	197	6.310	170,283.56
14-Jul-10	11-Jan-11	Westpac Bank	2,000,000.00	181	6.020	59,705.21
06-Jul-11	11-Jan-11	Members Equity Bank	1,000,000.00	189	6.250	32,363.01
24-Aug-10	25-Jan-11	Bankwest	2,000,000.00	154	6.000	50,630.14
03-Aug-10	01-Feb-11	Community Mutual Group	1,000,000.00	182	6.190	30,865.21
17-Feb-09	16-Feb-11	Elders Rural Bank	1,000,000.00	729	4.620	92,273.42
17-Feb-09	17-Feb-11	Adelaide Bendigo Bank	2,000,000.00	730	4.700	188,000.00
25-Aug-10	22-Feb-11	ING (RIMSEC)	1,000,000.00	181	6.320	31,340.27
24-Aug-10	23-Feb-11	Bank of QLD (BCU)	2,000,000.00	183	6.200	62,169.86
09-Mar-10	08-Mar-11	Bananacoast CU	1,000,000.00	364	6.850	68,312.33
07-Sep-10	15-Mar-11	CPS CU	1,000,000.00	189	6.100	31,586.30
25-Jun-10	22-Mar-11	Bank of QLD Bendigo Adelaide	5,000,000.00	270	6.300	233,013.70
25-Jun-10	22-Mar-11	Bank	2,000,000.00	270	6.250	92,465.75
29-Jun-10	22-Mar-11	LGFS	2,000,000.00	266	6.250	91,095.89
14-Sep-10	22-Mar-11	NAB	3,000,000.00	189	6.180	96,001.64
02-Apr-08	01-Apr-11	Suncorp Metway	3,000,000.00	1095	8.300	747,000.00
06-Jul-10	05-Apr-11	Adelaide Bendigo Bank	2,000,000.00	273	6.300	94,241.10
19-Oct-10	26-Apr-11	NAB	2,000,000.00	182	6.200	61,830.14
03-Sep-10	03-May-11	NAB	2,000,000.00	242	6.100	80,887.67
04-Aug-10	10-May-11	Bankwest	2,000,000.00	279	6.150	94,019.18
19-May-10	17-May-11	QTCU	1,000,000.00	363	6.450	64,146.58
27-May-10	24-May-11	ANZ	2,000,000.00	362	6.400	126,947.95
04-Aug-10	14-Jun-11	Bank of QLD	2,000,000.00	314	6.330	108,910.68
06-Jul-10	12-Jul-11	Summerland Credit Union	1,000,000.00	371	6.550	66,576.71
22-Jul-10	19-Jul-11	Wide Bay CU	1,000,000.00	362	6.550	64,961.64

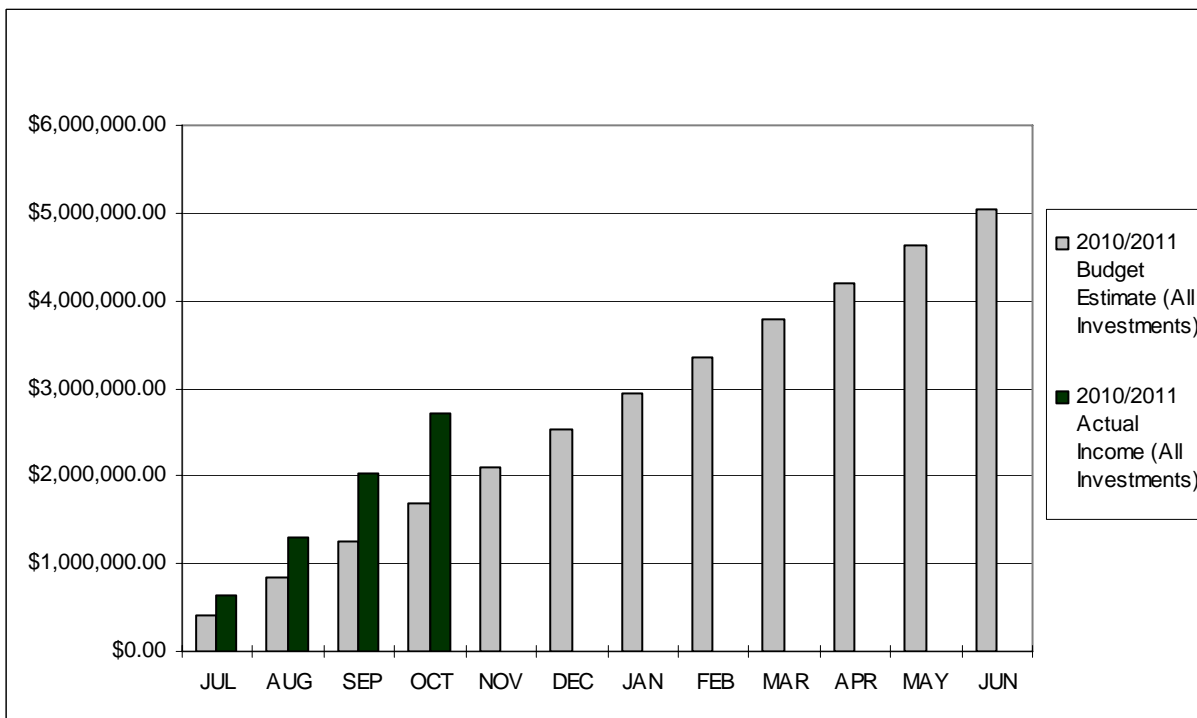
Council Meeting held Tuesday 16 November 2010

Lodged or Rolled	DUE	Counterparty	PRINCIPAL	TERM	% Yield	INCOME RECEIVABLE
11-Aug-10	16-Aug-11	AMP Bank (RIMSEC)	1,000,000.00	370	6.310	63,964.38
01-Sep-10	30-Aug-11	Bankwest	3,000,000.00	363	6.000	179,013.70
31-Aug-10	31-Aug-11	AMP Bank (RIMSEC)	1,000,000.00	365	6.310	63,100.00
01-Sep-10	06-Sep-11	Adelaide Bendigo Bank	3,000,000.00	370	6.200	188,547.95
03-Sep-10	06-Sep-11	Heritage BS	1,000,000.00	368	6.250	63,013.70
15-Sep-10	20-Sep-11	CUA	1,000,000.00	370	6.330	64,167.12
12-Nov-08	11-Nov-11	Suncorp Metway	4,000,000.00	1094	6.880	824,846.03
12-Nov-08	14-Nov-11	Investec Bank	1,000,000.00	1099	6.880	207,153.97
19-Aug-10	17-Dec-11	ING	1,000,000.00	182	6.360	31,712.88
22-Jul-10	18-Jul-12	Suncorp Metway	2,000,000.00	727	6.720	267,695.34
06-Aug-10	07-Aug-12	Adelaide Bendigo Bank	2,000,000.00	732	6.600	264,723.29
21-Jul-10	23-Jul-13	Suncorp Metway	1,000,000.00	1097	7.300	219,400.00
12-Aug-10	13-Aug-13	Bank of QLD	2,000,000.00	1097	7.050	423,772.60
01-Sep-10	02-Sep-13	NAB	4,000,000.00	1098	6.520	784,543.56
11-Aug-10	11-Aug-15	NAB (RBS)	2,000,000.00	1095	6.000	360,000.00
27-Aug-10	27-Aug-15	NAB (RBS)	2,000,000.00	365	7.000	140,000.00
			126,000,000.00		6.14	

9. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED

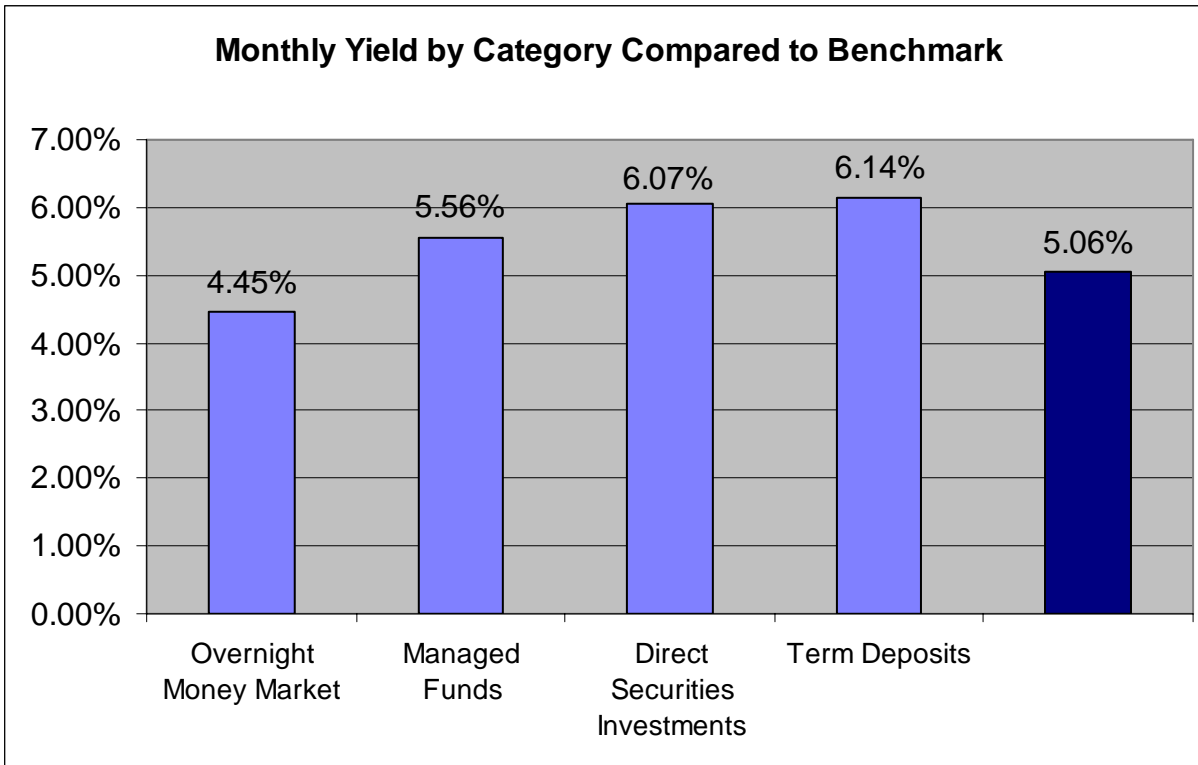


10. TOTAL PORTFOLIO INCOME YEAR TO DATE



11. PERFORMANCE BY CATEGORY

Category	Face Value	Market Value	Average Return	Above/(Below) 30 day BBSW Benchmark
Overnight Money Market	\$3,400,000.00	\$3,400,000.00	4.45%	-0.61%
Managed Funds	\$2,731,658.36	\$2,731,658.36	5.56%	0.50%
Direct Securities Investments	\$17,500,000.00	\$15,959,997.54	6.07%	1.01%
Term Deposits	\$126,000,000.00	\$126,000,000.00	6.14%	1.08%
	\$149,631,658.36	\$148,091,655.90	5.06%	Benchmark 30 Day UBS Bank Bill Index



**12. SECTION 94 DEVELOPER CONTRIBUTIONS - MONTHLY BALANCES & RECEIPTS REPORT
PERIOD ENDING 31 OCTOBER 2010**

Contribution Plan	Plan Description	End of Month Balance	Contributions Received for Month
01	DCP3 Open Space	3,870,717	-
02	Western Drainage	478,924	-
03	DCP3 Community Facilities	34,821	-
04	Tweed Road Contribution Plan	10,701,850	228,479
05	Open Space	1,143,516	847
06	Contribution Street Trees	202,640	-
07	West Kingscliff	825,647	-
10	Cobaki Lakes	(726)	-
11	Libraries	1,485,950	594
12	Bus Shelters	41,027	871
13	Cemeteries	(52,767)	1,949
14	Mebbin Springs	72,085	-
15	Community Facilities	1,300,570	979
16	Surf Lifesaving	373,700	1,663
18	Council Administration & Technical Support	1,349,075	27,175
19	Kings Beach	962,960	-
20	Seabreeze Estate	601	-
21	Terranora Village Footpath	24,680	-
22	Shirewide Cycleways	317,736	6,898
23	Shirewide Carparking	1,775,785	-
25	Salt Development	814,446	-
26	Shirewide Open Space	4,041,907	71,784
27	Tweed Heads Masterplan & Streetscaping	84,278	-
28	Seaside City	(675)	-
91	DCP14	86,267	-
92	Public Reserve Contributions	108,283	-
95	Bilambil Heights	421,853	-
Total		30,465,151	341,239

13. ECONOMIC COMMENTARY

Global Economy

Whilst leaving the Federal Funds rate at 0-0.25%, the US Federal Reserve announced the second round of Quantitative Easing (QE2). "The Federal Reserve will maintain its existing policy of reinvesting principal payments from its securities holdings. In addition, the Committee intends to purchase a further \$600 billion of longer-term Treasury securities by the end of the second quarter of 2011, a pace of about \$75 billion per month."

The Japanese economy is "at a standstill" according to the Japanese Government. The cabinet recently stated their concerns about decreasing global demand for Japanese exports. In response, Japanese Prime Minister Naoto Kan passed a 5.1 trillion (US\$63 billion) stimulus package to help exporters who are suffering severely from a strengthening Yen that remains close to 15 year highs against the US dollar.

The People's Bank of China, in its third-quarter monetary policy report said it "will continue to guide monetary conditions gradually back to a normal level". With increasing concerns over rising inflation the central bank indicated that further rate hikes may be on the way to "manage inflation expectations". Over the past year China's central bank has reduced the amount of new loans banks are allowed to make and in October it raised its benchmark lending rate by 0.25% to 5.56%.

The European central bank has come under threat recently by some who believe that the bank's policy of buying bonds issued by euro-zone periphery nations like Greece had not helped to calm debt markets and should be phased out permanently. Confidence that the worst of the Euro-zone crisis may be over has encouraged investors back to the market, driving up prices in recent weeks for Greek, Irish and Portuguese sovereign bonds.

After better than expected labour force data in the third quarter, pressure is mounting for the Reserve Bank of New Zealand to continue to tighten monetary policy. However, with weak housing market data, subdued retail spending and modest wage growth economists are predicting that the cash rate will remain at 3% until the March 2011 meeting at least.

Domestic Economy

The Reserve Bank of Australia increased the cash rate to 4.75% at the 2 November meeting. The RBA concluded that the tightening was a prudent measure and a necessary move at this point in time as the economy is now subject to a large expansionary shock from the high terms of trade and has relatively modest amounts of spare capacity. Looking ahead the risk of inflation rising again over the medium term remains and the RBA will be vigilant.

The Australian dollar moved slightly above parity with a weak US dollar after the cash rate increase was announced on Melbourne Cup day.

Council's Investment Portfolio Performance

Council's investment portfolio continues to be very conservatively structured with 85% of the portfolio held in term deposits. This investment segment continues to provide above trend returns while minimizing capital risk.

All investment categories except the Cash at Call Account out-performed the UBS 30 day bank bill benchmark this month. Overall, the investment portfolio has returned an average 2.15% pa above the 30 day UBS bank bill index for the last 12 month period. 85% of available funds are now invested in term deposits with only 2% of the portfolio invested in

managed funds to take advantage of relatively high returns and lower risks associated with term deposits.

An indication of Portfolio performance is provided by totalling investment income for the month and disregarding changes in capital values. Council had \$148,091,656 invested as at 31 October, 2010 and the accrued net return on these funds was \$693,445 or 5.62% annualised for the month.

14. INVESTMENT SUMMARY AS AT 31 OCTOBER 2010

GENERAL FUND

COLLATERISED DEBT OBLIGATIONS	0.00	
COMMERCIAL PAPER	0.00	
CORPORATE FIXED RATE BONDS	8,555,408.26	
FLOATING RATE NOTES	7,404,589.28	
ASSET BACKED SECURITIES	0.00	
FUND MANAGERS	19,796.71	
TERM DEPOSIT - LOAN 104 OFFSET	0.00	
TERM DEPOSITS	75,000,000.00	
CALL ACCOUNT	3,400,000.00	94,379,794.25

WATER FUND

TERM DEPOSITS	21,000,000.00	
FUND MANAGERS	2,683,539.56	23,683,539.56

SEWERAGE FUND

TERM DEPOSITS	30,000,000.00	
FUND MANAGERS	28,322.09	30,028,322.09

TOTAL INVESTMENTS		148,091,655.90
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It should be noted that the General Funds investments of \$94 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various specific purpose reserves such as domestic waste, land development and employee leave entitlements.

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

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

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



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

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au (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

38 [SUB-TEAAC] Minutes of the Tweed Equal Access Advisory Committee Meeting held Wednesday 15 September 2010

Venue:

Coolamon Cultural Centre

Time:

10.00am

Present:

Una Cowdry, Cr Dot Holdom, Beverly Kelso, Ray Clark, Vic Sparks, Peter Stannard, Robert Noakes, Ron Douglas, Cr Phil Youngblutt, Anne McLean.

Apologies:

Milena Morrow, Vanessa Scott-White.

Minutes of Previous Meeting:

Moved: Beverly Kelso

Seconded: Peter Stannard

RESOLVED that the Minutes of the Tweed Equal Access Advisory Committee meeting held Wednesday 21 July 2010 be accepted as a true and accurate record of the proceedings of that meeting.

Business Arising:

BA6. Flood Safe Brochure

The committee was advised the Commission has agreed in principle to the content of the brochure subject to a couple of minor amendments. It was suggested the brochure be promoted by way of a rates mail-out and by advertising in the Tweed Link when it is finalised.

BA6. Murwillumbah Council Chambers Improved Disability Access – Update

No further progress has been made with regard to the upgrade of audio system in the Council Chambers. The Community Services Coordinator advised that this item should be included as a project in the updated Disability Action Plan and prioritised against other strategies.

BA7. International Day of People with a Disability (IDPWD)

The Community Services Coordinator advised that as planning for an experiential event hosted by the committee had not commenced after the last meeting that it is now too late to organise. Advice will be sought from NSW Ageing Disability and Home Care regarding registered events IDPWD events planned in the Tweed Shire.

An additional option is for the committee to recommend Council's support of the regional "Festival of Ability" being held at Alstonville. The event, similar to that held in the previous year will showcase the abilities of people with a disability in the region and provide an opportunity for local service providers to network and promote the services they provide.

Moved: Peter Stannard
Seconded: Una Cowdry

RECOMMENDATION:

That Council:

1. Provides a financial contribution of \$200 to Disabled Surfers and \$200 to Sailability to assist with cost of providing local IDPWD events from the Access Committee budget allocation.
2. Provides a financial contribution of \$500 toward the 2010 Far North Coast "Festival of Ability" from the Access Committee budget allocation.

Cr Holdom requested that posters be made available for display on Council notice boards during the lead-up to IDPWD.

Vic Sparks apologised and noted he will not be able to attend the "Festival of Ability".

GB2. Development Control Plan

Council staff attended an Access to Premises - Buildings awareness session. It was noted that the new standard does not inform renovations to existing buildings. A copy of the presentation will be provided to the committee.

Action: that Staff provide forward a copy of the presentation to the committee for information.

BA2. Resignation of Kirrily Twyford representing Spinal Cord Injuries Australia

Moved: Cr Holdom
Seconded: Cr Youngblutt

RECOMMENDATION:

That Council accepts the resignation of Kirrily Twyford from the Equal Access Advisory Committee representing Spinal Cord Injuries Australia.

BA3. Nomination of Lee Clark as alternate delegate for Spinal Cord Injuries Australia

Moved: Cr Holdom
Seconded: Beverly Kelso

RECOMMENDATION:

That Council accepts the nomination of Lee Clark to the Equal Access Advisory Committee as alternate delegate for Spinal Cord Injuries Australia.

BA4. Beach Wheel Chair Weight Restrictions

The committee noted the information received from Northcott being that the recommended maximum weight for the Freewheeler Beach Wheelchair must be not more than 120kg and usage must not take place on slopes of more than 10 degrees.

BA5. Beach Access Chair Repair

Staff are still waiting on quotation from Northcott for repair of damaged Freewheeler Beach Wheelchair.

BA6. Beach Access Ramp at Kingscliff

It was suggested that Council surveyors/engineers look at the possibility of constructing a beach access ramp at the southern end of Kingscliff Beach at Faulks Park. Currently the beach is inaccessible. It is felt that it is an ideal time to plan for a ramp given the current levels on the beach. Once planned and costed, grant funding may be sought to assist with construction costs.

Action: that Staff seek advice from Council's Engineering and Operations staff regarding the steps that need to be taken for initiation of a project to construct a beach access ramp at Faulks Park, Kingscliff, similar to that at Clarkes Beach in Byron Bay.

BA7. Disability Action Plan Update

Staff provided an overview of steps that need to be taken to update the Disability Action Plan last reviewed in 2005. The Plan will provide a strategic direction for the committee by identifying and prioritising strategies. The update of the Plan will not commence until the new Aged and Disability Worker has been employed.

Moved: Lee Clark

Seconded: Una Cowdry

RECOMMENDATION:

That Council updates the Disability Action Plan (2005).

Late Agenda Item - Traffic Committee Report Wharf Street, Tweed Heads

Wharf Street, Tweed Heads has three (3) marked pedestrian crossings at grades between Frances Street and Boundary Street. It is proposed to install raised platforms at the crossing locations and reinstate the marked crossings. The marked crossing adjacent to Tweed Centro Shopping Centre is highly utilised and transverses five lanes (two northbound, two southbound) and a northbound service lane. A high number of pedestrians were observed crossing Wharf Street outside of the marked crossings. It is proposed to install the raised platforms to increase the visibility of the crossings, reduce vehicle speeds and increase pedestrian usage of the enhanced facilities. Council has received feedback regarding the visual approach to the crossings.

It was suggested by members of the committee that shrubs on the approaches to the marked crossings north of Bay Street be either removed or reduced in height.

Action: The committee endorses the recommendation of the Traffic Committee to only install a raised platform at the Centro Shopping Centre crossing.

General Business:

1. The committee discussed instances where meeting minutes have been picked up and reported in the media.

Action: Staff to advise if sensitive Agenda items can be discussed in confidence.

2. The committee heard of a new mobile phone application that provides mapping information that can assist people with a disability find accessible crossings and kerb ramps.

Action: Ron Douglas to provide mobile phone application information to the committee.

Next Meeting:

The next meeting of the Tweed Equal Access Advisory Committee will be held on 17 November 2010 at 10.00am at the Banora Point Community Centre, Lilly Pilly Room

The meeting closed at 11.50am.

EXECUTIVE MANAGEMENT TEAM'S COMMENTS:

BA7. International Day of People with a Disability (IDPWD)

Nil.

BA2. Resignation of Kirrily Twyford representing Spinal Cord Injuries Australia

Nil.

BA3. Nomination of Lee Clark as alternate delegate for Spinal Cord Injuries Australia

Nil.

BA7. Disability Action Plan Update

Nil.

EXECUTIVE MANAGEMENT TEAM'S RECOMMENDATIONS:

BA7. International Day of People with a Disability (IDPWD)

As per the Committee's recommendation being:

That Council:

1. ***Provides a financial contribution of \$200 to Disabled Surfers and \$200 to Sailability to assist with cost of providing local IDPWD events from the Access Committee budget allocation.***
2. ***Provides a financial contribution of \$500 toward the 2010 Far North Coast "Festival of Ability" from the Access Committee budget allocation.***

BA2. Resignation of Kirrily Twyford representing Spinal Cord Injuries Australia

As per the Committee's recommendation being:

That Council accepts the resignation of Kirrily Twyford from the Equal Access Advisory Committee representing Spinal Cord Injuries Australia.

BA3. Nomination of Lee Clark as alternate delegate for Spinal Cord Injuries Australia

As per the Committee's recommendation being:

That Council accepts the nomination of Lee Clark to the Equal Access Advisory Committee as alternate delegate for Spinal Cord Injuries Australia.

BA7. Disability Action Plan Update

As per the Committee's recommendation being:

That Council updates the Disability Action Plan (2005).

39 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 21 October 2010

Venue:
Mt Warning Meeting Room

Time:
Commencing at 9.30am

Present:
Committee Members: Cr Barry Longland, Mr Ian Shanahan, Roads and Traffic Authority, Snr Constable Rachel Robbins, NSW Police, Mr Col Brooks on behalf of Mr Thomas George MP, Member for Lismore, Rod Bates on behalf of Mr Geoff Provest MP, Member for Tweed.

Informal: Mr John Zawadzki (Chairman), Mr Ray Clark, Mr Danny Rose, Ms Judith Finch (Minutes Secretary).

Apologies:
Mr Paul Brouwer, Mr Thomas George MP, Member for Lismore, Mr Geoff Provest MP, Member for Tweed.

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RESOLVED that the Minutes of the Local Traffic Committee Meeting held 23 September 2010 be adopted as a true and accurate record of proceedings of that meeting.

SCHEDULE OF OUTSTANDING RESOLUTIONS

[LTC-SOR] Schedule of Outstanding Resolutions Meeting held 21 October 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.

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 23 September 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 23 September 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] Kennedy Drive, Tweed Heads - Tweed Street Audit

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 19660428; Traffic - Committee; Pedestrian Crossings; Traffic - Safety; Kennedy Drive, Tweed Heads

SUMMARY OF REPORT:

From Meeting held 23 September 2010 (Item B5):

Request received for the provision of a safe crossing for people near Kennedy Plaza. It is reported that "*since the opening of the new bypass the traffic is horrific and pedestrians can wait up to 15 minutes*". It is also reported that "*motorists making illegal right hand turns into Kennedy Plaza also contribute to traffic congestion*".

Kennedy Drive near Kennedy Plaza carries over 20,000 vehicles per day, which is significant. A marked pedestrian crossing was located in this vicinity prior to the installation of the traffic signals at Ducat Street. This crossing was removed on request from the Roads

and Traffic Authority of NSW as the signals provided a much safer crossing point for pedestrians. The signals are located approximately 200m west of the middle of the shopping centre. There is also a pedestrian underpass connecting residents on the southern side of Kennedy Drive to the shopping centre.

The pedestrian warrant for a marked or signalised pedestrian crossing would not be met at this location.

Council's crash database shows 6 reported crashes occurred in the vicinity of Kennedy Plaza between 2004 and 2009, none of which involved a pedestrian.

The Roads and Traffic Authority of NSW Representative advised that the Roads and Traffic Authority of NSW were investigating the Ducat Street/Kennedy Drive signals which will include the Kennedy Plaza area. It was suggested that this matter be listed as an Outstanding Resolution until the Roads and Traffic Authority of NSW have finalised their investigation. This investigation may include the possibility of the inclusion of a pedestrian refuge, which is the subject of concern.

Cr Longland arrived at 9.39am

COMMITTEE ADVICE:

That Kennedy Drive, Tweed Heads South be listed on the Outstanding Resolutions report.

Current Status: That Item 5 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 23 September 2010 remain on the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 23 September 2010).

4. Kingscliff High School Parking Issues

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 19837219; 20807770; Traffic - Committee; Kingscliff High School; Traffic - Safety; School Zones; Parking Zones; Oxford Street

SUMMARY OF REPORT:

From Meeting held 23 September 2010 (Item B12):

A request has been received from the bus company which services Kingscliff High School along Oxford Street. The bus drivers advise that:

"When departing from Kingscliff High School in Oxford St they have to go way over the double line to negotiate the left hand bend in the road due to parked cars both sides of the road which also leaves insufficient space for a bus and a car to pass, it is also unsafe with the bus having to be so far over the lines on the bend as a car coming towards them quickly could easily cause a bad accident. Would you kindly have the

area inspected with a view to restricting parking on the bend to give large vehicles more room to safely manoeuvre."

The Local Traffic Committee considered other parking issues near Kingscliff High School and resolved the following at its meeting held 19 August 2010:

"RECOMMENDATION TO COUNCIL;

That Council officers liaise with Kingscliff High School representatives regarding parking issues on Oxford Street at Kingscliff High School."

Council officers will inspect the site and report to the meeting.

COMMITTEE ADVICE:

That this item be considered in conjunction with Item A2 from the Local Traffic Committee meeting held 19 August 2010.

From Meeting held 19 August 2010 (Item A2):

Request received in relation to parking at the front of Kingscliff High School on Oxford Street.

"Growing numbers of senior students have greatly increased the parking in the street to the point where there is no longer spaces available where parents can drop students off at the front of the school. I believe we could make the traffic island, which separates the bus area, a drop off zone only which would solve the issue."

It is suggested that 'No Parking' signage be installed on Oxford Street along the centre median island between 8.00am to 9.30am and 2.30 to 4.00pm school days.

Council officers will investigate this matter and report to the meeting.

It was recommended that Council officers discuss possible solutions with the School's representatives and the State Member.

RECOMMENDATION TO COMMITTEE:

That 'No Parking' signage be installed on Oxford Street along the centre median island between 8.00am to 9.30am and 2.30 to 4.00pm school days.

RECOMMENDATION TO COUNCIL;

That Council officers liaise with Kingscliff High School representatives regarding parking issues on Oxford Street at Kingscliff High School.

FOR VOTE - Daniel Boorman, Geoff Provest, Cr Barry Longland

ABSENT - Snr Constable Rachel Robbins

PRESENT. DID NOT VOTE - Col Brooks

Current Status: That Item 4 Schedule of Outstanding Resolutions from Local Traffic Committee meeting held 23 September 2010 be added to the list of Outstanding Resolutions.

(This item was originally listed as an Outstanding Resolution at the Local Traffic Committee Meeting held 23 September 2010).

BUSINESS ARISING

Nil.

A. FORMAL ITEMS SECTION

DELEGATIONS FOR REGULATORY DEVICES

A1 [LTC] Numinbah Road, Kynnumboon

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 21965452; Numinbah Road; Tomewin Road; Brooks Road; Traffic - Committee; Linemarking

SUMMARY OF REPORT:

Request received to extend the double centre lines on Numinbah Road from the intersection of Tomewin Road to 20m past Brooks Road. It is reported that vehicles turning out of Brooks Road are confronted by vehicles overtaking on Tomewin Road and there is a risk of head on crashes at this location.

Council's accident database shows no reported accidents at or near the Brooks Road/Tomewin Road intersection for the period 2004 to 2009.

A Committee member noted that the Agenda Summary of Report was not totally accurate in that the safety issue is that west bound vehicles on Numinbah Road sometimes overtake vehicles turning right into Brooks Road.

RECOMMENDATION TO COMMITTEE:

That:

1. The existing double centre lines on Numinbah Road 150m east of the Brooks Road intersection be continued to the west of the Brooks Road intersection in accordance with relevant guidelines.
2. Intersection warning signs be installed on the approaches to Brooks Road on Numinbah Road.

RECOMMENDATION TO COUNCIL:

1. The existing double centre lines on Numinbah Road 150m east of the Brooks Road intersection be continued to the west of the Brooks Road intersection in accordance with relevant guidelines.
2. Intersection warning signs be installed on the approaches to Brooks Road on Numinbah Road.

FOR VOTE - Col Brooks, Ian Shanahan, Cr Barry Longland, Snr Constable Rachel Robbins
PRESENT. DID NOT VOTE - Rod Bates

A2 [LTC] Kennedy Drive, Tweed Heads West

ORIGIN:

Planning & Infrastructure

FILE NO: ECM 22111700; Traffic - Committee; Parking Zones; Kennedy Drive, Tweed Heads West

SUMMARY OF REPORT:

Request received in relation to parking on Kennedy Drive, Tweed Heads West as follows:

"... virtually (if not all) the whole length of the Northern side of Kennedy Drive where there are two lanes Eastbound after where Gollan Drive becomes Kennedy Drive, to the Western side of the Pacific Highway underpass, is designated "No Stopping" except for one very short section of probably less than 100 meters.

Unfortunately, this section is opposite reasonably large Fruit & Veg and Seafood outlets (located at approx 210-216 Kennedy Drive). Thus, when an Eastbound vehicle stops in the outside lane of Kennedy Drive to turn right into these premises and there is a car parked in the adjacent inside lane, all Eastbound traffic is blocked. And given the volume of Westbound traffic on Kennedy Drive, especially in the late afternoon, that vehicle can cause considerable congestion for Eastbound traffic behind it.

Given that the rest of Kennedy Drive in that area is designated "No Stopping" (both Eastbound and Westbound), not designating the short section in question likewise, would appear to be possibly an oversight.."

Council's database shows that Kennedy Drive carries in excess of 18,500 vehicles per day near the seafood outlet. To provide an acceptable level of service for eastbound traffic, especially in peak periods the request is considered reasonable.

Council officers will inspect the existing signage on-site in detail and report to the meeting.

Council officers inspected the site and noticed that the 'No Stopping' signage directional arrows have been damaged. 'No Stopping' is currently in place on the northern side of Kennedy Drive opposite the seafood outlet (210 - 216 Kennedy Drive). It is recommended

that the existing 'No Stopping' directional arrows be repaired and also that a repeater 'No Stopping' sign be placed between 233 Kennedy Drive and the bus stop to the east.

RECOMMENDATION TO COMMITTEE:

That 'No Stopping' signs be placed on the northern side of Kennedy Drive from the pedestrian refuge east of the Cobaki Creek Bridge to east of the seafood outlet at 212 Kennedy Drive.

RECOMMENDATION TO COUNCIL:

That the existing 'No Stopping' sign directional arrows be maintained and an additional repeater 'No Stopping' sign be installed opposite 210 - 216 Kennedy Drive, Tweed Heads.

FOR VOTE - Rod Bates, Ian Shanahan, Cr Barry Longland, Snr Constable Rachel Robbins
PRESENT. DID NOT VOTE - Col Brooks

A3 [LTC] St Josephs Primary School, Frances Street, Tweed Heads

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 21772516; Traffic - Committee; School Zones; Enid Street; Frances Street, Tweed Heads; School - St Joseph's - Tweed Heads; Traffic - Safety

SUMMARY OF REPORT:

Request received to modify existing signage to enable construction activities at St Josephs Primary School to be carried out.

The school has requested that the changes be made before school returns on 11 October 2010 and will be valid for the construction period. The signage will be reviewed on completion of the construction period in consultation with the school and the bus operator.

The Principal confirms that Surfside Buslines have been consulted and are in agreement with the changes.

Parents will be informed of the changes and extra teachers will be on duty to ensure child safety.

This request was sent to Local Traffic Committee members via email for decision prior to the Local Traffic Committee meeting on 21 October 2010.

The proposed changes are for morning and afternoon bus zones operate in Enid Street adjacent to the school, that the existing 'No Parking' on Frances Street adjacent to the Catholic Hall be extended to morning school zone times also and the existing bus zone in Frances Street adjacent to the school be removed and replaced with 'No Parking'.

RECOMMENDATION TO COMMITTEE:

That:

1. The existing bus zone (2.30pm to 3.30pm) in Enid Street adjacent to St Josephs Primary School be extended to include 8.00am to 9.30am and the afternoon bus zone be extended to 4.00pm with the 'No Parking' signage in this same area being removed.
2. The existing 'No Parking' zone (2.30pm to 4.00pm) in Frances Street adjacent to the Catholic Hall times be extended to include 8.00am to 9.30am.
3. The existing bus zone/'No Parking' zone in Frances Street adjacent to St Josephs Primary School be modified by the removal of the bus zone (8.00 to 9.00am).
4. The amended signage as stated in Items 1, 2 and 3 above be reviewed on completion of the construction for St Josephs Primary School in consultation with the school and the bus operator.

RECOMMENDATION TO COUNCIL:

1. The existing bus zone (2.30pm to 3.30pm) in Enid Street adjacent to St Josephs Primary School be extended to include 8.00am to 9.30am and the afternoon bus zone be extended to 4.00pm with the 'No Parking' signage in this same area being removed.
2. The existing 'No Parking' zone (2.30pm to 4.00pm) in Frances Street adjacent to the Catholic Hall times be extended to include 8.00am to 9.30am.
3. The existing bus zone/'No Parking' zone in Frances Street adjacent to St Josephs Primary School be modified by the removal of the bus zone (8.00 to 9.00am).
4. The amended signage as stated in Items 1, 2 and 3 above be reviewed on completion of the construction for St Josephs Primary School in consultation with the school and the bus operator.

FOR VOTE - Rod Bates, Ian Shanahan, Cr Barry Longland, Snr Constable Rachel Robbins
PRESENT. DID NOT VOTE - Col Brooks

A4 [LTC] Terranora Road and Henry Lawson Drive, Terranora

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 22581866; Traffic - Committee; Safety; Linemarking; Henry Lawson Drive; Terranora Road, Terranora

SUMMARY OF REPORT:

Request received for Local Traffic Committee advice at the intersection of Terranora Road onto Henry Lawson Drive.

"I have had 3 instances now where, when heading east, I turn left from Terranora Road onto Henry Lawson Drive at Terranora, and have had vehicles turning across my path doing a right turn from Terranora Road fail to give way, believing that the right turning vehicle has right of way. This has created a very close call on one occasion and is an ongoing potential risk. The intersection has concrete islands from Henry Lawson Drive where it terminates on either side of the intersection, there is no give way line or sign at the left turn point.

Possibly this confusion is being added too because of the number of other intersections that have a give way sign and line markings at similar intersections in this district for vehicles turning left. I realise that some of the controlled intersections are done because of traffic flow however this practice may need to be reviewed."

Council's accident database shows no reported accidents at the Henry Lawson Drive/Terranora Road intersection for the period 2004 to 2009.

The intersection would appear to be inconsistent with similar intersections along Terranora Road at Mahers Lane and Fraser Drive. There could be considered some degree of ambiguity on who has priority. It is considered that the installation of a 'Give Way' sign and appropriate linemarking be installed at the end of the slip lane on Henry Lawson Drive would address the issue.

RECOMMENDATION TO COMMITTEE:

That 'Give Way' signage and appropriate linemarking be installed at the end of the left turn slip lane from Terranora Road into Henry Lawson Drive.

RECOMMENDATION TO COUNCIL:

That 'Give Way' signage and appropriate linemarking be installed at the end of the left turn slip lane from Terranora Road into Henry Lawson Drive.

FOR VOTE - Rod Bates, Ian Shanahan, Cr Barry Longland, Snr Constable Rachel Robbins
PRESENT. DID NOT VOTE - Col Brooks

B. INFORMAL ITEMS SECTION

GENERAL TRAFFIC ADVICE

B1 [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) and Schedule of Outstanding Resolutions from Meeting held 23 September 2010

"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 19 August 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).

Traffic Counts on Burringbar Road, just west of Binalong Court were performed on 8 September 2010 to 15 September 2010 with an 85th percentile speed of 67km/h. The average daily traffic was 587 vehicles per day.

The section of Upper Burringbar Road in question is typical of a rural environment in relation to driveway accesses, pedestrian activity, road pavement width and road shoulders.

Reference was also made to the Roads and Traffic Authority of NSW recommendation for a speed limit reduction from 100km/h to 80km/h along Upper Burringbar Road (Item B5 of this Agenda).

COMMITTEE ADVICE:

That:

- 1 The NSW Police consider dedicating resources to speed enforcement along Upper Burringbar Road.
2. Pedestrian and cyclist warning signage be placed along Upper Burringbar Road at locations deemed appropriate by Council officers.

B2 [LTC] Tweed Heads Public School, Stuart Street, Tweed Heads

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 21673833; Traffic - Committee; School Zones; Pedestrian Safety;
Pedestrian Crossings; School - Tweed Heads Primary; Stuart Street

SUMMARY OF REPORT:

Request received for:

1.*"many parents at the school are concerned with the safety of the crosswalk in front of the school. There are trees which have been planted on either side of the crosswalk which block the view of the both, the students attempting to cross the road, and the drivers view of the students crossing. A couple of weeks ago, a near accident occurred with a driver not seeing a student as they were starting to cross at the crosswalk and it has been brought to the attention of the P & C Association that this is not a onetime occurrence. Parents within the school community feel that there is need for the trees to be removed before a more serious accident occurs.*

2.*"there is a large lack of parking for student drop-off and pick-up. Daily, many of the allotted parking spaces along Stuart Street are taken up by clients of the surrounding businesses and this traffic has increased now with the opening of a coffee shop across from the school which on certain mornings caters to work meetings which take up all of the street parking. Directly in front and across the street from the school, is allocated solely for bus parking to which there is approximately 7 to 8 spaces total allocated for bus use. At any one time, there are only 3 buses in use at the same time for school busing purposes and the bus allocation across the street is rarely ever used at all. Over the past year of taking my son to school and picking him up daily, I have only seen one bus parked there once. The P & C Association would like to know if you are able to re-zone some of the bus only areas to allow for more school parking or if there is anywhere around the school that can be allocated for more school parking."*

Council officers will investigate the site and report to the meeting.

Committee members suggested that the existing Council car park located off Bay Street adjacent to the old fire station could be used for pick up drop off purposes. There is also an opportunity to create further pick up drop off facilities off Stuart Lane on the school boundary. Members noted that facilities provided at Lindisfarne School and Banora Point Primary work generally well.

COMMITTEE ADVICE:

That:

1. Council officers consider removal or amending the vegetation at the existing pedestrian crossing on Stuart Street.
2. No action be taken in regard to changing the existing bus zone outside Twin Towns Resort to a pick up drop off zone for students.
3. The school consider providing on-site facilities to accommodate pick up and drop off of students off Stuart Lane.

B3 [LTC] Murwillumbah Street, Murwillumbah

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 22350888; Traffic - Committee; Directional Signs; Traffic - General; Parking Zones; Murwillumbah Street

SUMMARY OF REPORT:

Request received in relation to parked vehicles at the end of Murwillumbah Street in the cul-de-sac.

"We live at the western end of Murwillumbah Street which is a cul-de-sac. Because it is at the end of the main street in Murwillumbah we get a lot of lost traffic who need to run around in the cul-de-sac. This traffic includes cars with caravans (some of whose drivers seem to have trouble backing and filling), long table top delivery trucks, semi trailers tourist coaches etc.

On the southern side of the cul-de-sac is a block of 5 bed-sit accommodation. The residents are mainly, older people some of who own cars. Whilst there is a council mowed area beside the units which is off the road some residents park in the cul-de-sac. This creates much difficulty for long vehicles to turn around.

Whilst I understand it is not against the law to park in a cul-de-sac when there are no signs prohibiting it, these residents are making life difficult for other people...."

The Murwillumbah Street cul-de-sac is residential and is dimensioned in accordance with Council's standards which allows for cars to be parked at the kerb and still enable a car to do a 'U' turn. Larger vehicles must use the nature strip or driveways in order to exit the cul-de-sac.

It is recommended that 'No Parking' signage is not warranted however a 'No Through Road' sign installed near the intersection of Wentworth Street and Murwillumbah Street may prevent wayward drivers from travelling to the end of Murwillumbah Street.

COMMITTEE ADVICE:

That a 'No Through Road' sign be installed near the intersection of Wentworth Street and Murwillumbah Street.

B4 [LTC] Dry Dock Road, Tweed Heads South

ORIGIN:
Planning & Infrastructure

FILE NO: ECM 22438158; Traffic - Committee; Parking Zones; Traffic - Safety; Dry Dock Road, Tweed Heads South

SUMMARY OF REPORT:

Concern received in relation to vehicles parking between 100 and 102 Dry Dock Road, Tweed Heads South. It is reported that parked vehicles are obstructing the view of cars leaving properties.

The concerned resident requests 'No Parking' signage to prevent vehicles from parking adjacent to the driveways and between two existing driveways.

The distance between the driveways is approximately 10m however the driveways are similar to other driveways within Tweed Shire and drivers need to take care when exiting.

It is recommended that no action be taken in this instance.

COMMITTEE ADVICE:

That the request for 'No Parking' signage between 100 and 102 Dry Dock Road, Tweed Heads South is not supported.

B5 [LTC-LATE] Upper Burringbar Road, Burringbar - Speed Zone Review

ORIGIN:
Planning & Infrastructure

FILE NO: Burringbar Road; Upper Burringbar Road; Traffic - Committee; Speed Zones

SUMMARY OF REPORT:

Correspondence received from the Roads Traffic Authority of NSW advising of their recommendations that:

- The existing 100km/h speed limit be reduce to 80km/h from the existing 50km/h zone at Burringbar to Jowetts Road, a total distance of 4.96km.
- Council undertaken a curve warning/speed advisory survey with a view to installing appropriate signage prior to the installation of the new 80km/h speed limit.

COMMITTEE ADVICE:

That the speed zone review and recommendations from the Roads and Traffic Authority of NSW via letter dated 20/10/10 for Upper Burringbar Road, Burringbar be supported.

Next Meeting:

The next meeting of the Local Traffic Committee will be held 25 November 2010 in the Mt Warning Meeting Room commencing at 9.30am.

There being no further business the Meeting terminated at 10.40am.

EXECUTIVE MANAGEMENT TEAM COMMENTS:

A1 *Numinbah Road, Kynnumboon*

Nil

A2 *Kennedy Drive, Tweed Heads West*

Nil

A3 *St Josephs Primary School, Frances Street, Tweed Heads*

Nil

A4 *Terranora Road and Henry Lawson Drive, Terranora*

Nil

EXECUTIVE MANAGEMENT TEAM RECOMMENDATIONS:

As per the Committee's recommendations being:

A1 *Numinbah Road, Kynnumboon*

That:

1. The existing double centre lines on Numinbah Road 150m east of the Brooks Road intersection be continued to the west of the Brooks Road intersection in accordance with relevant guidelines.
2. Intersection warning signs be installed on the approaches to Brooks Road on Numinbah Road.

A2 *Kennedy Drive, Tweed Heads West*

That the existing 'No Stopping' sign directional arrows be maintained and an additional repeater 'No Stopping' sign be installed opposite 210 - 216 Kennedy Drive, Tweed Heads.

A3 *St Josephs Primary School, Frances Street, Tweed Heads*

That:

1. The existing bus zone (2.30pm to 3.30pm) in Enid Street adjacent to St Josephs Primary School be extended to include 8.00am to 9.30am and the afternoon bus zone be extended to 4.00pm with the 'No Parking' signage in this same area being removed.
2. The existing 'No Parking' zone (2.30pm to 4.00pm) in Frances Street adjacent to the Catholic Hall times be extended to include 8.00am to 9.30am.

3. The existing bus zone/'No Parking' zone in Frances Street adjacent to St Josephs Primary School be modified by the removal of the bus zone (8.00 to 9.00am).
4. The amended signage as stated in Items 1, 2 and 3 above be reviewed on completion of the construction for St Josephs Primary School in consultation with the school and the bus operator.

A4 *Terranora Road and Henry Lawson Drive, Terranora*

That 'Give Way' signage and appropriate linemarking be installed at the end of the left turn slip lane from Terranora Road into Henry Lawson Drive.

- 40 [SUBCOM] Minutes of Subcommittees/Working Groups not requiring a Council decision**
- 1. Minutes of the Tweed River Regional Museum Advisory Committee meeting held 16 September 2010 (ECM22969458)**
 - 2. Minutes of the Tweed Coast Koala Advisory Group Committee Meeting held 5 October 2010 (ECM 23347142).**
 - 3. Minutes of the Tweed River Committee Meeting held Wednesday 13 October 2010 (ECM 23745723).**
-

ORDERS OF THE DAY

41 [NOR-Cr Longland, Cr Milne, Cr Holdom] Lots 2-8 DP28597 Terranora Road Terranora

NOTICE OF RESCISSION:

Councillor B Longland, K Milne and D Holdom move that Council resolution at Minute No 700 in relation to Item 46 [NOM-Cr J van Lieshout] Lots 2-8 DP28597 Terranora Road Terranora of the Meeting held 19 October 2010 being:

"... that Council gives support to the owners of the property known as Lots 2-8 DP28597 Terranora Road, Terranora to lodge a planning proposal to change the current rural zoning to a more appropriate residential zoning."

be rescinded.

42 [NOR-Cr Polglase, Cr van Lieshout, Cr Youngblutt] Cobaki Lakes Concept Plan

NOTICE OF RESCISSION:

Councillors W Polglase, J van Lieshout and P Youngblutt that Council resolution at Minute No 710 in relation to Item 20 [PR-CM] Cobaki Lakes Concept Plan for Residential Community Development and Project Application for Central Open Space and Lake System - Council Submission to the Department of Planning of the Meeting held 19 October 2010 being:

" ... that Council:

- 1. Endorses the attached draft submission to the Department of Planning on the Addendum to the Preferred Project Report for Cobaki Lakes Concept Plan and the comments on the Preferred Project Report for the Project Application for the central open space and drainage corridor for Cobaki Lakes.*
- 2. Does not accept dedication or maintenance of open space, drainage corridors, environmental protection areas and other infrastructure unless the recommended conditions in the attached correspondence are applied and implemented to the satisfaction of the General Manager or his Delegate."*

be rescinded.

43 [NOM-Cr J van Lieshout] Cobaki Lakes Concept Plan

NOTICE OF MOTION:

Councillor J van Lieshout moves that a workshop/presentation with the proponent (Leda Developments) be arranged to include all Councillors and appropriate staff in regard to the recent rescinded motion in relation to Item 20 of the Council Meeting of 19 October 2010, which will allow a full presentation of the facts surrounding the resolution, which in view of the proponent may incur serious consequences in relation to the ongoing process of the development.

The presentation would endeavour to bring greater clarity, transparency and communication regarding this development to the elected body.

44 [NOM-Cr J van Lieshout] Council Meetings December 2010 to February 2011

NOTICE OF MOTION:

In view of the coming holiday season and the requirement of staff to prepare documentation both prior to and after ordinary council meetings as well as to allow staff and councillors to refresh and spend time with their family and friends during the Christmas/New Year holiday season, Councillor J van Lieshout moves that the following meeting dates for Ordinary Council Meetings and Community Access are as follows:

1. Ordinary Council Meetings: 14 December 2010
No January Meeting
8 February 2011
 2. Community Access: 9 December 2010
3 February 2011
 3. Meetings to resume on the third Tuesday of each month as from March up to and including November 2011.
-

45 [NOM-Cr van Lieshout] Tweed River Festival - 30 October 2010

NOTICE OF MOTION:

Councillor J van Lieshout moves that the appropriate staff of Tweed Shire Council be acknowledged and congratulated through the General Manager on behalf of the Tweed Councillors of the success of the festival held in Budd Park, Murwillumbah.

The event was well attended by the community and proved to be a wonderful contribution to the ongoing work of Council staff to present the Tweed Shire in all its diversity as a vibrant, thriving and progressive community.

It is to be encouraged that we continue to produce events of this nature which co-ordinate the skills, talents and culture of The Tweed

46 [NOM-Cr K Skinner] Workshop Requests

NOTICE OF MOTION:

Due to the numerous requests from various parties to have an audience with Councillors, I wish to propose the following notice of motion to amend Clause 12.1 of the Code of Meeting Practice.

Councillor K Skinner moves that Clause 12.1 of the Code of Meeting Practice – Workshop Requests is amended as follows:

"That a workshop for Councillors be determined by way of a majority of Councillors indicating their desire via an email proposal and acceptance."

47 [NOM-Cr Holdom] Councillor Conference Policy

NOTICE OF MOTION:

Councillor D Holdom moves that the General Manager investigates and reports back to Council on instigating a policy whereby Councillors **attending conference on a rotational basis**, are advised of upcoming conferences, the investigation to include the feasibility of a workshop for all Councillors (to be given by the Councillor who attended the conference) including a full overview of the conference by the Councillor, this would not replace the written report back to the Mayor and General Manager (as is the normal procure now) it would be in conjunction with.

48 [NOM-Cr Milne] Public Transport Strategy

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on developing a long term Public Transport Strategy and how future transport corridors can be preserved in the Tweed.

49 [NOM-Cr Milne] Quarry Monitoring

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on public and private quarries around the Shire in relation to compliance monitoring regimes, water quality results, and any concerns in relation to any water, noise and dust pollution issues.

This report is to include the possibility of undertaking regular compliance monitoring by Council for all public and private quarries rather than relying on complaints reports from the public.

50 [NOM-Cr Milne] Native Vegetation Act

NOTICE OF MOTION:

Councillor K Milne moves that Council:

1. Continues to lobby the Minister for the Environment in relation to the lack of native vegetation protection provided under the Native Vegetation Act and
 2. Submits a motion for the next Local Government Shires Association (LGSA) Conference as above
-

51 [NOM-Cr Milne] Marine Litter Volunteer Groups

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on:

1. How Council could assist/enhance or provide support for the establishment of permanent volunteer groups in the removal of rubbish and fishing line along the riverbanks and waterways.
 2. Ways to establish a mechanism to fund the removal of this rubbish along the waterways by various means including allocating a proportion of waste charges, and including this cost in developer contributions.
-

52 [NOM-Cr Milne] Sustainable Caravan Parks

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on how Council can incorporate water conservative measures into Council owned caravan parks and measures that could be included in the proposed caravan park redevelopments e.g. dual reticulation and stormwater harvesting.

53 [NOM-Cr Milne] Water Conservation Kings Forest and Cobaki Developments

NOTICE OF MOTION:

Councillor K Milne moves that Council writes to the State Ministers for Planning, Water and the Environment to request that approvals for Kings Forest and Cobaki include the requirements for third pipe dual reticulation and comprehensive stormwater harvesting.

54 [NOM-Cr Milne] Water Conservation

NOTICE OF MOTION:

Councillor K Milne moves that Council brings forward a report on the feasibility of enhancing Council's Demand Management Strategy to include the requirement for dual reticulation grey water reuse for toilets and outdoor use and comprehensive storm water harvesting for new Greenfield and infill, residential and non-residential developments.

QUESTION TIME

55 [QON-Cr Holdom] Byrrill Creek Dam - Size Specified

QUESTION ON NOTICE:

Councillor D Holdom asked:

Can the Councillors that voted to proceed to plan for and construct a dam at the Byrrill Creek site please advise the full Council which dam they wish constructed i.e. the smaller sized 16,300ML or the 36,000ML.

56 [QON-Cr Holdom] Project Plan, Cost Estimates and Time Line/s Byrrill Creek Dam

QUESTION ON NOTICE:

Councillor D Holdom asked:

Can the General Manager and/or the Director Community and Natural Resources please advise Council of the Project Plan, Cost Estimates and Time Lines associated with the proposed planning and construction of **either the small or** the large Byrrill Creek Dam?

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CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS THROUGH GENERAL MANAGER IN COMMITTEE

REPORTS FROM THE GENERAL MANAGER IN COMMITTEE

1 [GM-CM] Tweed Shire Council Sale of Land – Wollumbin Street, Murwillumbah

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

2 [GM-CM] 108 Reserve Creek Road, South Murwillumbah

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

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

REPORTS FROM THE DIRECTOR COMMUNITY AND NATURAL RESOURCES IN COMMITTEE

3 [CNR-CM] EQ2010-151 Share Farming Proposal at Lot 602 DP 1001049 Duranbah

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret
-

ORDERS OF THE DAY IN COMMITTEE

4 [NOM-Cr Milne] Complaints re Flood Flow impediments

NOTICE OF MOTION:

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(g) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

Councillor K Milne moves that Council investigates and brings forward a report on further impediments to creek and flood flows in relation to complaints made by Mr Sweetnam and other neighbours about further fill between the shed and the dressage area at Dungay.
